

JRPP No:	Item 1 (2010SYE014)
DA No:	DA435/09
PROPOSED DEVELOPMENT	Construct a part four/ part five storey mixed use building with two basement levels consisting of 655sqm of retail space, 36 apartments, rooftop communal facilities, and parking for 57 cars at No.520 Miller Street, Cammeray
APPLICANT:	Platino Properties Pty Ltd
REPORT BY:	Lara Huckstepp, Acting Team Leader (Assessments), North Sydney Council

## Assessment Report and Recommendation

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### EXECUTIVE SUMMARY

This development application seeks approval to construct a part 4 storey /part 5 storey mixed use building with two basement levels consisting of 655sqm of retail space, 36 apartments and rooftop communal facilities, and parking for 57 vehicles. The

Council's notification of the proposal has attracted 11 submissions raising particular concerns about bulk, scale, height, parking, traffic, views, privacy, residential amenity and overdevelopment of the site. The assessment has considered these concerns as well as the performance of the application against Council's planning requirements.

**The proposed development results in a non-compliance with Council's Building Height Control (Clause 17 NSLEP 2001) and all structures located on the rooftop above this height limit are not supported. Further, the proposal fails to provide a podium setback to the Miller Street (east) façade. The height, bulk and scale of the proposed development results in an unacceptable impact upon the Cammeray Village Neighbourhood.**

**The proposed density of development is excessive and is not supported. The number of apartments provided on the site exceeds the expected yield set by North Sydney Council's Residential Development Strategy and is considered to result in compromised residential amenity to a number of apartments.**

Following this assessment the development application is recommended for **refusal**.

## DESCRIPTION OF PROPOSAL

The development application as amended seeks consent for the following development:

- The construction of a new part four/part five storey mixed use building with two levels of basement parking at No 520 Miller Street, Cammeray, comprising:
  - Ground level retail (655sqm);
  - 36 residential apartments;
  - Parking for 57 vehicles, 6 motorcycles and 14 bike storage lockers;
  - Storage area for each residential apartment is provided within a mezzanine level above the carpark.
- A loading dock and vehicular access is provided from Abbott Lane.
- Garbage compactor and storage room is provided within the basement.
- Communal facilities including a gym/meeting room, terrace and lap pool are provided on the roof.
- Plant area including a lift overrun and landscaping are provided on the roof.

Mix of Apartments	
Studio	8
1 bedroom	10
2 bedroom	13
3 bedroom	5
<b>Total</b>	<b>36</b>

Vehicular Parking Allocation	
Residential	40
Visitors	10
Retail	6
Disabled	1
<b>Total</b>	<b>57</b> (6 motorcycle spaces are also provided)

**Note:** The assessment contained within this report is based upon drawings numbered DA01-DA19 (inclusive) All issue F, dated 11.03.10, drawn by Revay and Unn, and received by Council on 11 March 2010.

**It should be noted that the originally submitted plans provided 42 apartments.**

## STATUTORY CONTROLS

North Sydney LEP 2001

- Zoning – Residential D
- Item of Heritage - No
- In Vicinity of Item of Heritage - No
- Conservation Area - No
- FSBL - No

S94 Contribution

Environmental Planning & Assessment Act 1979

SEPP No. 1 Objection

SEPP No. 55 - Contaminated Lands

SREP (2005)

Local Development

Draft LEP

## POLICY CONTROLS

DCP 2002

## CONSENT AUTHORITY

As this proposal has a Capital Investment Value (CIV) of greater than \$10 million the consent authority for the development application is the Joint Regional Planning Panel, Sydney East Region (JRPP).

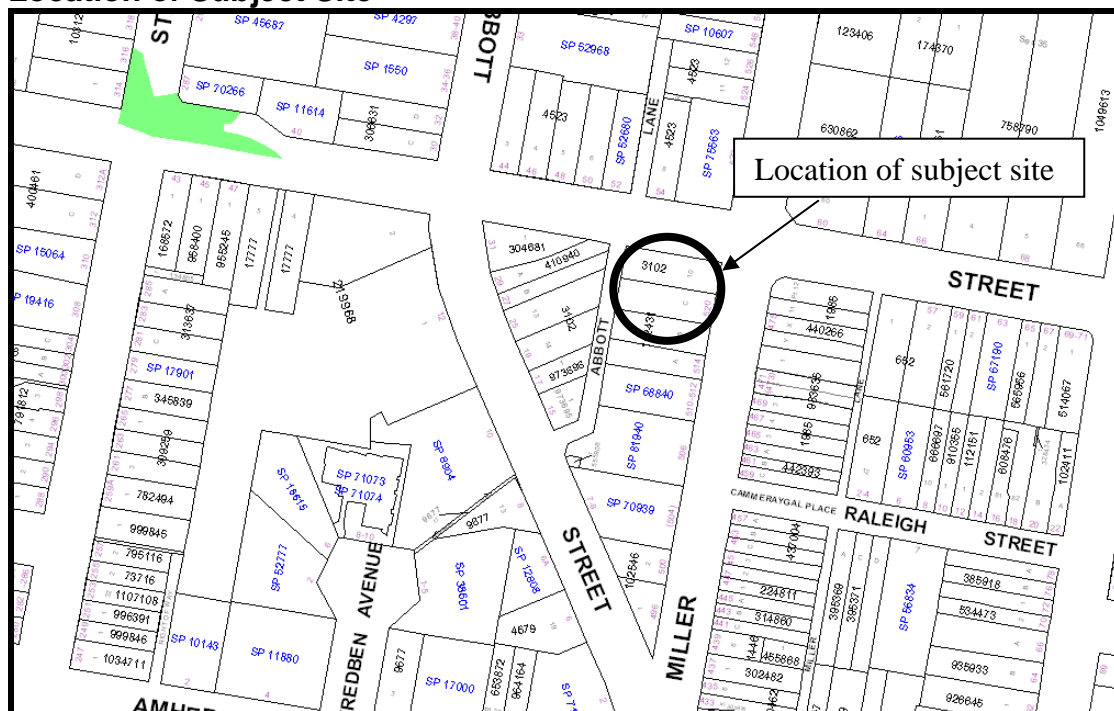
## DESCRIPTION OF LOCALITY

The subject site is formally identified as Lot 10 in DP3102 and Lots B & C in DP102431 and is located on the western side of Miller Street on the south-western side of the intersection with Palmer Street. Abbott Lane is located adjacent to the rear (western) boundary of the site. The site is rectangular in shape with a frontage to Miller Street of 35.4m and a frontage to Palmer Street of 36.6m. The site comprises an area of approximately 1288m<sup>2</sup>. The site drops between 3m and 4m from the eastern boundary to the western boundary.

The subject site previously contained a disused service station and motor vehicle repair workshop which has since been demolished.

The site forms part of the Cammeray Village Centre and is located at its northern end. Commercial and retail development is located to the south of the site and on the opposite side of Miller Street. Residential buildings are located to the immediate north and west of the site.

### Location of Subject Site



## RELEVANT HISTORY

Council records indicate that the previously existing service station was approved by Council on 17 August 1964 and the development was completed in April 1965. Council granted another development consent on 13 July 1988, which involved the demolition of the existing building and the erection of a convenience store at ground level and the lower ground level to be used as an auto electrical repair shop.

Development application 451/02 was lodged on 2 August 2002 and sought consent for the demolition of existing structures and erection of a new service station to operate on a 24 hour/7 day per week basis. The application was approved by Council on 5 August 2003.

Development Application 193/08 was approved by Council on 3 July 2008 which allowed the demolition and removal of all existing site improvements (service station) including underground storage tanks and site remediation on land described as 520 Miller Street, Cammeray. This building on the site has since been demolished and the site remediated.

The applicant has attended a number of internal planning advice meetings to discuss previous proposed developments on the site. The applicant did not attend a formal Pre-DA Meeting relating to the proposed development.

### Subject Development Application

The subject development application was lodged with Council on **27 November 2009**.

On **11 December 2010** the applicant submitted additional information relating to site contamination.

The development application was considered by Council's Design Excellence Panel on **3 February 2010**.

On **16 February 2010** Council Officers forwarded the applicant correspondence outlining Council's concern with the proposed development which included height, density of development, residential amenity of apartments, setback to Abbott Lane, setback to Palmer Street, length of apartment building, podium heights, built form, visual privacy and acoustic privacy. Additional information was requested with regards to shadow diagrams and acoustic privacy. The applicant was also forwarded a copy of the minutes of the Design Excellence Panel. Due to the extent of the non-compliances, Council recommended that the applicant withdraw the development application. The applicant was provided with 14 days to respond.

On **3 March 2010** Council Officers attended a briefing with the JRRP Panel.

On **2 March 2010** the applicant forwarded correspondence to Council advising that they did not wish to withdraw the development application and would be submitted amended plans.

On **25 February 2010** the applicant submitted various draft proposed amendments to Council seeking their comments.

On **3 March 2010** Council forwarded the applicant further correspondence advising that a preliminary review of the draft plans submitted to Council on 25 February 2010 revealed that this development scheme did not appear to satisfy Council's concerns. The applicant was advised that the matter was listed for consideration by the JRRP on 7 April 2010 and a such, final amended plans were requested by **8 March 2010**.

On **8 March 2010** the applicant lodged 7 sets of amended plans (DA01-DA20) Issue E including accompanying documentation.

On **9 March 2010** the applicant lodged a further draft sketch plan which proposed a central void within the centre of the building. The applicant was advised that a preliminary review of these draft sketch plans revealed that the development scheme appeared to not address a number of issues raised by Council Officers.

On **11 March 2010** the applicant lodged 7 sets of further additional plans (DA01-DA20) issue F. These plans propose a number of amendments to the originally submitted scheme in particular:

- Increase in the size of the southern courtyard/lightwell from 9sqm to 72sqm.
- Relocation of rooftop common areas to the northern end of the building.
- 1.2m setback at ground floor level of the Laneway (western) elevation.
- Various internal and external amendments.

**These plans are considered in the following assessment report.**

On **23 March 2010** the applicant submitted an acoustic report, SEPP65 compliance supplementary compliance report and a daylight access & natural ventilation report.

On **26 March 2010** the applicant submitted a draft sketch plan which detailed the relocation of the proposed common area on the roof to within the proposed first floor level courtyard which serves the lightwell seeking to reduce the height of the building. This sketch plan is discussed at the end of this report.

## **REFERRALS**

### **Building**

The application has not been assessed specifically in terms of compliance with the Building Code of Australia (BCA). It is intended that if approved, Council's standard condition relating to compliance with the BCA be imposed and should amendments be necessary to any approved plans to ensure compliance with the BCA, then a Section 96 application to modify the consent may be required.

### **Environmental Health**

The application was referred to Council's Environmental Health Officer (M.Klingstrom) for comments. It was advised that the applicant's submitted information reveals that whilst substantial remediation has been undertaken on the site, there remains contamination on the site, mainly in the south-eastern site area. Further, it appears that the contamination is also located on the adjoining Council land.

Whilst the submitted documentation advises that the site is now suitable for use for purpose of 'residential with minimal opportunity for soil access including units'. The submitted information also advises that the site in its present form is not suitable for child care/day care facilities and various other activities including substantial gardens. This is not considered to be adequate and it is considered reasonable to require the remediation of the site such that it allows for all reasonable forms of permissible uses of the site to occur. Appropriate conditions of consent should be imposed accordingly.

## Engineering/Traffic

Council's Traffic Engineer (C.Edwards-Davis) provided the following comments in relation to the development application:-

*'I refer to your request for comments on 520 Miller Street, Cammeray (DA 435/2009).*

*I have read the Traffic and Parking Assessment Report prepared by Varga Traffic Planning Pty Ltd dated 27 November 2009 (Ref 09257).*

### Existing Development

*The previous development comprised a service station and workshop which have now been demolished. The previous site had four driveways, two in Miller Street, one in Palmer Street and one in Abbott Lane.*

### Proposed Development

*The proposed development is a mixed use building with 670 m<sup>2</sup> of retail floor space at predominantly ground level and 42 residential apartments.*

### Parking

*The North Sydney DCP 2002 outlines the following maximum parking requirements:*

<i>Development Component</i>	<i>Parking Rate</i>	<i>Parking Required</i>
<i>9 x studio apartments, 18 x 1-bed apartments, 10 x 2-bed apartments</i>	<i>1 space</i>	<i>37</i>
<i>5 x 3-bed apartments</i>	<i>1.5 space</i>	<i>7.5</i>
<i>670 m<sup>2</sup> retail floor space</i>	<i>1 space/ 100m<sup>2</sup></i>	<i>6.7</i>
<i>Visitor parking – 42 apartments</i>	<i>0.25 spaces</i>	<i>10.5</i>
<i>Total</i>		<i>61.7</i>

*The applicant is proposing 55 to 57 off-street parking spaces. This generally complies with the North Sydney DCP.*

### Traffic Generation

*Varga has used the RTA's Guide to Traffic Generating Developments to assess the development and has calculated the following peak hour vehicle trips:*

<i>Development Component</i>	<i>Peak Hour Traffic Generation Rate</i>	<i>Peak Hour Traffic Generated</i>
<i>42 apartments</i>	<i>0.29 / apartment</i>	<i>12.2</i>
<i>670 m<sup>2</sup> retail floor space</i>	<i>2.0 / 100 m<sup>2</sup></i>	<i>13.4</i>
<i>Total</i>		<i>25.6</i>

*I generally concur with Varga's traffic generation calculations above.*

*The applicant has calculated that the previous development, the petrol station would have generated approximately 80 peak hour vehicle trips. This results in a net reduction in traffic associated with the site in the order of 54 peak hour vehicle movements.*

*As outlined in the RTA's Guide to Traffic Generating Developments, using a more conservative rate of 0.04 x area (m<sup>2</sup>) of the service station gives 51.5 peak hour vehicle trips. This results in a net reduction in traffic associated with the site in the order of 26 peak hour vehicle movements.*

*Regardless of which of the traffic generation rates for the "existing" development is correct, there will be a net reduction in traffic associated with the site.*

*It should be noted that the previous petrol station development would have seen the bulk of traffic enter and exit the site via Miller Street. There is likely to be some localised increase in vehicle movements on Abbott Lane. However, I generally concur with Varga's conclusion that the projected reduction in traffic activity will not have an unacceptable traffic impact in terms of the capacity of the road network or traffic-related environmental impacts.*

### **Loading Dock**

*The proposed loading dock will accommodate an 8.8m MRV truck. This loading dock is adequate and suitable to meet the needs of the site.*

*However, the loading dock should be available for use by both the retail and residential components of the building. The turnover of residents in North Sydney is comparatively high. Therefore 42 residential apartments will generate numerous heavy vehicle movements as residents move in and out of the property, and accept furniture/ bulk goods deliveries. From the plans, it appears that currently there is no access from the loading dock to the residential lift and/or residential access to the goods lift. The design should be modified slightly to allow residential access to the loading dock.*

### **Driveway Access**

*The proposed driveway access is from Abbott Lane. The location of this driveway is supported.*

*Australian Standard 2890.1 outlines that a car park of this size should have a queuing length of two cars at the entrance. It is therefore recommended that the proposed roller shutter door be moved such that it is at least 12 metres from the boundary line to allow for two vehicles to queue. This is particularly important given that there are visitor parking spaces located in the car park, whom it is presumed will need to use the intercom to gain access.*

### **Pedestrian Access**

*This proposed mixed residential and retail development will result in a significant increase in pedestrian activity, particularly in a north-south direction along Miller Street. The intersection of Miller Street and Palmer Street currently has signalised pedestrian crossings on three sides of the intersection. It does not have a signalised crossing on the western side of the intersection, where this new development is proposed. A signalised pedestrian crossing should be incorporated into the already signalised intersection, at the applicant's expense.*

## **Conclusion**

*Should this development be approved, it is recommended that the following conditions be imposed:*

- 1. That the proposed roller shutter door/ intercom/ security access point to the driveway be moved such that it is at least 12 metres from the boundary line to allow for two vehicles to queue wholly on-site*
- 2. That signs be installed at the exit to the driveway and loading dock stating “Stop – Give Way to Pedestrians”*
- 3. That the loading dock be available for use by both the retail and residential components of the building; and that level/ ramped access be provided between the loading dock and the residential lift.*
- 4. That a deferred commencement condition be set which states:*
  - A Demolition and Construction Management Program shall be prepared and submitted to Council for approval by Council’s Traffic Committee. Any use of Council property shall require appropriate separate permits/ approvals.*
- 5. That all aspects of the carpark comply with the Australian Standard AS2890.1.*
- 6. That all aspects of parking spaces for people with disabilities comply with the Australian Standard AS 2890.6.*
- 7. That all aspects of the loading dock comply with the Australian Standard AS2890.2.*
- 8. That the developer pay to upgrade the street lighting in Miller Street, Palmer Street and Abbott Lane, adjacent to the site, to the satisfaction of Council.*
- 9. That the applicant, if the RTA concur, modify the signals at the intersection of Miller Street and Palmer Street to provide a signalised pedestrian crossing on the western side of the intersection. All works are to be at the expense of the applicant.’*

**Planning Comment:** It is noted that the above comments were based upon the originally submitted development application. The amended plans do not materially change the proposed parking quantum or vehicular access. The above-mentioned conditions should be imposed as conditions of consent should the development application be approved.

## **Engineering/Stormwater Drainage/Geotechnical**

Council’s Development Engineer (Z.Cvekovic) assessed the proposed development and advised that the proposed development can be supported subject to imposition of a number of standard and site specific conditions relating to damage bonds, excavation, dilapidation reports of adjoining properties, construction management plan, vehicular crossing requirements and stormwater management. These conditions of consent should be imposed should the development application be approved.

## **DESIGN EXCELLENCE PANEL**

The development application in its originally submitted form was referred to Design Excellence Panel on 3 February 2010 wherein the following comments were provided:



**Panel Members:** Peter Webber; David Chesterman; Philip Graus; Russell Olsson.

**Council staff:** Geoff Mossemeneer (chair), Lara Huckstepp.

**Proponents:** George Revay (architect), Kerry Gordon (planner), Jonathon Lieb (development manager).

*A site inspection was carried out by the Panel and Council staff prior to the meeting.*

*This proposal is a development application that will be determined by the Joint Regional Planning Panel due to the cost of works involved.*

**The Proposal:** *The proposal involves the erection of a mixed use development over five levels consisting of 673m<sup>2</sup> of retail space, 42 apartments, roof top communal facilities with basement parking for 57 vehicles accessed from Abbott Lane*

*The architect George Revay provided a presentation of the proposal and was available for questions and discussion with the Panel. At the request of the applicant, the Panel was provided with an Analysis report relative to overshadowing, solar access and natural ventilation prepared by Steve King.*

**Panel Comments :** *Comments on the proposal are under the headings of the ten design quality principles set out in SEPP 65 to cover the issues that arise.*

**Context:**

*The Panel notes that the corner site is located at the end of the Cammeray Village shopping strip with lower density development to the north, residential apartments under construction to the west and mixed use development to a similar height to the south. The siting of the building was generally considered satisfactory. The height of the building was consistent with mixed use development to the south with the proposed roof top facilities setback from the boundaries. The building has a 3m setback to Palmer Street, however, the Panel considered the landscaping within the 3m setback should be at or near the level of the footpath and not elevated planter boxes. Any front fence should be an open palisade or picket fence to allow transparency and a view of the landscape behind*

**Scale:**

*The panel considers that the proposed building has an acceptable scale in relation to the adjoining development to the south and west. The height of the building was acceptable. The Panel noted that the proposed roof top facilities, whilst generally above the height control, are setback from the boundaries and do not add to the scale of the building.*

**Built Form:**

*The Panel considers that the proposed articulation of the building to Palmer Street and Abbott Lane produces an appropriate physical relationship with the neighbouring development to the west.*

*The Panel considers that the built form must also relate to the building's purpose which is predominantly residential. The dimensions of the building do not satisfy the rule of thumb recommendations under The Residential Flat Design Code (RFDC) where building depths should range from 10m – 18m to support natural ventilation and natural lighting of internal areas. The building dimensions of 32m x 32m (glass to glass) are well outside that range, and will lead to an excessively bulky built form and poor internal*

amenity.

*The number of apartments accessible off a double loaded corridor should be limited to eight and multiple cores should be provided when there are 14 apartments on one floor and ten on another relying on one lift and one entrance. The Panel is not convinced that the proposed building having depths of over 30m can provide for an acceptable amenity for the residents. The Panel suggests that the building be designed to reduce the building depth which may involve making the shape of the building from first floor level up into a “U” shape or “L” shape building. The additional articulation to the building could be made on the lane side of the site.*

**Density:**

*The Panel notes that the Council’s DCP identifies an expected dwelling yield under its Residential Development Strategy of 22 apartments for this size site for a 5 storey building in a residential zone and having regard for the Residential D landscape requirements, this density could possibly be increased by up to 50%. The proposal seeks a density of 42 apartments and to achieve the density, a series of small light wells are proposed to provide for a large floor plate and excessive building depth. The Panel considers the proposed density to be excessive and the floor plate needs to be reshaped to allow for building depths more in line with the RFDC to allow for better ventilation and amenity to the apartments. A reshaping of the floor plates is likely to result in a loss of around 9 apartments which would be more in line with the appropriate dwelling yield for the site.*

**Resource, energy and water efficiency:**

*The Panel noted that some dwellings rely on light wells for cross ventilation and natural lighting and the depth of single aspect apartments exceed the recommended depths under the RFDC. The proposal contains a number of bedrooms and living rooms that open onto light wells. The RFDC states that light wells are to be prohibited as a primary source of daylight in habitable rooms. The Panel does not support the extensive use of light wells in the development and considers that light wells should be a secondary light source for non habitable areas.*

**Landscape:**

*The Panel notes the basement carpark covers the entire site and no deep planting areas are proposed. The Panel recommends that the 3m setback on Palmer Street is landscaped at or near footpath level and that elevated planters along Palmer Street are avoided. Additional planting is proposed in the courtyard recommended in this review, on upper terraces and on the roof.*

**Amenity:**

*The Panel considered the amenity of the dwellings to be unsatisfactory with regard to the extensive use of light wells to bedrooms and living rooms. As discussed above, the floor plate needs to be reshaped to minimise the need for light wells and improve the cross ventilation and solar access to the apartments. Natural light and ventilation should also be provided where possible to lift lobbies and access corridors.*

*The Panel has had access to the expert report by Dr King, but remains unpersuaded that the amenity of the units in relation to sunlight and ventilation is acceptable on a site of this nature.*

*Provision should be made for privacy screening between units in Abbott Lane at the northern end of units in the block presently under construction on the opposite side of*

the lane.

*If the main entry were to be located in Miller Street as suggested above, residents would need to walk up only three levels instead of four as presently planned, or down one to the bottom levels of units, at times when the elevator(s) are out of action. The lowest units could also be accessed directly from street level, and with some reconfiguration all three could well have individual "front door" access via private courtyards. In this situation and depending upon the total number of units there may be a better case for provision of only a single lift.*

**Safety and security:**

*The Panel considered that multiple cores should be provided when there are 14 apartments on one floor and ten on another relying on one lift and one entrance. The Panel felt that residential access from Miller Street would be more convenient and safer than from Palmer Street*

**Aesthetics:**

*Materials and finishes were discussed at the meeting and appear generally satisfactory.*

**Social Dimensions:**

*The Panel commends the proposal for communal space on the roof area. The Panel recommends that the inclusion of a small enclosed area would enhance the value of this space in cold/windy conditions.*

**Conclusion:**

*The proposal is not supported. The Panel has major concerns with the amenity of the apartments and the reliance on light wells to create excessively large floor plates with only one lift. The proposal does not have regard to the rules of thumb under the RFDC that are intended to generate a better design of apartment buildings with regard to amenity. The Panel considers the proposed density to be excessive and the floor plate needs to be reshaped to allow for building and apartment depths more in line with the RFDC to allow for better ventilation and amenity to the apartments. The Panel considered that multiple cores should also be provided'.*

Planning Comment: SEPP 65 issues have been addressed within this report.

**Integrated Referrals**

No other referrals were required. It is noted that referral to the RTA was not required given that the proposed vehicular crossing is provided off the rear lane and is not proposed to enter a collector road.

**SUBMISSIONS**

Surrounding properties and the Bridgeview/Plateau Precinct were notified of the proposed development between 4-18 December 2009. A notice was placed in the Mosman Daily on 3 December 2009. A total of 11 submissions were received with the main issues raised being summarised and addressed as follows:-

Name Address	& Basis of Submissions of
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## Submittor

Victoria Green  
5/510 Miller St

Robin Murray  
PO Box 55,  
Camberay

Ellin Krinsly  
22 Marks Street  
Naremburn NSW  
2065

Kate Holland  
Secretary –  
Bridgeview Preinct

Christopher  
McGlinn  
Unit 24/510 Miller  
Street, Cammeray

- **Car Parking** – in Cammeray is already an issue. Many apartment blocks only provide 1 car park per apartment block. The new apartment block will exacerbate the issue. The addition of a number of restaurants, the Cammeray Square (Limited Parking) all trade extremely well every day or night of the week. These all bring traffic into the area to a very small strip. This small precinct cannot handle an addition of this size without additional car parking.
- This appears to be a huge over-development of the old BP site, I could not find an area of landscaping at all.
- This proposal abuts almost directly an apartment building currently being developed. There does not seem to be adequate space between the buildings.
- The proposal exceeds North Sydney height controls.
- While this site is commercial and many units and mixed use areas in Cammeray do not have green space that was previously required, less units and a review of the public entertainment area would be worth considering in conjunction with the current construction on Abbott and Palmer Streets.
- Abbot Lane is narrow, and already is a build up of traffic in the mornings and evenings to access the lights.
- I believe the proposal exceeds North Sydney Council's height requirements in several areas.
- We recognize that the site is a commercial site and that the site would also be a large development of some type. However we object as follows:
  - 42 apartments is an oversized development on that site.
  - Abbott Lane is narrow and with close proximity to the intersection of Miller and Palmer, makes turning into Palmer St extremely difficult during peak hour and school access hours.
  - The crossing of the Laneway will be difficult for children on their way to Cammeray Public School due to high concentration of traffic.
  - The close proximity to the other construction site at Palmer Street and Abbot Street is of concern. It appears that due to the height of the proposed construction it will overlook and overshadow the units currently under construction.
  - There does not appear to be any green area around the site and we wonder if due to the site being commercial this Council requirement does not apply.
  - The communal roof top concerns us due to noise elements.
  - We will raise DA435/09 at the next meeting in February but thought it important to submit our objections or comments prior to closure of the discussion period.
- I object to the unrestricted use of the large roof area as a communal recreational area, containing a gym and lap pool together with enclosed access stairs, a lift over run and an architectural treatment within the buildings north eastern corner.
- Privacy – The pool concourse will be elevated some 2m above the concourse and would result in users of this area having a direct and unimpeded view onto my terrace which is my only available open space.
- Noise – The use of the swimming pool as an unrestricted facility accessed by one or all of the occupants of the 42 unit complex is considered totally unreasonable. The roof top has the potential to be used by young people both day and night. Controlling noise from a roof top common area which has the potential of accommodating well in excess of eighty people would be impossible.

- Views- I consider the vertical intrusion of the above roof top mounted structures will obstruct or have a significant impact on my views and outlook currently enjoyed particularly north along the tree lined Miller Street and north-west to the Chatswood city skyline.
  - Conclusion- The SEPP No.1 Objection should not be supported as the development will have an adverse impact with regards to bulk and scale, loss of privacy, excessive noise and loss of views.
  - Development standards are not only for the use of a developer, they are also used to inform the community of the potential scale and bulk of future developments within the area and based on these controls, I made an important and expensive decision to purchase my unit
  - I do not object to the site being developed with a building which is compliant with Council's controls. The proposed scheme is excessive and disrespectful to all neighbouring residential development.
  - I request Council refuse the development application.
- Gayle Beevers  
2/40 Palmer Street
- As a resident of Palmer Street, I increasingly see more and more traffic. Resident parking on the street is becoming more difficult and I have recently had my driveway blocked twice in the last month. The introduction of 42 new units on top of the 20 new units that will soon be completed on Palmer Street will only increase this issue. I would like to understand what the Council will do to improve pedestrian safety, what they will do to reduce the speed of traffic and what the council will do to improve residents parking of Palmer Street as it is frequently used for commuters leaving their cars and catching the bus to the city.
- Louise Garrett  
PO Box 42  
Camberay
- I am concerned with the traffic flow and infrastructure support that this new development will affect. Even at present the intersection of Abbott and Palmer Street is lethal.
  - If there are going to be so many more cars from the two new developments that Council has approved, there will need to be urgent consideration of the Abbott/Palmer intersection. Would a roundabout work?
  - Currently there is not viable pedestrian crossing at this high density intersection. It is a real concern for local residents and if these buildings go ahead. The car speed that people can achieve heading down Palmer Street from Miller Street to West Street is frightening, especially when negotiating Leagues Club traffic as well.
- Chris Moyle and  
Fenella Fields  
46 Palmer Street
- Parking – Parking is already at a premium. The proposed development will add to the already inadequate parking in the area. You could reasonably expect two 2 cars for each apartment which is not provided by the development. This does not even take into consideration any visitor or retail parking. We find this totally unacceptable.
  - Traffic – Palmer Street is already busy and it is a local road, not a main thoroughfare. We are particularly concerned about the intersection of Palmer and Abbott Streets.
  - Noise – Large numbers of balconies and the communal rooftop area facing our property will result in increased noise levels. Simply because they face north is not sufficient justification for the rooftop communal area and so many intrusive balconies to overlook our house.
  - The additional noise generated by the increase in bulk is also a concern to us.
  - Overdevelopment of the site – The 4 storey development will dominate the streetscape.
  - Will the stormwater be retained on the site to use for gardens?
  - The character of the area is being lost by this development, contrary to the Character Statement for Cammeray.
  - Where are the green spaces required for each apartment?

Annette Patterson 3/12 Cambridge St, Cammeray	<ul style="list-style-type: none"> <li>• Construction Issues – We are concerned about the level of air pollution the development will generate during construction such as dust.</li> <li>• We are concerned about the previous use of the site as a service station.. We would seek some assurance that any further excavations would be safe to people and the environment.</li> <li>• We hope the application is rejected.</li> <li>• The proposal will exacerbate traffic congestion on Abbott Road and Palmer Street.</li> <li>• On street parking will be reduced.</li> <li>• The imposing size of the structure will overpower the village atmosphere of Cammeray.</li> <li>• The large number of apartments is an overdevelopment of the site.</li> <li>• There is inadequate space between the proposed development and the apartment building currently being constructed in Abbott Street.</li> <li>• The development and the size of the building are not in line with Council's policies.</li> </ul>
Stephen Mullins 44 Palmer Street, Cammeray	<ul style="list-style-type: none"> <li>• Scale and Intensity – The development is not of a scale or intensity that promotes the character of the neighbourhood. The number of apartments is too big of a concentration of apartments.</li> <li>• The mix of dwellings does not satisfy Council's controls.</li> <li>• The site will have no outdoor space other than the rooftop.</li> <li>• The site would be an overdevelopment of the site.</li> <li>• Traffic Impacts – The proposal should be required to submit a traffic management plan for the following reasons: <ul style="list-style-type: none"> <li>• The significant number of trucks will disrupt the area. The additional load, also in close proximity to Cammeray School, will overload the already overloaded intersection on Palmer Street.</li> <li>• The additional 57 vehicles would increase the traffic in Abbott St and Palmer Street. DA15/2004 currently being completed allows 17 sets of new residents, their guests and tradespeople. Cammeray Public School also causes increased traffic in the area. Traffic from Abbott Lane turning right onto Palmer Street from this new development, giving rise to significant potential for serious accidents. Council should consider a change in traffic conditions.</li> </ul> </li> <li>• Noise and General Amenity – Construction trucks and excavation will result in a significant impacts with regards to noise, dust and general disruption. We strongly consider that these impacts should be restricted as much as possible, including restricting the scale and duration of the excavation and development</li> <li>• The increased traffic and people numbers will detract from the area due to noise and loss of general amenity.</li> <li>• This negative impact will be further contributed to by the proposed inclusion of rooftop communal facilities.</li> </ul>
Shareen Cheema 5/12 Cambridge St Cammeray	<ul style="list-style-type: none"> <li>• North Sydney must ensure it does not allow this area to become the concrete urban mass apparent in Ku-ring-gai.</li> <li>• We object to the Building Height Plane non-compliance, Building Height, size and depth of building breach DCP requirements.</li> <li>• The development is too imposing in size, scale and density for Cammeray Village.</li> <li>• The proposal does not provide any landscaped areas.</li> <li>• Traffic/parking/congestion in Abbott and Palmer Streets will be increased.</li> <li>• Excessive excavation is proposed.</li> <li>• Development will create privacy concerns for immediate neighbours.</li> <li>• Rooftop garden will create noise for locality.</li> </ul>

A number of amended plans have been submitted to Council during the assessment

period. The most recent plans forming the basis of the assessment contained within this report (DA01-DA19 Issue F) propose a number of amendments which differ to the originally submitted proposal including:-

- Increase in the size of the southern courtyard/lightwell from 9sqm to 72sqm.
- Relocation of rooftop common areas to the northern end of the building.
- 1.2m setback at ground floor level of the Laneway (western) elevation.
- Various internal and external amendments.

Section 4.2 of the North Sydney Development Control Plan (NSDCP) 2002 provides that

*'if, in Council's opinion, the amendments are considered likely to have a greater adverse effect on or a different adverse effect on adjoining or neighbouring land, then Council will renotify:*

- *Those persons who made submissions on the original application;*
- *Any other persons who own adjoining or neighbouring land and in the Council's opinion may be adversely affected by the amended application.*

*Where the amendments in the Council's opinion do not increase or lessen the adverse affect on adjoining or neighbouring land, Council may choose not to notify or advertise the amendments.*

*Where the amendments arise from a Council-sponsored mediation, and it is considered that the amendments reflect the outcome of the mediation and do not otherwise increase the application's environmental impact, the amendments will not be notified or advertised.'*

In this instance, it is considered that the amendments would be unlikely to materially affect adjoining or neighbouring land compared to the originally notified development and as such, re-notification is not required.

## CONSIDERATION

The relevant matters for consideration under Section 79C of the *Environmental Planning and Assessment Act 1979*, are assessed under the following headings:

The application has been assessed against the relevant numeric controls in NSLEP 2001 and DCP 2002 as indicated in the following compliance tables. More detailed comments with regard to the major issues are provided later in this report.

### Compliance Table

STATUTORY CONTROL – North Sydney Local Environmental Plan 2001				
Site Area – 1292m <sup>2</sup>	Existing	Proposed	Control	Complies
<b>Residential</b>				
<b>Building Height (Cl. 17) (max)</b>	N/A	13.6m ( <b>North-east</b> corner (Note: the feature poles are 17.5m)  12.2m ( <b>South-east</b> corner)  15.8m ( <b>Centre of the Palmer Street northern</b>	13m	NO

		<b>elevation)</b>  15.2m ( <b>North-western corner</b> )  16m ( <b>South-west corner</b> ) (measured adjacent to proposed void)  16.8m (Height of <b>Plant</b> (lift) within Centre of the building)  14.8m (Height of <b>Swimming Pool</b> )  15.4m (Height of <b>gym/meeting room</b> )		
<b>Building Height Plane (Cl.18)</b>				
• Nth Elevation	N/A	No breach	45° angle commencing at 1.8m above Palmer Street	YES
• Sth Elevation		N/A	Not applicable (Adjoining Residential D zone)	N/A
• East Elevation		5m breach	45° angle commencing at 3.5m above Abbott Lane	NO
• West Elevation		N/A	Not applicable (Adjoining Residential D zone)	N/A
Residential D Zone (Cl 21)	N/A			
• <b>Landscape Area (min) *</b>		53%	35%	YES
• <b>Floor Space Ratio (max)</b>		0.5:1 (650m <sup>2</sup> )	0.5:1 – 2:1	YES


\* Note: In the Residential D zone, landscaping includes areas at ground level, open balconies or rooftop gardens.

#### DCP 2002 Compliance Table

DEVELOPMENT CONTROL PLAN 2002		
	<i>Complies</i>	<i>Comments</i>
<b>7.1 Function</b>		



<b>Mixed residential population</b>	No	<p>Section 7.1(a) requires that the development yield on a site within residential zones be consistent with the yields identified in the Residential Development Strategy, which is approximately:</p> <ul style="list-style-type: none"> <li>• 90sqm gross site area per apartment (3 storey building)</li> <li>• 60sqm gross site area per apartment (5 storey building)</li> </ul> <p>The proposed development is for a part four storey / part 5 storey building. Approximately 3.75 levels will contain residential apartments.</p> <p>The application proposes 36 apartments and the site has an area of 1292sqm. As such, the proposed dwelling yield equates to approximately 27sqm per apartment, which is far below the recommended development yield for the site even, for a 5 storey building. These controls would allow for only 21.5 dwellings to be provided on a site of this size.</p> <p>Whilst the site does have a residential zoning, the controls themselves exhibit some of the characteristics expected by those of a mixed use zone. It follows that an examination of the controls applicable to that zone will give a better guide to appropriate residential yield.</p> <p>The North Sydney Residential Development Strategy sets a methodology for calculating the estimated residential yield in mixed use zones as:</p> <ul style="list-style-type: none"> <li>• Multiplying the land area by the number of storeys that can be developed for residential use, then divide by 150 to determine the number of dwellings.</li> </ul> <p>Based upon this calculation for the mixed use zone, if is assumed that 3.75 residential levels can be provided on the site, then the development yield for the site would be 32.3 dwellings.</p> <p>As such, based upon the controls for both the residential D zone and the mixed use zone, the proposed development yield is clearly above that anticipated by the Residential Development Strategy.</p>
	Yes	<p>Section 7.1(l) requires a mix of dwelling sizes is provided and at least two of each studio, one bedroom, two bedroom and three bedroom is provided. The proposed dwelling mix is as follows:-</p> <p>Studio Apartments – 8 1 bedroom – 10 2 bedroom – 13 3 bedroom – 5</p> <p>The proposed dwelling mix is considered to be acceptable.</p>
	Yes	<p>In accordance with Section 7.1(ii), four apartments are proposed to be adaptable. This is considered to equate to over 10% of apartments in line with Council's Controls. A condition should be imposed to ensure these are constructed as adaptable houses. in accordance with Section (iii) these adaptable units have been adequately integrated within the proposed development.</p>
	Yes	<p>Section 7.1(iv) requires the provision of indoor and outdoor spaces that meet the needs of different population groups and requires that flexibility is built into communal spaces to meet</p>

		changing needs. The proposed communal space provides for a pool, gym, meeting room and terrace on a rooftop which is considered to provide a high level of amenity for its users. However, the height of the building at this location is addressed within the report.
<b>Maintaining residential accommodation</b>	Yes	In accordance with Section 7.1(b) there is no loss of residential accommodation on the site.
<b>Maintaining affordable housing</b>	Yes	In accordance with Section 7.1(c) there is no loss of affordable housing on the site.
<b>7.2 Environmental criteria</b>		
<b>Topography</b>	Yes	In accordance with Section 7.2(a) all proposed habitable rooms will be located above ground level.
	No	The proposed excavation will generally occur up to each property boundary. This is contrary to Section 7.2(a)(iv) which requires no excavation should occur within 1m of each property boundary. However in this instance, excavation to each boundary is characteristic of the locality and can be supported subject to imposition of appropriate conditions to protect adjoining properties.
	N/a	The proposed building is considered to be defined as shop top housing rather than an apartment building and as such, the provisions of Section 7.2(v) are not applicable.
<b>Properties adjoining bushland</b>	N/A	The site does not adjoin bushland.
<b>Properties with a foreshore building line</b>	N/A	The site does not have a foreshore building line.
<b>Views</b>	Yes	<p>Concern has been raised with regards to loss of views from an adjoining residential dwelling at No.510 Miller Street. Whilst most buildings along Miller Street to the south of the subject site enjoy their primary views to the east and west, No.510 Miller Street contains two apartments on the upper level which also enjoy northern views. The views enjoyed to the north from these balconies are district views, which can be seen in the photograph below. This photograph was taken from the upper level apartment (No.24), 510 Miller Street from their eastern terrace.</p> <p><b>Photo looking north from roof terrace at No.510 Miller Street.</b></p>  <p>The proposed rooftop structures would obstruct the northern view from these properties however given that eastern and western views will be maintained, the loss of views cannot be</p>

		<p>considered to be material.</p> <p>It is noted that some loss of views will also occur from the upper level of the immediately adjacent building to the south at No.514 Miller Street. The proposed building will reduce the north-facing views enjoyed by this apartment. The apartment located on the upper level again will continue to enjoy eastern and western views from this property. In any case, the view obstruction would be caused by part of the proposed development which generally complies with Council's Building Height Control at the building's southern end. The loss of view to this building is not considered to be reasonable and would occur with a complying development.</p> <p>In accordance with Section 7.2(e) the proposed development is considered to generally maintain important views from surrounding properties.</p>
<b>Solar access</b>	Yes	The proposed development does not materially overshadow any adjoining property in accordance with Section 7.2(f). Refer to <b>Building Height</b> and <b>Building Height Plane</b> discussions for further details.
<b>Noise (residential D &amp; F particularly)</b>	Yes	In accordance with Section 7.2(g) The proposed development is not likely to result in significant noise impacts to adjoining properties. The plant area is proposed to be located within the centre of the roof area and can in any case be required to be acoustically treated by imposition of a condition of consent.
<b>Acoustic privacy</b>	Yes	<p>In accordance with Section 7.2 (h) the applicant has submitted an Acoustic Report prepared by Renzo Tonin &amp; Associates which advises that the proposed development can meet appropriate EP&amp;A standards provided a number of treatments are provided including treating the proposed glazing.</p> <p>If approved, an appropriate condition should be imposed should the development application be approved to ensure the building will be required to implement these recommendations.</p> <p>It is considered that the building layout will generally adequate acoustic privacy for each apartment.</p>
<b>Visual privacy</b>	<p>Yes</p> <p>Yes</p> <p>No</p>	<p>Section 7.2(l) requires that habitable buildings be separated in accordance with SEPP 65. Separation between habitable rooms for apartments over 12m in height is required to be 18m.</p> <p><b>East facing (Miller Street) façade</b> - With regards to the eastern facing apartments located on Miller Street, development immediately adjoining the site is a petrol station and as such will not result in a privacy impact. The building is in any case located 20m from adjoining buildings on the eastern side of Miller Street and will comply with the 18m setback.</p> <p><b>North facing (Palmer Street) façade</b> - With regards to the northern facing apartments located on Palmer Street, development located opposite comprises generally of one and two storey dwellings and attached dwellings. Palmer Street is a wide street and as such a separation of at least 18m is provided to these adjoining residential dwellings, thus complying with separation controls.</p> <p><b>West facing (Abbot Lane) façade</b> - With regards to the west facing apartments located on Abbott Lane, the proposed development will be provided with a setback to the adjoining apartment building currently being constructed at No.25-31 Abbott Street of only 11m, being non-compliant with the 18m</p>

		<p>setback control. To address this issue, the apartments on the lower three levels (northern end) of the western elevation have been provided with highlight windows to all living areas and bedrooms adjacent to these apartments.</p> <p>At the second and third floor levels, planter screens are proposed to be provided along these balcony edges, with the third floor balconies also being set back by a further 5m from the boundary. As such, the planter screening together with the setbacks are considered to adequately address privacy to the adjoining property at 25-31 Abbott Street.</p> <p>There are also a number of balconies located towards the centre of this western elevation which will be located within 12m of the adjoining apartment building at No.25-31 Abbott Street. Whilst this is non-compliant with setback controls, it is noted that these balconies will not locate immediately opposite the primary living areas of these apartments at No.25-31 Abbott street, being located opposite bathrooms and bedrooms. In the context of the surrounding urban environment, it is considered that this non-compliance can be supported.</p> <p>Adequate separation is considered to be provided to the dwellings in Abbott Lane with setbacks of over 13m provided at the building's southern end.</p> <p><b>Roof top Structures</b> - The amended proposal will relocate the proposed gym, pool and terrace to the northern end of the building which is considered to ensure that no direct overlooking into the lightwells and terraces of No.514 Miller Street will occur. Further, this setback is considered adequate to ensure that privacy to the elevated terraces at No.510 Miller Street will be adequately maintained.</p>
<b>Privacy (Use of Rooftops of buildings and garages)</b>	Yes	<p>Section 7.2(j)(iv) states that <i>'outdoor roof spaces may be considered if the building is the tallest in the immediate vicinity and there is no potential for existing or future overlooking of the space and subsequent noise and privacy issues.'</i></p> <p>Part (iv) states that <i>'Where rooftop spaces are proposed address issues such overlooking of other properties and views through design etc setbacks.'</i></p> <p>In principal, the location of rooftop structures towards the northern end of this building are considered to be appropriately sited and well set back from adjoining properties so as to be likely to result in acceptable amenity impacts.</p>
<b>Awnings (Residential D Zone)</b>	Yes	Awnings are proposed to be provided to both the Palmer Street frontage and the Miller Street frontage in accordance with Section 7.3(d).
<b>7.3 Quality Built Form</b>		
<b>Context</b>	No	The height of the proposed development is not considered to be contextually appropriate contrary to Section 7.3(k). Refer to Building Height section for further discussion.
<b>Streetscape</b>	Yes	The application details 2 existing trees to be retained and details that five additional street trees (Plane Trees) are proposed along the Miller Street and Palmer Street footpaths. The proposed development is considered to comply with section 7.3(b) with regards to the provision of street trees.
<b>Laneways</b>	N/A	The controls relating to development within Laneways contained in Section 7.3(c) are not considered to be generally relevant to the development.

	Yes	Section 7.2(c)(x) requires that all new structures are set back 1.2m from the laneway alignment. The amended scheme proposes a laneway setback of 1.2m at ground level along the Abbott Lane frontage which is considered to satisfy this control.
<b>Subdivision pattern</b>	Can be conditioned	<p>The application site currently incorporates three existing sites. A condition of consent should be imposed which requires the sites to be amalgamated should the development application be approved.</p> <p>No strata or stratum subdivision is proposed under this development application.</p>
<b>Siting</b>	Yes	Appropriate setbacks are considered to be provided to the site boundaries and the building siting is considered to be acceptable with regards to Section 7.3(e).
<b>The characteristic pattern of setbacks and building orientation within the street is reinforced</b>	Yes	<p>Section 7.3(f) requires development build to the front and side boundaries in the Residential D zone.</p> <p>The zero setback provided on the site's Miller Street (eastern) frontage is considered to be in line with adjoining properties along Miller Street and is supported in this regard.</p> <p>The DCP Character Statement for the Cammeray Village Neighbourhood requires that:</p> <p><i>'setback 3m, at ground level, from Palmer Street frontage – landscape, including trees'.</i></p> <p>The amended scheme proposes to set the building back by 3m from the Palmer Street frontage. At ground level, an elevated ramped area is proposed along the eastern end of this northern façade which is identified as a future outdoor café area. The western end of this façade provides landscaped courtyards. The residential entry is located within the centre of this façade. It is considered that the setbacks and development within this setback are adequate.</p> <p>Along the western (Abbott Laneway) elevation, the amended scheme sets back the development at footpath level by 1.2m, with the building cantilevered over to the site boundary. This setback is considered to comply with Council's control and is supported.</p>
<b>Form, massing &amp; scale</b>	No	<p>Section 7.3(h) requires that the <i>'the size of new buildings is consistent with surrounding, characteristic buildings and is not significantly larger than characteristic buildings'</i>.</p> <p>The proposed roof top structures are all in breach of Council's Building Height Control, and further the density of the site is in excess of that envisaged by the Residential Development Strategy for a site of its size.</p> <p>The podium setback along the site's Miller Street is inconsistent with DCP podium controls which require a 8.5m podium and a 2.5m setback.</p> <p>As such, the proposal is considered to represent an overdevelopment of the site. Its form, massing and scale is considered to be excessive, resulting in development that is contrary to Section 7.3(h).</p>
<b>Built form character</b>		<p>The DCP Character Statement for the Cammeray Village Neighbourhood requires that setbacks be provided as follows:</p> <p><i>'Podium of 8.5m (2 storey) at street frontage with a setback of</i></p>

	No	<p>2.5m above the podium).’</p> <p>Further, this DCP Character Statement provides that the built form character should be provided as follows:-</p> <p><i>‘Parapet heights and set backs match along the Miller Street frontage’.</i></p> <p><b>Miller Street</b> - The development scheme generally provides no setbacks above the podium levels along the eastern (Miller Street) frontage. The development immediately adjoining the proposed development at No.514 Miller Street does not comply with this podium setback and generally provides four storeys at the street façade. Similarly, the property adjoining this at No. 510 Miller Street also provides four storeys in height at the street façade, with the level above this being set back from the street. The front elevations of these site can be seen in the photograph below:-</p> <p><b>510 Miller, 514 Miller and subject site</b></p>  <p>Despite these two adjoining buildings, it is considered that the character of the locality must be considered and in particularly the location of this site.</p> <p>It is important to note that further south of these sites, a three storey podium is generally provided to these buildings, in particular No.504 Miller Street which was approved in 2002 and was designed by the same architect. The application was approved via the consent orders mechanism in the Land and Environment Court. It is noted that further development opportunity presents itself at 496 and 500 Miller and it would be anticipated that a similar podium setback to 504 Miller Street would be adopted. This is illustrated in the photographs below.</p>
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#### 504 & 506 Miller St



#### 506 Miller St



As can be seen above, the podium heights applied to this site is a three storey height to Miller Street (including ground floor retail) and the upper level has been set back to reduce the impact of this height to Miller Street. It is noted that uncovered balconies have been included within podium setback.

**It is considered that in order to reduce the visual bulk of the subject development on the streetscape, a similar setback at the third floor level should be provided of at least 2.5m. This would result in a three storey podium height which is considered acceptable.**

Whilst it is noted that No.510 Miller Street has been approved with a greater height and does not comply with these podium setback controls, it is not considered that the bulk and scale of

		<p>this building at No.510 Miller Street is characteristic nor consistent with the desired character of the locality. It is noted that No.510 Miller Street was approved prior to Council's current controls being in force and is mid block with any excess height being hard to observe.</p> <p>Further, the subject site is considered to be generally a gateway development into the Cammeray Village Neighbourhood area from the north and is highly prominent, and is not provided mid-block. As such, the bulk and scale of the building along the Miller Street frontage (particularly at its north-eastern end) should be reduced so as to comply with Council's controls. It is considered that the proposed non-complying height and lack of podium results in an overbearing impact on the streetscape, contrary to the desired character of the Cammeray Village Area. Particular concern is raised with regards to the north-east corner of the building.</p> <p>Unlike adjoining sites at No.510 and 514 Miller Street, the subject site is located on the cusp of lower scale residential density areas, with development to the north having an allowable height limit of 8.5m. This gateway site is considered to set a precedent for development, including any future redevelopment of the eastern side of Miller Street. The proposed lack of podium setback is considered to result in an appropriate bulk and scale, especially to the north-eastern corner.</p> <p>As such, it is considered that a setback of the upper third floor level of at least 2.5m should be provided to the Miller Street frontage. There is considered no valid justification for not requiring this podium setback to the Miller Street frontage in this instance.</p> <p>It is also noted that the architectural elements provided within the north-east corner of the building result in a non-compliance with the height control. As set out above, the visual dominance of this building at its north-eastern end should be reduced. Any architectural elements to improve the building design should be provided within complying elements of the building. While some variation to the podium control to emphasize the corner is considered appropriate, it is not unreasonable for this element to comply with the general 13m height limit for the site.</p>
	Yes	<p><b>Palmer Street</b> – The building has been set back by 3m along its Palmer Street frontage in accordance with the requirements of the Cammeray Village Neighbourhood DCP controls. This setback is considered acceptable in this regard.</p>
	Yes	<p><b>Abbott Lane</b> - The lower ground floor, ground floor, first and second floors will be built generally to the boundary and will result in a similar podium height to its adjoining neighbour at No.514 Miller Street. A 3m setback above the podium is provided to the third floor level. This podium height and setback along Abott Lane is considered to be generally consistent with adjoining development and is supported in this regard.</p>
	Yes	<p>A floor to ceiling height of 3.2m at ground floor level is provided for the proposed retail level which is considered generally in keeping with adjoining retail levels and satisfies Section 7.3(l)(v).</p>



	Yes	The ground floor level fronting Miller Street (east façade) proposes glazed shopfronts in accordance with Section 7.3(l)(vi).
	Yes	All proposed balconies will be incorporated into the building envelope in accordance with Section 7.3(vii).
<b>Dwelling entry</b>	Yes	<p>The proposed entry to the residential dwellings from Palmer Street is considered to convey an acceptable sense of entry to the apartments.</p> <p>The Design Excellence Panel recommended entry be provided from the Miller Street façade so as to allow for stair entry to be provided to apartments. The currently proposed scheme requires a lift to access all apartments with the exception of the 3 proposed apartments on the lowest level. Whilst it is acknowledged that the entry via the Miller Street would be a more efficient entry, the applicant advises that they do not wish to relocate this entry to the Miller Street façade due to the loss of primary retail space fronting Miller Street.</p> <p>On balance, the location of the dwelling can be supported along Palmer Street as it is considered to generally satisfy the provisions of Section 7.3(j).</p>
<b>Roofs</b>	Yes	The proposed flat roof design is characteristic of the surrounding locality in accordance with Section 7.3(k).
<b>Colours and materials</b>	Yes	The applicant has submitted a Schedule of colours and finishes which are considered to be acceptable in accordance with Section 7.3(m).
<b>Balconies</b>	Yes	<p>All balconies will have a minimum of 8sqm. The balconies have been generally incorporated into the building envelope and are considered to be acceptable with regards to Section 7.3(n).</p> <p>The proposed common roof terrace and associated structures are however not supported due to their non-complying building height. No evidence has been provided to indicate whether the blade walls between the balconies have an impact on solar access to those units whose amenity they protect.</p>
<b>7.4 Quality urban environment</b>		
<b>Maximum use of public transport</b>	Yes	On-site parking has been generally provided in accordance with Council's controls contained in Section 9 NSDCP 2002. A minor under-supply of car parking is proposed and discussed further within this report.
<b>Bicycle storage</b>	Yes	Section 7.4(b) requires that 1 bicycle locker is provided per 3 dwellings. The application will provide for 14 bicycle lockers within the residential storage area which will comply with this required.
<b>High quality residential accommodation</b>	No	<p>The proposed apartment sizes will comply with the requirements contained within Section 7.4(c)(l) with regards to minimum size of apartments with the exception of three apartments as follows:</p> <p>1 x 1 bedroom unit (51 sqm in lieu of 55sqm) <b>(Unit No.G3)</b></p> <p>1 x 1 bedroom unit (53sqm in lieu of 55sqm). <b>(Unit No.G4)</b></p> <p>1 x 2 bedroom unit (78sqm in lieu of 80sqm) <b>(Unit No.308).</b></p> <p>It is noted, however, that whilst a number of other apartments do comply with the minimum apartment size, the design of many apartments are compromised.</p> <p>The access onto the proposed single corridors (with double-</p>

		<p>loaded corridors provided to first, second and third floor levels) on all levels results in many long entry corridors within individual apartments. These corridors in some instances are up to 7m in length. At least 14 out of the 36 proposed apartments have entry corridors 4m in length or greater. This is of particular concern for all studio apartments which in any case generally provide only the minimum required floorspace. This allocation of floorspace within these corridors is considered to be inappropriate and results in compromised apartment sizes and layouts.</p> <p>Finally, a number of corner units which normally provide cross ventilation have areas which are so deep within the unit that there would be little benefit in these areas. Apartments 105, 102 and G2 illustrate this issue.</p>
	Yes	All apartments are provided with a balcony or courtyard having an area of at least 8sqm.
	Yes	Corridors have generally been provided throughout the building with a width of 2m.
	No	The first floor will provide 12 units from the common lift lobby, which exceeds Council's DCP control which requires a maximum of 10 apartments to utilise a single lobby. All other floors will comply with this control. The proposal does not comply with the provisions of Section 7.4(c)(iv).
	Yes	The habitable space served by a window is no more than 10 times the glazed area of the window for all apartments.
	Yes	The maximum depth of a habitable room from a window providing light and air to that room is 10m.
	No	Section 7.4(vii) requires that cross ventilation be provided to at least 75% of apartments. The proposed development provides cross ventilation via three lightwells and also clerestorey windows to a number of third floor apartments. However, only 25 of the 36 apartments will achieve this cross ventilation, equating to only 69%, being non-compliant with Council's DCP.
		Further, 9 of these apartments are provided with their secondary aspect of cross ventilation via lightwells, having a size of only 12sqm. One apartment is provided with its secondary aspect provided via a clerestorey window. The lightwells and clerestorey windows are considered to be a second-best solution.
		Given the generous size of this site, its northern orientation and minimal existing site constraints, it is not considered unreasonable for a higher number of units to be provided with genuine cross ventilation on the site.
	Yes	Covered balconies located directly adjacent to east and west facing living areas are considered to generally provide shading to these windows. Other east and west facing windows have been generally limited in size. The proposal is considered to satisfactorily address Section 7.4(viii).
	Yes	The proposed lightwells will have an area of greater than 9sqm in accordance with Section 7.4(c)(ix).
		Double loaded corridors are provided within the central corridor.

	No	This results in a number of single aspect apartments and does not comply with Section 7.4(x) in this regard. These double loaded corridors result in 14 apartments having entry corridors within each apartment of 4m in length or greater, which is not considered to be an efficient allocation of space within these apartments.
	No	Section 7.4(xi) requires that each apartment has a minimum width of 4m. Whilst no proposed apartment has a total apartment width of less than 4m, 15 out of the 36 apartments are detailed on the plans to have living/dining areas having a maximum width of 3.8m measured from wall to wall. Section 7.4(xi) also requires that the width of these apartments is increased relative to increased depth. This has not been provided with regards to the proposed 15 apartments. This limited width of living areas provided to 15 apartments is not considered to achieve a quality outcome with regards to the apartments of the site.
	Yes	The single aspect apartments will be limited in depth to 8m in accordance with Section 7.4(xii).
<b>Accessibility</b>	Yes	Lift access is provided to all apartments and level access is provided to the retail level. Appropriate conditions can be imposed should the development application be approved to ensure the building will comply with relevant Australian Standards relating to disabled access.
<b>Safety and security</b>	Yes	There are no known concerns with regards to safety and security of the proposed development.
<b>Car parking</b>	Yes	<p><b>Residential Car Parking</b> – The Schedule of parking contained within Section 9 NSDCP 2002 requires the maximum car parking rates be provided as follows:-</p> <ul style="list-style-type: none"> <li>• Studio, 1 -2 bedrooms – 1 space</li> <li>• 3 or more bedrooms – 1.5 spaces.</li> </ul> <p>The proposed development seeks to provide for a total of 31 studio and 1 -2 bedroom apartments, requiring 31 car parking spaces. Five 3 bedroom apartments are proposed, requiring a maximum of 10 car parking spaces. As such, a maximum of 41 residential car parking spaces on the site are required to be provided.</p> <p>The application will provide for 40 residential car parking spaces, with the under provision of one on-site residential car parking space being considered to be acceptable. The DCP requirement of 41 on-site residential car parking spaces is a maximum parking requirement in any case.</p> <p><b>Non-residential Car Parking</b> - The Schedule of parking contained within Section 9 NSDCP 2002 requires the maximum non-residential car parking rates be provided as follows:-</p> <ul style="list-style-type: none"> <li>• 1 space per 100sqm of non-residential floor space.</li> </ul> <p>The site provides a total of 655sqm of non-residential floor space and as such, between 6 and 7 car parking spaces are proposed.</p> <p>The application will provide for 6 non-residential parking spaces which is considered to be acceptable.</p>

	Yes	<p><b>Visitor Car Parking</b> – The Schedule of parking contained with Section 9 NSDCP 2002 requires that visitor car parking should be provided to a maximum of 0.25 spaces per dwelling.</p> <p>36 apartments are proposed on the site and as such 9 visitor parking spaces would be required to be provided. The application will provide for 10 visitor parking spaces which is considered to be acceptable.</p>
	Yes	<p><b>Motor Cycle Parking</b> – Section 9 NSDCP requires that motor cycle parking be provided at a minimum rate of 1 space per 10 cars or part thereof.</p> <p>A total of 3 motor cycle spaces are provided within the residential car parking area and a total of 3 motor cycle spaces are provided within the non-residential car parking area.</p> <p>A total of 57 car parking spaces are provided within the building and therefore between 5 and 6 motor cycle parking spaces are required under the DCP. A total of 6 motor cycle spaces are proposed, with 3 each allocated to each car parking level. This allocation is considered to be acceptable.</p>
	No (Can be conditioned)	<p><b>Car Wash Bay</b> – Council's DCP requires that a car wash bay, within the visitor parking area, must be provided, with the space being adequate drained and connected to a sewer line. It is considered that this requirement could be required by way of a condition of consent should the development application be approved.</p>
	Yes	<p>All parking will be provided within the basement levels and appropriate conditions of consent can be imposed to ensure these comply with relevant Australian Standards.</p>
	Yes	<p>One disabled parking space is provided within the basement and three adaptable parking spaces are also provided within the residential basement parking level.</p>
	Yes	<p>A condition of consent can be imposed to require an intercom to be provided at the car park entrance in accordance with Section 7.4 (iv).</p>
	Yes	<p>With regards to queuing, Council's Traffic Engineer requires that the proposed roller shutter, intercom, security access point to the driveway be moved so that it is at least 12m from the boundary line to allow for two vehicles to queue wholly on the site. This is recommended to be imposed by a condition of consent.</p>
	Yes	<p>A two way entry/exit is proposed to the basement level which will ensure cars can enter and exit the site in a forward direction and will minimise queuing onto Abbott Lane in accordance with Section 7.4(v).</p> <p><b>A number of additional issues have been raised by Council's Traffic Engineer which are addressed in the Referrals Section.</b></p>
<b>Location of car parking</b>	Yes	<p>No concerns have been raised by Council's Development Engineer or by Council's Traffic Engineer with regards to the proposed location of car parking in accordance with Section 7.4(l).</p>
<b>Vehicle Access</b>	Yes	<p>No concerns have been raised by Council's Development</p>

	Yes	Engineer or by Council's Traffic Engineer with regards to the proposed vehicle entry location in accordance with Section 7.4(j).
	Yes	In accordance with Section 7.4(vii), the building is proposed to be set back 1.2m at ground level from the Abbott Lane boundary.
	Yes	As set out within the Referrals Section, Council's Traffic Engineer requires that the entry gates to the vehicular entry be set back 12m from the Laneway to avoid queuing of cars within the Laneways. This can be addressed by a condition of consent.
<b>Landscaped area</b>	Yes	The site will provide landscaped area in accordance with Clause 21 of the NSLEP 2001. It is noted that 'landscaped area' within the Residential D zone included landscaped area, courtyards and balconies.  It is acknowledged that limited soft plantings are provided on this site however this is considered characteristic of the locality.
<b>Swimming pools</b>	Yes	The location of the swimming pool has been relocated to the northern end of the rooftop which is considered likely to reduce its impacts on the adjoining property at No.514 Miller Street, Cammeray. It is considered that this swimming pool is suitably located so as not to adversely affect the amenity of adjoining properties.  Appropriate conditions of consent could be imposed which require the minimisation of lighting to this area.
<b>Garbage storage</b>	Yes	In accordance with Section 7.5(q) the proposed development will provide a garbage chute within the central corridor of all residential levels which is considered to be acceptable.  A garbage holding bay is provided within the basement level which provides for separate non-residential and residential waste storage. This proposed arrangement is considered to be acceptable.
<b>Site facilities</b>	Yes	Adequate common areas are provided on the site to allow for site facilities such as mail boxes.
<b>7.5 Efficient use of resources</b>		
<b>Energy efficiency</b>	Yes	The applicant has provided a BASIX Certificate in relation to the proposed development and therefore complies with the requirement of the BASIX SEPP. A standard condition of consent should be imposed as part of any consent for imposition to ensure compliance with the BASIX commitments.

## NORTH SYDNEY LEP 2001

### 1. Permissibility within the zone:

The site is zoned Residential D (Neighbourhood Business) under the provisions of the North Sydney Local Environmental Plan 2001 (NSLEP 2001). Development for the purpose of shoptop housing is permissible with consent.

Clause 14 of the NSLEP 2001 requires that the consent authority consider the aims and objectives stated in the plan. The clause further specifies that consent may not be granted to an application where it is the opinion of the consent authority that the proposal is inconsistent with the aims of the plan, the objectives of the zone, or the objectives of the control. These issues are discussed later in the report.

## 2. Subdivision

No subdivision of lots is proposed under this application. The proposed building will be constructed over three existing lots. A condition is recommended to be imposed to advise the applicant that they should seek to amalgamate these lots with the Lands Title Office. No strata subdivision is proposed as part of this development application.

### **Residential Zone**

## 3. Residential Zone Objectives

The particular objectives of the Residential D zone are to:

- (a) *Encourage a wide range of services and shops which serve the surrounding residential neighbourhoods, and*
- (b) *permit a range of small scale businesses which serve local needs, and*
- (c) *encourage active street life while maintaining high residential amenity, and*
- (d) *Encourage shop top housing.*

The application proposes shop top housing and is considered to appropriately encourage an active frontage to Miller Street and part of Palmer Street. This mixed use building is considered to be generally consistent with the objectives of the Residential D zone.

## 4. Building Heights

Clause 17 (6) of the NSLEP 2001 states that a building must not be erected in a residential zone in excess of the height detailed on the LEP maps. The maximum height detailed for the subject site on the LEP maps is 13m. The building height compliance is generally detailed below:-

<b>Building Location</b>	<b>Height</b>
North east corner	13.6m
Vertical architectural elements on the north-east corner	17.5m
South east corner	12.2m
Centre of Palmer Street (northern) elevation	15.8m
North west corner	15.2m
South west corner (measured adjacent to the proposed void)	16m
Height of plant (lift) within centre of the building	16.8m
Swimming pool	14.8m
Gym/meeting room	15.4m
<b>Control</b>	<b>13m</b>

The applicant has lodged an amended SEPP No.1 objection in relation to this departure with the main argument as follows:

*'The objectives for this control seek to either limit the height of buildings to one storey at the street where that is the characteristic building height, limit the height to the same or*

*similar to the characteristic building heights, or if neither apply to limit the height to two storeys or three storeys for apartment buildings in the Residential C zone. The applicable objective in this case is to provide a height which is the same as or similar to characteristic building heights.*

*Additional objectives seek to provide development that steps on sloping land to follow the natural gradient, promote gable and hipped roofs other than where it is desirable to preserve views then other roof forms characteristic of the area can be used, to retain views, maintain solar access and privacy and prevent excavation for works other than parking.*

***Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP & A Act?***

*The aim of the Policy, of relevance, seeks to allow for flexibility of development standards to allow for the orderly and economic use of land. Compliance with this standard would prevent the orderly and economic use of the subject site as it would prevent the erection of a building on the site that satisfied the objectives of the control, in particular, which was similar to the characteristic building heights.*

*Further, it would hinder the attainment of high quality community facilities and the provision of an architectural feature that provided corner emphasis at the entry to the Cammeray Shopping Village.*

*In this regard the development is similar in height to the adjoining development in the Residential D zone, with the adjoining building having a height within 500mm of the top of the main roof of the proposed development and with development at No. 510 Miller Street having roof top development (for residential units rather than community facilities as proposed) of similar heights (see survey plan Dwg. No. 4471 DA), with a height to the roof of RL97.4 and to the lift shaft of RL 98.86, compared to the proposed heights of RL97.75 to the roof of the gym and RL 99.5 to the lift shaft. Similarly, at the rear of the development, where the residential apartments breach the height control due to the slope of the site, the adjoining developments have a similar height as that proposed, with No. 510 Miller Street having a height of RL 95.72 and the proposal having a height to the roof at the rear of RL 95.2. Given the surrounding development, proposing a building that strictly complied with the height controls would fail to satisfy the objective of being the same or similar as characteristic buildings.*

***Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?***

*Compliance with the height control is unreasonable as it would hinder attainment of the objective of the control, which is to have heights similar to the characteristic buildings as has been discussed above. Further, compliance with the control is unnecessary as the breach of the controls results in an appropriate streetscape presentation to all street frontages and satisfies all of the relevant objectives of the control as are discussed following.*

*As can be seen in the East Elevation in Dwg. No. DA.12, the parapet height, which will be the dominant visual height of the proposal as viewed from Miller Street, is consistent with the parapet height of the adjoining development. Further, as viewed from Abbott Lane, the Western Elevation in Dwg. No. DA.13 shows the parapet height as being the dominant visual height and as being consistent with the dominant visual streetscape height of adjoining development.*

Finally, as viewed from Palmer Street, as can be seen in the North Elevation in Dwg. No. DA. 13, the height of the development steps down with the topography of the site and the street to the apartment building currently being constructed on No. 25-32 Abbott Street, which satisfies objective (a1) of the control.

In consideration of the above it is noted that the roof top components that breach the height control (ie the lap pool, gym, plant and lift over run) cannot be seen from the streets surrounding the development due to their setback from the parapet of the development.

With regard to the remaining objectives, the roof form is consistent with that of surrounding development in the zone, with the requirement for use of gabled and hipped roof forms being inappropriate in the context of the site. The proposed building, and in particular the breaching elements do not result in any significant loss of views, solar access or privacy, given their setback from adjoining residential properties and finally, the excavation for the site is related to car parking and storage areas only. As such the proposal is consistent with all other relevant objectives of the control, notwithstanding the breach of the control

**Is the development which complies with the development standard unreasonable or unnecessary?**

Development that complied with the development standard would not achieve such an appropriate relationship with the adjoining development in the street and as such would provide a less satisfactory streetscape presentation and would be inconsistent with the main objective of the control. Further, a compliant development would necessarily not provide for the roof top communal facilities, which would be to the detriment to the amenity of the future residents of the development.

**Are clause 8 matters of SEPP 1 satisfied? Does non compliance raise matters of state or regional planning significance? Is there a public benefit in maintaining the control?**

In this case there are no state or regional planning matters of significance in relation to the control, it being a local matter. With regard to public benefit, the public benefit is best served by development complying with the objective of the control rather than simply complying with the numerical standard of the control. As such it is in the public benefit to support the variation of the control in this instance, which provides for an improved streetscape presentation.'

The proposed development is considered against the objectives of Clause 17 as follows:

- (a) **Limit the height of buildings in residential zones** – The proposed height of the building with regards to the rooftop structures including the pool, gym, meeting room, and terrace are all above the height limit for the site and are not supported. Similarly, the height of the architectural structures above the 13m height limit within the north-eastern corner of the building exceeds this height limit. These components are non-complying and do not appropriately limit the height of the building in this residential D zone.
- (a1) **Promote development that conforms to and reflects natural landforms** – The site falls by up to 4m from east to west across the northern elevation. The proposed development will generally comply with the building height control along the Miller Street elevation where the site adjoins No.514 Miller Street at its south-eastern boundary. This roof height of approximately RL95 has been



continued across the site, resulting in a non-complying height particularly at the Abbott Lane frontage.

The third (upper-most residential) level has been set back from Abbott Lane frontage by 3m, thus reducing the height of the building at the boundary along this elevation. Further, the entire building has been set back by 3m from the Palmer Street frontage. It is considered that these setbacks assist in minimising the impacts of the breach in height along the northern and western elevations.

As such those breaches of the building height control along the Abbott Lane frontage and Palmer Street frontage are considered to have been designed so as to adequately take account of the topography of the site.

However, the entire common areas proposed for location on the roof including the swimming pool, gym/meeting room and terrace will be located above the 13m height limit. These components do not result from any topographical or other constraints of the site. Rather, these components are considered to result in an unacceptable protrusion which results in the structure having excessive height.

There is not considered to be any valid topographical or other justification for the location of these rooftop structures to be located above the height limit. Due to the topography of the site, the lower basement level fronting Abbott Lane is able to contain an additional 3 apartments, thereby the development is considered to already benefit from the topography in this regard.

With regards to adjoining buildings to the south within Miller Street, the adjoining building to the south at No.514 Miller Street has a building height similar to the roof level of the proposed building with no structures. It is noted that the site adjoining this site at No510 Miller Street has a height being some 3m above this roof height of RL95, however this site also has land levels being up to 2m higher than the subject building in parts compared to the subject site. As such, there is considered to be no valid justification for this increased height for the subject development based upon the existing surrounding development.

In the context of adjoining development to the north on the opposite side of Palmer Street, these sites contain one and two storey dwellings and attached dwellings. They are zoned Residential B, which have a maximum height limit of 8.5m.

With regards to the development to the west, these sites are zoned Residential C which allows for apartment buildings but only up to a height of 12m.

The subject site is therefore on the cusp of the lower density zones. To allow a height in excess of the building height control on the site would not provide an appropriate transition for the Neighbourhood Business area and would not maintain the 'Residential D' zone character of the locality. There is not considered to be any topographical or any other reason as to why this building should not provide their common areas within the complying components of the building.

Concern is also raised with regards to the height of the architectural elements, pergola and parapet on the north-eastern corner. These elements are also in

excess of the building height control. Given the prominent location of the site adjacent to Residential zonings having a lesser height control, it is considered that this north-eastern building corner should be reduced in height as far as possible and should not present as the largest building in the street.

The height of this development should as far as possible, comply with the building height control. Any non-compliances outside this building height control should be limited to plant and minor protrusions brought about by topographical constraints of the site.

It is **not** considered appropriate to delete these common areas altogether from the proposed development scheme. It is considered that a development of this size should be required to relocate these common areas to a part of the building which is generally compliant with the Building Height Control.

To allow the common areas being a pool, gym/meeting room and bbq area, including a lift to access these areas wholly above the 13m height control is considered to set a precedent for allowing all common areas to be located above the building height control on future buildings in the locality.

The subject site is of substantial size compared to surrounding shop top housing within the western side of Miller Street. The site slopes gently from east to west, and from south to north, however this topography is not considered to constitute any unusual site conditions which are particularly unique. Accordingly, the requirement for the building to generally comply with the 13m height control is not considered to be unreasonable or unnecessary.

The proposed height of the building is uncharacteristic of the locality and is not considered to constitute the desired character of the area. The breach of the building height control is therefore not considered worthy of support in this instance.

- (b) ***Where it is desirable to preserve views, other roof forms that are characteristic of the area*** – A flat roof form is considered generally appropriate for the subject site on the basis of adjoining buildings along Miller Street and the nature of the Cammeray Village. The proposed protrusions above the building height control with regards to all roof top structures and the elements on the north-east corner, are considered to be uncharacteristic and are not supported.
- (c) ***Promote the retention of and, if appropriate, sharing of existing views*** – The proposed development is not considered to cause a material loss of views to any surrounding building. Adjoining owners of No.514 Miller Street generally enjoy views to the east and west of their building, and given that the parapet heights and alignments along the east and west facades will generally match those of adjoining properties, existing east/west outlooks will be substantially maintained.

Concern has been raised with regards to loss of views and outlook from No.510 Miller Street. Views from the upper level apartment of this property are presently enjoyed across the subject site. These views are district views, a photograph of which is provided within the DCP table. Whilst the proposed development would reduce outlook from the north to the district views, adequate views and outlook would continue to be maintained from these properties to the east and west, and

there is not considered to be a material loss of views from this property.

Notwithstanding this, a development which complied with the 13m height control would further improve the retention of views and outlook to the north from No.510 Miller Street.

- (d) ***Maintain solar access to new and existing dwellings, public reserves and streets and promote solar access to new buildings*** – The applicant has submitted shadow diagrams which detail that the proposed development will not materially impact upon the solar access of any adjoining property. In detail, the overshadowing impacts are discussed below:-

17 Abbott Street - During the midwinter solstice, the applicant's submitted plans demonstrate that between 9.45am and 12.45pm the rear garden and at least 50% of the rear windows continue to receive solar access which is considered to comply with Council's controls.

19 Abbott Street - The applicant's submitted shadow diagrams detail that during the midwinter solstice, the rear garden will continue to receive solar access between 10am and 1pm; and at least 50% of the rear windows of this property continue to receive solar access between 9.30am and 12.30pm which is considered to comply with Council's controls.

25-31 Abbott Street - The applicant's submitted shadow diagrams detail that the private open space and principle living areas of this newly constructed apartment building remain unaffected by the proposed development.

514 Miller Street - The adjoining property to the south of the subject currently contains a lightwell at its lowest level. The lowest three levels of this building are however non-residential uses. The upper-most floor is residential.

The applicant's submitted shadow diagrams detail that at least 50% of the north-facing windows and outdoor space of the upper-most level residential apartment will continue to receive sunlight between 9am and 12noon during the midwinter solstice. Further, at least half of the west-facing balcony will continue to receive sunlight between 9am and 12noon during the midwinter solstice. The east-facing balcony remains unaffected by the proposed development. The proposed development will generally comply with Council's controls with regards to solar access.

471 Miller Street – Shop top housing is located on the upper level of this property, with an open terrace at first floor. The terrace enjoys a northern aspect and will retain at least 3 hours of sunlight during midwinter. The proposed development will generally comply with Council's controls with regards to solar access.

Despite the proposed non-compliance with the building height control, the proposal will allow the adjoining properties to continue to receive adequate solar access.

- (e) **Maintain privacy for residents**– Those elements which result in a non-compliance with Council's Building Height Control comprise the entire upper-most (Level 3) residential level along the eastern (Abbott Lane) elevation and northern (Palmer Street) elevations. It is considered that the habitable rooms and balconies have been adequately set back from adjoining properties to ensure adequate privacy continues to be provided to adjoining properties.

It is considered that the set back of all proposed common facilities on the rooftop including the gym/meeting room, pool and terrace is sufficient to ensure that adequate privacy continues to be provided to adjoining properties at No.514 Miller Street and No.510 Miller Street.

Despite the proposed non-compliance with the building height control, the proposal will generally result in reasonable impacts with regards to privacy for adjoining properties.

- (f) **Prevent the excavation of sites for building works, other than for garages and car parking** – The proposed basement level excavation is considered to be generally characteristic of the locality. Relevant conditions of consent can be imposed to require the protection of adjoining properties during excavation.

For reasons set out above, it is **not** considered appropriate to invoke the provisions of SEPP No.1 in relation to the provisions of Clause 17 in this instance as the proposed development is inconsistent with the objectives of the control. In particular, the non-complying structures located on the rooftop and within the north-east corner of the site cannot be supported. The proposed SEPP No.1 Objection is not considered to be well-founded and cannot be supported in this instance.

## 5. Building Height Plane

The proposed development will result in a departure in relation to Clause 18 (Building Height Plane). Refer to Compliance Table. The applicant has lodged a SEPP No.1 objection in relation to this departure.

*'Compliance with the control would unnecessarily and unreasonably restrict development at the rear of the site such that it would be inconsistent with the streetscape appearance as viewed from Abbott Lane. Further, as the development satisfies the objectives of the BHP control notwithstanding the breaches, the artificial application of the control where it would result in a less satisfactory development is unreasonable.*

*The breaches of the BHP occur at the westernmost edges of the development and relate to relatively small parts of the rear walls and roofs of apartments and to some balconies and roof of balconies. Each breach is considered separately in relation to the objectives.*

*The breach of the BHP at the ground level of between 500mm and 1400mm relates to the roof of the balcony and as a result does not result in any material impacts on privacy, views or ventilation to any other residential property. The breach of the roof does not result in any additional overshadowing of any other residential property, as the shadow cast by the breaching element falls within the shadow cast by the complying component of the upper floors of the development.*

*The breach of the BHP at the first floor level of between 1300mm and 4000mm relates to the upper part of the rear wall and part of the balcony of the development. This breach does not result in any material impacts in relation to views or ventilation. With regard to privacy, as has been discussed in detail in section 9.2.2 of this Statement, the proposal has no unacceptable privacy impacts and as such there are no material impacts upon privacy as a result of this breach. Similarly to the breach at the ground level, the shadow cast by the breaching element falls within the shadow cast by the complying component of the upper floors of the development.*

*The breach of the BHP at the second floor level of up to 3600mm relates to the rear part of the residential apartments and their balcony. This breach does not result in any material impacts in relation to views or ventilation. With regard to privacy, as has been discussed in detail in section 9.2.2 of this Statement, the proposal has no unacceptable privacy impacts and as such there are no material impacts upon privacy as a result of this breach. Similarly to the breach at the ground level, the shadow cast by the breaching element falls within the shadow cast by the complying component of the upper floor of the development.*

*Finally, the breach of the BHP at the third floor level of between 2200mm and 3400mm relates to the rear part of the residential apartments and their balconies at the southern end of the development and to the pergola over the roof terrace at the northern end of the development. This breach does not result in any material impacts in relation to views or ventilation. With regard to privacy, as has been discussed in detail in section 9.2.2 of this Statement, the proposal has no unacceptable privacy impacts and as such there are no material impacts upon privacy as a result of this breach. With regard to shadow impact, this breach does result in some additional shadowing to the rear yard and windows of the dwellings at Nos. 17 and 19 Abbott Street. The additional shadowing experienced as a result of the breach is approximately 15 minutes to the windows and a minimum of 3 hours of solar access is maintained to the windows. Given the small length of time of the loss of solar access to the windows due to the breach, it is not considered to represent a material impact and as such the breaching element satisfies the objectives of the control. Similarly, the additional shadowing to the rear private open space areas is increased by approximately 15 minutes due to the breach, and the retained solar access is for at least 3 hours in midwinter to a usable area of the rear space. Given the minor reduction in shadowing as a result of the breach, it is considered not to be material and as such the breaching element is consistent with the objectives of the controls.*

***Is the development which complies with the development standard unreasonable or unnecessary?***

*Development that complied with the development standard would be contrary to the objects of Section 5(a)(i) and (ii) of the Act as it would not constitute the orderly and economic use of the land, as it would result in less than optimal development of the site and would present an unacceptable and inconsistent streetscape to Abbott Lane, which can also be viewed from Palmer Street. For these reasons a compliant development would be unreasonable and is unnecessary.*

***Are clause 8 matters of SEPP 1 satisfied?***

***Does not compliance raise matters of state or regional planning significance?***

***Is there a public benefit in maintaining the control?***

*In this case there are no state or regional planning matters of significance in relation to the control, it being a local matter. With regard to public benefit, the public benefit is best served by development that provides an appropriate height and bulk relationship in the streetscape with regard to the adjoining development. Complying with the numerical standard of the control would prevent the erection of a development on the site which*

*achieved this relationship. It is also noted that the public interest of maintaining compliance with this numerical control has already been lost as the control has effectively been abandoned by a long history of allowing non-compliance with the control as can be seen in the development existing within the Residential D zone in proximity to the subject site.'*

The proposed breaches have been assessed against the performance criteria of Clause 18(5) and the objectives of the control. These matters have been considered below:

- (a) ***Overshadow any existing or new property*** - Shadow diagrams for midwinter and the equinox have been submitted which illustrate the proposed overshadowing to neighbouring properties. As discussed in regard to 'Building Height' Section above, it is considered the proposal will not result in any material impact on the solar access of any adjoining properties.
- (b) ***Reduce the level of privacy to any existing or new property*** – As set out above within 'Building Height' Section, it is considered that privacy has been satisfactorily addressed given the generally substantial setbacks which exist to adjoining properties. On the basis of the built up urban character of the area, the level of privacy to adjoining properties will not be materially reduced by the proposed development.
- (c) ***Obstruct views from existing or new property*** – As set out above within 'Building Height' Section, the proposed development is not considered to materially impact any important views from any existing or surrounding property.
- (d) ***Obstruct daylight or ventilation to any existing or new property*** – It is considered that there will be no material impact on the daylight and ventilation of adjacent properties in this instance. It is noted that an existing lightwell is located adjacent to the site's southern boundary serving the retail, commercial and residential levels of No.514 Miller Street. On balance, adequate daylight and ventilation will continue to be provided to this adjoining property. Further, as set out above, adequate sunlight will continue to be provided to the residential apartment located on the uppermost level. As such, it is considered that this objective is satisfied.

The development results in no material impact upon any surrounding development subject to conditions of consent being imposed as discussed above. Therefore, the consent authority can use SEPP 1 as a mechanism to vary the development standard where the objectives of the control are satisfied:

- (a) ***Control the bulk and scale of buildings*** – It is considered that the bulk and scale of those elements in breach of the control which generally comprises the western balconies, will generally satisfies the bulk and scale objectives. It is reiterated that the Building Height Plane control does not apply to the eastern elevation and will comply with regards to the northern elevation due to the large width of Palmer Street wherein the building height plane is measured within the centre of the road for this elevation.
- (b) ***Provide separation between buildings*** – It is considered that adequate separation has been provided to adjoining buildings in this instance.

- (c) **Preserve the amenity of existing dwellings** – It is considered that the amenity of existing dwellings and the provision of amenity to new dwellings in terms of overshadowing, privacy, views, ventilation and solar access will not result in any material impact in this instance.

It is considered that the SEPP1 objection adequately demonstrates that the objectives of the Building Height Plane Control are satisfied. The proposed development is considered to result in reasonable impacts with regards to amenity of surrounding properties and is considered to result in acceptable bulk and scale in the context of surrounding buildings. Accordingly, the SEPP No.1 objection is considered well-founded and worthy of support in this instance.

## 6. Residential D Zone

Council's Residential D zone Control requires that a building must not be erected in the residential D zone if the:

- (a) **Percentage of landscaped area plus outdoor space on the site is less than 35% of the site area** - It is noted that 'outdoor space' is defined within Council's LEP as follows:

*'Outdoor space includes landscaped area and any balcony accessible from the living area of a dwelling, or any roof top or above ground level outdoor space accessible to residents of a building, and which is available for their use.'*

In accordance with the above-mentioned definition, the proposed development will achieve a landscaped area of 53% when combining the area of the balconies and also the rooftop area. The proposed development will comply in this regard.

- (b) **Floor space ratio of the building exceeds 1:1 in all areas other than the part of Cammeray or St Leonards shown coloured on sheet 2 of the map** – The proposed building will have a non-residential floor space ratio of 0.5:1 which will comply with Council's Controls.

## Building Form

### 7. Apartment Buildings

It is noted that Clause 25 NSLEP is not considered to apply to the subject development. The proposed development is considered to be 'shop top housing' and is considered to not fall within the strict definition of an apartment building.

## Miscellaneous Provisions

### 8. Excavation of Land

The provisions of Clause 39 of the NSLEP 2001 relate to minimising the effects of the excavation on sites. In this locality, excavation in order to provide for below-ground basement parking is characteristic. Any approval of the development application should include the imposition of conditions of consent requiring that a structural engineer and a

geotechnical engineer be engaged and that appropriate precautions are undertaken during all stages of construction to ensure the protection of surrounding properties. It is considered that the effects of excavation can be appropriately managed through the imposition of conditions. Also refer to the 'Contamination' discussion contained within this report.

## **9. Draft NSLEP 2001 (General Amendments)**

The draft amendments to the NSLEP 2001 have been considered in relation to the proposal, and it is considered that the proposed amendments will not have an affect on the assessment of this development proposal.

## **10. Contaminated Land**

The subject site is identified as a contaminated site. Refer to SEPP55 section for further discussion.

## **11. Acid Sulphate Soils**

This site is not noted on Council's maps as being affected by acid sulphate soils.

## **12. Suspensions of Covenants, agreements and similar instruments**

Council is unaware of any covenants, easements or the like, which may be affected by the proposed development.

## ***Heritage Provisions***

## **13. Heritage Conservation**

The subject site is not listed as an item of heritage, is not located within a Conservation Area and is not located in close proximity to an item of heritage. Accordingly, the provisions of Part 4 NSLEP and Section 8.8 NSLEP 2001 are not applicable to the site.

## **SEPP 55 and Contaminated Land Management Issues**

The subject site has been considered in the context of ***Clause 7 Contamination and remediation to be considered in determining development application*** of State Environmental Planning Policy 55 and the Contaminated Lands Management Act. Clause 7 of the SEPP stipulates;

### ***7. Contamination and remediation to be considered in determining development application***

(1) *A consent authority must not consent to the carrying out of any development on land unless:*

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*



- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*
- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
- (3) *The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*

The application has included a Site Audit Statement which certifies that the site is suitable for the following uses:

- Residential with minimal opportunity for soil access, including units.
- Commercial/industrial.

The following additional statement was provided within the report:

*'The site was a former service station that has been remediated by excavation and offsite disposal of contaminated soil. Minor residual petroleum hydrocarbon contamination remains within rock and may cause odours during excavation.*

*A small amount of contamination (principally polycyclic aromatic hydrocarbons and asbestos unrelated to service station use) remains within fill along the eastern (Miller Street) site boundary. It should be managed properly during site redevelopment, either by removal and appropriate disposal or managing to ensure it will not come into contact with site users in the future'.*

Accordingly, the level of remediation currently undertaken on the site prohibits the use of the site for childcare centres, gardens and a number of other uses which are not considered to be unreasonable for uses associated with the mix used development on the site. Further, it is evident from the submitted documentation that contamination has been found adjacent to the site on Council's land (Miller Street).

Based upon this submitted Site Audit, it is recommended that any approval for the site must contain a deferred commencement condition which requires the applicant to prepare a Remedial Action Plan in accordance with relevant requirements of SEPP 55. The site must be required to be remediated to a level that is suitable for the use of all reasonable uses associated with a mixed use development. No valid reason has been provided to Council to indicate otherwise.

## **SEPP 65 – Design Quality of Residential Flat Development**

State Environmental Planning Policy No. 65 aims to improve the design quality of residential flat development in New South Wales by recognising that the design quality

of residential flat development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design. The SEPP aims to:-

- (a) *to ensure that it contributes to the sustainable development of New South Wales:*
  - (i) *by providing sustainable housing in social and environmental terms, and*
  - (ii) *by being a long-term asset to its neighbourhood, and*
  - (iii) *by achieving the urban planning policies for its regional and local contexts, and*
- (b) *to achieve better built form and aesthetics of buildings and of the streetscapes and the public spaces they define, and*
- (c) *to better satisfy the increasing demand, the changing social and demographic profile of the community, and the needs of the widest range of people from childhood to old age, including those with disabilities, and*
- (d) *to maximise amenity, safety and security for the benefit of its occupants and the wider community, and*
- (e) *to minimise the consumption of energy from non-renewable resources, to conserve the environment and to reduce greenhouse gas emissions.*

The primary design principles being Context, Scale, Built Form, Density, Resource Energy & Water Efficiency, Landscape, Amenity, Safety & Security, Social Dimensions, Aesthetics are discussed as follows:

**Context, Scale & Built Form:** The development is considered to be not contextually appropriate or of an appropriate scale due to its exceedence of the Council's Building Height Control. The rooftop structures will result in the building having a height well above adjoining properties, and given that the subject site is down below adjoining properties, this height is considered to be contextually inappropriate. Further, the lack of podium setback on the upper (third) floor level is considered unacceptable as it will result in excessive bulk and scale to the building. This site is considered to be generally a gateway site from surrounding residential development. Excessive bulk and scale as viewed from the northern Miller Street approach is considered to be contrary to the desired character of the locality. As such, the proposed building envelope is not supported.

**Density:** The density of the development is inconsistent with that envisaged by Council's controls. Council's DCP requires that a dwelling yield be provided consistent with Council's Residential Development Strategy. Refer to the DCP Table (Mixed Residential population) consideration for further details. In summary, the Residential Strategy allows for 21.5 apartments to be provided on the subject lot, based upon a 5 storey building located within a Residential D zone. Should the Mixed Use consideration contained within Council's Residential Development Strategy be applied to the site, then the dwelling yield for the site would be 32.3 dwellings. The proposed 36 residential apartments is in excess of these controls. A development of around 28 apartments would give greater opportunity for design excellence and greater compliance with the relevant controls.

Accordingly, this additional density provided on the site is considered compromise residential amenity as set out in this report with regards to cross ventilation, number of dwellings serving a lift and various other non-compliances. The proposed development is considered to represent an overdevelopment of the site in this regard.

**Resource Energy and Water Efficiency:** Relevant conditions can be imposed requiring the development to be sustainable.

**Landscape:** The proposed development does not provide landscaping on the site, with the exception of a small planter area provided along the northern elevation and some roof top vegetation. However, it is not considered that the provision of additional landscaping should be required in this instance. Buildings generally built to each boundary are characteristic and generally permissible in the locality.

**Amenity:** SEPP 65 seeks to optimise amenity to the proposed development.

This subject site enjoys an uninterrupted northern aspect and also enjoys three frontages. As such, there is a large potential to optimise amenity to each apartment. Further, the site is considered to have few constraints.

SEPP65 requires that at least 60% of apartments should be provided with cross ventilation while Council's DCP provisions provide that 75% of apartments should be provided with cross ventilation. The proposed development provides 69% of apartments with cross ventilation. Whilst this is generally within the middle of the range of these policies, there is considered to be no valid reason for the non-compliance with Council's 75% control.

The Design Excellence Panel recommended a U-shape or an L-shape apartment be provided on the site so as to increase cross ventilation and amenity to each dwelling. The site is a large site and it is considered that the potential to provide greater cross-ventilation and amenity to apartments exists. This would also allow a greater access to sunlight for each apartment, given that a number of apartments proposed are single aspect. As such, this could reduce the provision of double-loaded corridors provided through the centre of the building.

It is noted that the applicant has submitted a study prepared by Heggies which concludes that the light provided to the eight apartments which are serviced by the southern lightwell will have adequate access to daylight and ventilation.

**Safety & Security:** The development provides an adequate level of security and safety for the occupants.

**Social Dimensions:** An appropriate mix of apartment types will be provided by the development. Based upon the size of the proposed development it is considered essential that a common area is provided. The proposed common area on the rooftop comprising a swimming pool, gym/meeting room and terrace area is considered to provide a quality outcome in this regard. However, for reasons set out in this report, the height of these structures is non-complying and cannot be supported. Any amended design should not delete these common areas altogether. It is considered to be important that these common areas be provided within the building and be of an acceptable quality so as to provide a community benefit to the future occupants of the building.

**Aesthetics:** The aesthetics of the building has been assessed by the Design Excellence Panel as being acceptable. It is considered that the proposed vertical proportions of the building are acceptable given that the Cammeray Neighbourhood identifies vertical

elements on buildings as being a desirable characteristic. No objection is raised with regards to the proposed materials and design of the building.

**As such the height of the building is not supported and the proposed excessive density is considered to result in a compromised residential amenity for a number of apartments, which is inconsistent with the aims of SEPP 65 and can not be supported in this regard.**

## **SYDNEY HARBOUR CATCHMENT REP & SYDNEY HARBOUR FORESHORES AREA DCP**

The subject site falls under the provisions of this policy, however no primary views from the Harbour are afforded to the subject property. Appropriate conditions of consent relating to erosion control during construction are recommended to be imposed on the proposed development. The proposed works are considered satisfactory with regards to the provisions contained within this policy in this regard.

## **DEVELOPMENT CONTROL PLAN 2002**

### ***Relevant Planning Area (Camberay Village Neighbourhood)***

The application has been assessed against the relevant controls in DCP 2002 relating to the Cammeray Planning Area and Cammeray Village Neighbourhood Area. Podium and setback controls have been assessed in this report as being generally acceptable.

The Cammeray Character Statement sets out as follows:-

*'The following character statement is the desired future outcome for development in the Cammeray Planning Area. It does not necessarily describe the existing character or existing features of any area contained within the planning area.*

*Quality Built Form – Any development that occurs reflects and reinforces the existing distinctive built form/landscaped areas and distribution of accommodation types.'*

It is considered that the height, bulk and scale of the proposed development is excessive and results in an overbearing impact upon the surrounding locality. Further, as set out in this report the proposed development does not apply the podium controls to the Miller Street frontage, which is considered to be unacceptable. The proposed development is considered to be contrary to desired character of the locality

## **SECTION 94 CONTRIBUTIONS**

Relevant Section 94 Contributions in accordance with Council's Controls should be imposed should the Panel consider the development application worthy of approval.

## **APPLICABLE REGULATIONS**

Clauses 92-94 of the EPA Regulation 2000 require that Council take into consideration Australian standard AS 2601-1991: *the demolition of structures*, as in force at 1 July 1993. As demolition of the existing structures are proposed, a suitable condition should be imposed.

## DESIGN & MATERIALS

The design and materials of the buildings have been assessed as being acceptable.

### DRAFT PLANS RECEIVED BY COUNCIL ON 26 MARCH 2010

The applicant has submitted a draft sketch plan received by Council on 26 March 2010 which details the deletion of the gym and pool from the rooftop, and proposes instead a common room within the proposed southern lightwell/courtyard. **This sketch plan has not formed part of the assessment contained within this report.** A preliminary review of the relocation of this common area is considered this will compromise the previously proposed greenspace and utility of the courtyard. This common area located within the proposed courtyard is considered to be unacceptable.

It is considered that the common areas should be located within the building, and should replace a number of existing apartments. This would assist in addressing the excess density also proposed on the site. As set out within this report, the excess density of apartments on the site is considered to compromise the residential amenity of a number of apartments.

### RECENT DEVELOPMENTS ON THE EASTERN SIDE OF MILLER STREET.

The following developments are of note on the eastern side of Miller Street and may be of use in assessing the context of the proposal for 520 Miller Street;

**502-504 Miller Street** - This development was approved by Consent of the Land and Environment Court on 11 December 2001. The building was designed by Revay and Unn Architects. It was submitted prior to the enactment (1 June 2001) of the current LEP and prior to the adoption of DCP2002.

It features a podium to Miller Street and generally complies with current height controls. An internal design reminiscent of the current proposal is featured. Light wells are relied upon to provide cross ventilation to a number of units though these are generally smaller than those in the current proposal.

**510 Miller Street** - This development was approved by Council on 1 July 2000 and predates current LEP and DCP controls. It is a mid block development and exceeds current height control and does not feature a podium. It is similar in maximum height to the current proposal.

It features a central atrium void which extends from the northern to the southern boundary and has the dimensions of approximately 9 x 16 meters for a total area of 144 square meters. This atrium is roofed with cloth, is landscaped and features the central lift and stair access to the units. It offers a significant amenity.

**450 Miller Street** - This Development designed by Marchese and Associates was approved by the Land and Environment Court of New South Wales in 2006. A significant issue for the Council was the amount of commercial and retail floor space within the development which was significantly reduced through the court proceedings.

While exceeding the 10 metre height limit for the site it offers significant amenity for

both the users of the retail facilities of the development and the occupants of the residential units in the form of a central piazza. The completed development is an example of how appropriate design can respond to the intent of planning controls to create a form which benefits all.

It is considered that a form of development responding to the issues raised by this report would build upon the outcomes of the above developments.

## **ALL LIKELY IMPACTS OF THE DEVELOPMENT**

All likely impacts of the proposed development have been considered within the context of this report.

<b>ENVIRONMENTAL APPRAISAL</b>	<b>CONSIDERED</b>
1. Statutory Controls	Yes
2. Policy Controls	Yes
3. Design in relation to existing building and natural environment	Yes
4. Landscaping/Open Space Provision	Yes
5. Traffic generation and Carparking provision	Yes
6. Loading and Servicing facilities	Yes
7. Physical relationship to and impact upon adjoining development (Views, privacy, overshadowing, etc.)	Yes
8. Site Management Issues	Yes
9. All relevant S79C considerations of Environmental Planning and Assessment (Amendment) Act 1979	Yes

## **CLAUSE 14 NSLEP 2001**

### ***Consistency With The Aims Of Plan, Zone Objectives And Desired Character***

The development is inconsistent with the specific aims of the plan and/or the objectives of the zone and/or the objectives of the controls as outlined in this report and as such, consent must not be granted.

## **SUBMITTORS CONCERNS**

Eleven submissions were received in relation to the proposed development raising concerns which including traffic, parking, bulk, scale, height, privacy, views, overdevelopment of the site and a number of other issues. These issues have been mostly addressed within this report. Additional issues raised are addressed as follows:

- ***The proposal will exacerbate traffic congestion in the locality.***

**Planning comment:** Council's traffic engineer advises that the proposed development will result in a net reduction in traffic associated with the site compared to previously existing development on the site and generally concurs with the submitted traffic report that the resultant traffic will not result in an unacceptable impact in terms of the capacity of the road network or traffic-related environmental impacts.

- ***The proposal will adversely impact on the availability of parking in the locality.***

**Planning comment:** Council's traffic engineer raises no objection with regards to car parking given that the proposal will generally provide a complying car parking quantum

- ***The proposed additional traffic will adversely impact on pedestrians in the area.***

**Planning comment:** Council's traffic engineer recommends that the applicant be required to modify the signals at the intersection of Miller Street and Palmer Street to provide a signalised pedestrian crossing on the western side of the intersection. This will improve pedestrian flow in the area. No other adverse impacts upon pedestrian traffic is considered to result from the proposed development.

- ***Less units and a review of the public entertainment/courtyard areas within the building should be considered. More green space should be provided to the development.***

**Planning comment:** The site will generally comply with the landscaped area requirement and there is no requirement on the site provide additional greenspace or public courtyards/squares.

- ***Construction traffic, noise and disturbance will adversely affect surrounding residents.***

**Planning comment:** Appropriate conditions of consent can be imposed relating construction hours and impacts on adjoining properties during construction in order to minimise impacts on adjoining properties and the surrounding locality.

## **CONCLUSION**

The amended plans are considered to have addressed a number of issues and non-compliances previously raised by Council. However, the proposed rooftop common areas and the north-eastern structures above the parapet, are clearly in breach of Council's Building Height Control and do not satisfy the objectives of Clause 17 NSLEP 2001. The SEPP No.1 Objection in relation to this non-compliance is not considered to be well-founded or worthy of support in this instance.

Council has requested that the rooftop common areas be relocated to ensure the building will generally comply with Clause 17 NSLEP 2001. The applicant has submitted numerous sets of amended plans to Council and continues to provide these common areas upon the roof.

It is considered the height of the development results in a detrimental impact upon the

surrounding locality. Further, the approval of rooftop communal structures wholly outside Council's Controls is considered to set an undesirable precedent for other mixed use developments and apartment buildings to seek similar concessions for similar non-compliances in order to provide their common areas. This is not permissible under Council's Controls. This site is not considered to be constrained or unique such that would prevent these facilities being provided within complying elements of the building.

These common areas should be instead located within complying elements of the building and should replace a number of apartments.

The subject site is considered to represent a gateway site to the Cammeray Village Neighbourhood area, being located on the cusp of surrounding lower-density residential areas. The proposed development fails to provide podium setbacks to the Miller Street frontage in accordance with Council's DCP Controls and is considered to result in a visual bulk that will be out of keeping with the Village area. Further, the lack of podium setback is considered likely to form a precedent for any future development on the eastern side of Miller Street. It is considered that third (upper) floor level should be set back by at least 2.5m above the three storey podium below as set out in Council's controls.

As set out within this report, the proposed development provides a density that is in excess of the development yield identified as being acceptable for the subject site. This excessive density on the site is considered to result in compromised residential amenity for a number of apartments, and as such is considered to represent an overdevelopment of the site.

This development will provide 11 apartments having a single aspect only, will provide double loaded corridors on the first, second and first floor levels resulting in long corridors within a number of apartments which does not efficiently utilise these internal spaces. Further, 15 apartments will be provided with living areas having a maximum width of 4m or less. The proposed density of development results in compromised amenity for a number of apartments. These 36 apartments are also proposed to be served by one lift.

The issues raised by the Design Excellence Panel can only be addressed by a complete redesign. The applicant has chosen a piecemeal approach to a proposal which was highly inappropriate in an effort to make the proposal worthy of approval. In my view he has failed even though the proposal is more refined.

As such, the development application in its current form cannot be supported and is recommended for refusal.

The proposed development has been assessed under the provisions of the Environmental Planning and Assessment Act 1979, North Sydney Local Environmental Plan 2001, Development Control Plan 2002 and all other relevant statutory and non-statutory controls.

## **RECOMMENDATION**

**PURSUANT TO SECTION 80 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (AS AMENDED)**



- A. **THAT** development consent be **refused** for Development Application No. 435/09 for the construction of a mixed use development on land at No.520 Miller, Cammeray, as shown on plans Drawings numbered **DA01-DA19 (inclusive) Issue F**, dated 11.03.10, drawn by Revay and Unn, and received by Council on 11 March 2010, for the following reasons:-

### **Building Height**

1. The proposal results in a breach of Clause 17 NSLEP 2001 (Building Height) and the submitted SEPP No.1 Objection is not considered to be well-founded or worthy of support in this instance.

#### Particulars

*Clause 2(b) (General Aims of this Plan) of NSLEP 2001*  
*Clause (3)(ai), (bi), (Specific Aims of this Plan) of NSLEP 2001*  
*Clause 16 (c) & (d) (Residential Zone Objectives) of NSLEP 2001*  
*Clause 17 (Building Heights) of NSLEP 2001*  
*Section 7.3 (a)(context) of NSDCP 2002*  
*Section 7.3 (h)(form, massing and scale) of NSDCP 2002*  
*Section 7.3(i)(built form character) of NSDCP 2002*

### **Podium Setback**

2. The proposal results in a non-compliance with the podium and setback controls along the Miller Street (eastern) elevation resulting in excessive bulk and scale, and an overbearing impact upon the surrounding Cammeray Village Neighbourhood.

#### Particulars

*Clause 2(b) (General Aims of this Plan) of NSLEP 2001*  
*Clause (3)(ai), (bi), (Specific Aims of this Plan) of NSLEP 2001*  
*Clause 16 (c) & (d) (Residential Zone Objectives) of NSLEP 2001*  
*Section 7.3 (a)(context) of NSDCP 2002*  
*Section 7.3 (h)(form, massing and scale) of NSDCP 2002*  
*Section 7.3(i)(built form character) of NSDCP 2002*  
*DCP Character Statement – Cammeray Village Neighbourhood.*

### **Residential Density**

3. The proposal results in a density that is in excess of the development yield expected on that site as set out in the North Sydney Residential Development Strategy. This excessive density is considered to compromise residential amenity of a number of apartments.

#### Particulars

*Clause 2(b) (General Aims of this Plan) of NSLEP 2001*  
*Clause (3) (bi) (Specific Aims of this Plan) of NSLEP 2001*  
*Clause 16 (b) (Residential Zone Objectives) of NSLEP 2001*  
*Section 7.1 (a)(Mixed Residential population) of NSDCP 2002*  
*Section 7.4 (c)(High quality residential accommodation) of NSDCP 2002*

### **Overdevelopment of the site**

4. The proposal represents an overdevelopment of the site.

Particulars

*Clause 2(b) (General Aims of this Plan) of NSLEP 2001*

*Clause (3)(ai), (bi), (Specific Aims of this Plan) of NSLEP 2001*

*Clause 16 (b), (c) & (d) (Residential Zone Objectives) of NSLEP 2001*

*Clause 17 (Building Heights) of NSLEP 2001*

*Section 7.1(a)(mixed residential population) NSDCP 2002*

*Section 7.3 (a)(context) of NSDCP 2002*

*Section 7.3 (h)(form, massing and scale) of NSDCP 2002*

*Section 7.3(i)(built form character) of NSDCP 2002*

*Section 7.4(c) (High quality residential accommodation) NSDCP 2002*

*DCP Character Statement – Cammeray Village Neighbourhood.*

**Precedent**

5. The proposal is considered likely to set an undesirable precedent in the Cammeray Village Neighbourhood.

Particulars

*Section 79C Part 1(b) and (c) of the Environmental Planning and Assessment Act 1979.*

**Public Interest**

6. The proposal is not in the public interest.

Particulars

*Section 79C Part 1(e) of the Environmental Planning and Assessment Act 1979.*

**Lara Huckstepp**  
**ACTING TEAM LEADER**

**Stephen Beattie**  
**MANAGER DEVELOPMENT SERVICES**