

**JOINT REGIONAL PLANNING PANEL
(Sydney East Region)**

JRPP No:	2015SYE091
DA No:	DA15/0742
Local Government Area:	Sutherland Shire
Proposed Development:	Demolition of 14 dwellings and construction of 2 residential flat buildings containing 197 units and 3 levels of basement carparking
Street Address:	660-664 Kingsway and 2-22 University Road, Miranda Lots 27 – 40 in DP 7580 (14 lots total)
Applicant/Owner:	Galileo Miranda Nominee Pty Limited
Number of Submissions:	Two (2)
Regional Development Criteria (Schedule 4A of the Act)	General Development over \$20 million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No. 65 (Design Quality of Residential Apartment Development) • Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment • Sutherland Shire Local Environmental Plan 2015 • Draft Sutherland Shire Development Control Plan 2015 • Apartment Design Guide • Section 94 Contributions Plans
List all documents submitted with this report for the panel's consideration:	<ul style="list-style-type: none"> • Draft Conditions of Development Consent • Pre-Application Discussion (PAD) letter • Letter of support from NSW Department of Education and Miranda Public School • Sydney Trains concurrence letter • Architectural Review Advisory Panel (ARAP) comments • NSW Police comments • Applicant's Clause 4.6 Objection to Building Height
Recommendation:	Deferred Commencement Approval
Report By:	Martin Southwell – Environmental Assessment Officer (Planner) Sutherland Shire Council

Assessment Report and Recommendation Cover Sheet

1.0 EXECUTIVE SUMMARY

1.1 Reason for Report

This development application (DA) is referred to the Joint Regional Planning Panel (JRPP) as the proposal has a capital investment value of more than \$20 million. It is therefore nominated under Schedule 4A(3) of the Environmental Planning and Assessment Act, 1979 (EP&A Act). The proposed development has a value of \$79,117,500.

1.2 Proposal

The proposal involves the demolition of all existing structures and the construction of 2 residential flat buildings (RFBs) comprising 197 apartments within 8 storeys. Three basement levels will accommodate 303 car parking spaces accessed from University Road.

1.3 The Site

The land is regular in shape and is located on the corner of Kingsway and University Road in Miranda. The site has a total area of 7,940m², a frontage to Kingsway of 42.68m and a frontage to University Road of 184.59m. The site has a notable rise to its midsection, with its centre being about 5m higher than the northern and southern ends. The site adjoins the Sutherland-Cronulla railway line at its southern end. The site is located at the western periphery of the Miranda Centre and is within close proximity to major public transport nodes, community facilities, public services and Westfield shopping centre.

1.4 The Issues

The main issues identified are as follows:

- Concurrence from Sydney Trains
- Non-compliant building height (up to 800mm over)
- Non-compliant provision of car parking (9 spaces short)
- Unresolved waste management
- Integration of the proposal with the streetscape and the amenity of subterranean apartments.
- Traffic impacts, waste management and pedestrian safety

1.5 Conclusion

The applicant has submitted an amended proposal since lodgement of the DA. The amended proposal has reduced building heights, improved integration with the streetscape of both frontages, increased car parking provision, increased basement setbacks and a compliant quantum of deep soil landscaped area.

However, there are a number of outstanding issues that have not yet been adequately addressed despite Council insisting on compliance. These are excessive building height (800mm) and unresolved waste management.

Therefore, following assessment of the proposal and having regard to the Heads of Consideration under Section 79C of the EP&A Act, it is Council's view that there is no option but to recommend support subject to deferred commencement to reduce the overall height of the building and resolve waste management. Furthermore, the

deferred commencement consent will ensure the requirements of Sydney Trains are satisfied.

2.0 DESCRIPTION OF PROPOSAL

The proposal is for the demolition of all existing structures on the site and the construction of 2 RFBs being 8 storeys in height and accommodating 197 residential apartments. Each building has 2 lift cores. The development includes a mix of 1, 2 and 3 bedroom apartments. Three levels of basement car parking with 303 parking spaces are accessed via a single driveway off University Road. The parking split is 263 residential spaces, 40 visitor spaces, 4 car wash spaces and 19 motorcycle spaces.

The development is of a modern contemporary design. It is massed at 8 storeys at the northern and southern ends of the site and steps down to 6 storeys at the centre overlooking a large, central communal open space. Six penthouse apartments on Level 7 have private rooftop terraces.

None of the 29 existing trees on the site are proposed to be retained. One of the trees shown on plans as being on the site and to be retained (at the north-eastern corner of the site) is actually located in the public school grounds. Five of the existing 12 street trees along University Road are proposed to be retained. A 6m wide deep soil basement setback from University Road is proposed which will allow the retention of street trees and provide opportunity for additional canopy tree planting. A 6m wide deep soil basement setback is also proposed along the eastern side boundary, which will provide opportunity for privacy planting adjacent to the public school. Stormwater is proposed to be discharged both to Kingsway and the railway corridor.



3.0 SITE DESCRIPTION AND LOCALITY

The land is regular in shape and is located on the corner of Kingsway and University Road in Miranda. The site has a total area of 7,940m², a primary northern frontage to Kingsway of 42.68m and a western frontage to University Road of 184.59m. There is

a “bow” of about 5m to the site, with the northern and southern boundaries having elevations of between about RL 46 and 48 AHD and the centre of the site being at about RL 51 AHD. The land is currently occupied by 1 and 2 storey dwellings and detached ancillary structures. Existing vehicular access is obtained both via Kingsway (a classified road) and University Road. There are 29 existing trees on the site and 12 existing street trees along University Road. Refer to the aerial photographs of the site and locality on the following pages.

The site is located at the western periphery of the Miranda Centre and is within close proximity to major public transport nodes, community facilities, public services and Westfield shopping centre. The site is at the eastern extremity of the new Miranda Pinnacle Street Precinct, which has recently been “up zoned” under Sutherland Shire Local Environmental Plan 2015 from low density residential to R4 High Density Residential.

Aerial photographs of the site and locality are reproduced below and on the following page:





Opposite the site to the north is Port Hacking High School. The western side of University Road consists of 1 and 2 storey dwelling houses, which form part of the Miranda Pinnacle Street Precinct. Immediately to the south is the Sutherland-Cronulla railway line.

Adjoining the site to the east is Miranda Public School. A “Sensory Regulation Playground” for disabled children is situated on the western side of the school,

immediately adjacent to the site. The developer has indicated that extensive consultation with the school was undertaken during the design process due to the sensitive nature of the playground and significant community interest in minimising adverse impacts to it. This particular matter heavily influenced the conception of various development controls within Chapter 7 of Draft Sutherland Shire Development Control Plan 2015 (DSSDCP 2015).

4.0 BACKGROUND

A history of the development proposal is as follows:

- A pre-application discussion (PAD) was held on 2 June 2015 regarding the proposed development. A formal letter of response was issued by Council on 6 July 2015. A full copy of the advice provided to the Applicant is contained within **Appendix B** of this report and concern was raised in this letter with respect to the following matters:
 - *Proposed built form, non-compliances with amalgamation and building envelope controls of the DSSDCP 2015 and adverse streetscape as a consequence.*
 - *Non-compliance with the 25m building height development standard.*
 - *Insufficient building separation from the sensory playground of Miranda Public School and potential privacy impacts as a consequence.*
 - *Insufficient deep soil basement setback from University Road and impacts to existing and potential future street trees as a consequence.*
 - *Non-compliant deep soil landscaped area on the site.*
- The current application was submitted on 14 July 2015.
- The application was placed on exhibition with the last date for public submissions being 20 August 2015. Two submissions were received.
- Sydney Trains requested additional information by email received on 7 August 2015 (subsequently sent to the applicant on 11 August 2015).
- An Information Session was held on 11 August 2015 during the public exhibition period and no parties attended.
- The application was considered by Council's Architectural Review Advisory Panel (ARAP) on 13 August 2015.
- Council wrote to the applicant on 2 September 2015 and requested that the following matters be addressed by way of an amended proposal:
 - *Poor streetscape integration, excessive Floor Space Ratio (FSR) and excessive building height.*
 - *Insufficient deep soil landscaped area and deep soil basement setbacks from University Road*
 - *Technical non-compliances with Apartment Design Guide (ADG)*
 - *Insufficient car parking provision*
 - *Inadequate survey data submitted with the DA to enable Council to ascertain actual height of the building*
 - *Inadequate provision for collection of waste*
- Amended drawings and additional information were lodged on 28 September 2015.
- The application was considered by Council's Submissions Review Panel on 6 October 2015.
- Additional information regarding the height non-compliance and waste management were submitted on 4 November 2015.

- Further amended drawings were lodged on 24 November 2015 in which the southern setback from the railway line was increased from 6m to 6.6m.

5.0 ADEQUACY OF APPLICANT'S SUBMISSION

In relation to the Statement of Environmental Effects, plans and other documentation submitted in support of the proposal, the applicant has provided adequate information to enable Council to make a thorough assessment of this application and formulate a recommendation.

6.0 PUBLIC PARTICIPATION

The application was advertised in accordance with the provisions of Chapter 12 of DSSDCP 2015. Twenty (20) adjoining or affected owners were notified of the proposal and 2 submissions were received as follows:

Address	Date of Letter/s	Issues
23 Balla Machree Way, GyMEA Bay	27 July 2015	1, 2, 3, 5
Unknown (anonymous)	28 July 2015	1, 2, 4

The issues raised in these submissions are as follows:

Issue 1 – Urban Design: *The proposal is an overdevelopment as its height, density and scale is not in keeping with the character of the Sutherland Shire.*

Issue 2 – Traffic and Parking: *Increased traffic generated will cause a strain to streets that are already congested.*

Issue 3 – Overshadowing: *The scale of buildings will block out sunshine.*

Comment: The above matters are addressed within the “Assessment” section of this report.

Issue 4 – Construction: *Adverse impacts on the neighbourhood due to noise, asbestos and dust.*

Comment: Council's standard conditions of consent relating to permitted hours of work and noise and construction management are adequate to control the relatively short-term impacts of construction.

Issue 5 – Social Impacts: *Increased social dysfunction and crime*

Comment: The proposal was referred to NSW Police (Miranda Local Area Command) for comment in accordance with Council policy for development of this nature. Refer to the Assessment section of this report for further details.

Submission Review Panel (SRP)

The 2 submissions received by Council during public exhibition were considered by Council's SRP on 6 October 2015. The SRP concluded that all matters raised within the submissions are either not substantive or can be dealt with via condition of consent.

Revised Plans

The applicant lodged revised architectural plans on 28 September 2015. The amendments made to the original proposal included the following:

- Reduced finished floor level (FFL) of basement slab by 600mm (from RL 43.20 to RL 42.60) resulting in overall height reduction of 1.2m at both the northern and southern ends of the site.
- Introduction of a new partial basement level ("Ground Floor" on drawings) that accommodates additional car parking spaces, 2 car wash bays, 19 motorcycle spaces and 13 apartments.

The applicant further revised the proposal on 4 November 2015 in the following way:

- Relocation of residential storage areas, car parking spaces and a car wash bay, plus the introduction of 5 motorcycle parking spaces, on the Ground Floor.

On 24 November 2015, final amended plans were received with the following amendment:

- The southern setback from the railway line to the proposal was increased from 6m to 6.6m. This was achieved by reducing the internal length of the car parking areas on Basement Levels 01 and 02 and the Ground Floor by 600mm and by relocating Block B to the north by 600mm.

It was deemed unnecessary to renotify the amended proposal on the basis that all amendments were relatively minor in the context of the overall development.

7.0 STATUTORY CONSIDERATIONS

The subject land is located within *Zone R4 High Density Residential* pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015). The proposed development, being the construction of 2 *residential flat buildings*, is a permissible land use within the zone with development consent from Council.

The following Environmental Planning Instruments (EPIs), Development Control Plans (DCPs), Codes or Policies are relevant to this application:

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Apartment Design Guide (ADG)
- Development near Rail Corridors and Busy Roads - Interim Guideline
- SSLEP 2015

- DSSDCP 2015
- Section 94 Developer Contributions Plans:
 - Shire-Wide Open Space and Recreation Facilities 2005
 - Section 94 Community Facilities Plan
 - Miranda Centre Open Space Embellishment Plan

8.0 STATEMENT OF COMPLIANCE

The statement of compliance below contains a summary of applicable development standards and controls and a compliance checklist relative to these:

8.1 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development – Design Quality Principles (SEPP 65)

The proposal is affected by SEPP 65. Sutherland Shire Council engages its Architectural Review Advisory Panel (ARAP) to guide the refinement of development to ensure design quality is achieved in accordance with SEPP 65. A brief assessment of the proposal having regard to the design quality principles of SEPP 65 is set out below:

Design Quality Principles	Assessment
Principle 1: Context	The proposal is an appropriate response to the large size of the site and the upzoning of the Miranda Pinnacle Street Precinct, at the periphery of Miranda Centre. It will contribute positively to the identity of the area. The development is consistent with desired future character of the Pinnacle Street Precinct as envisaged under SSLEP 2015.
Principle 2: Scale	The proposed scale is generally a positive response to the site subject to a deferred commencement condition requiring compliance with the 25m building height development standard of SSLEP 2015. The scale of the proposal is commensurate and compatible with the scale of the nearby Westfield shopping centre, about 200m to the east, and with other new apartment developments that will occur within the Pinnacle Street Precinct. Each of the 2 RFB buildings steps down from 8 to 6 storeys in height at the centre of the site, adjacent to the central communal open space, and the uppermost storey is recessed from the sides. This affords some articulation to the scale.
Principle 3: Built Form	The built form is distributed satisfactorily across the site. Adopting a 2 building scheme (rather than 3 buildings as in the DSSDCP 2015) affords a large central open space area on the site that will provide visual relief from both the public domain and from Miranda Public School. The built form is an appropriate response to the site's context being immediately adjacent to the school. The applicant has submitted a letter of support for the proposal, co-signed by the Department of

	Education and the Principal of Miranda Public School. A copy is held at Appendix C .
Principle 4: Density	The proposed density is acceptably distributed across the site. The density of the proposal is an appropriate response to the new development Floor Space Ratio and Landscaped Area development standards that apply to the new Miranda Pinnacle Street Precinct under SSLEP 2015.
Principle 5: Resource, Energy & Water Efficiency	The development incorporates BASIX requirements and sustainability measures into its overall design so as to enhance water and energy efficiency and to provide suitable amenity to the building's future occupants.
Principle 6: Landscape	The proposed development includes compliant deep soil areas for tree planting and landscaped areas on the podium within common areas which reinforce the existing and desired future character of the locality. More informal clusters of planting are desirable; a suitable condition of consent is recommended.
Principle 7: Amenity	The proposal adequately satisfies the provisions of the ADG with respect to residential amenity, including appropriate building and floor plan layout, solar access, natural ventilation and visual/acoustic privacy.
Principle 8: Safety and Security	The proposed development incorporates suitable Crime Prevention Through Environmental Design (CPTED) Principles in the design, and additional conditions of consent have been imposed.
Principle 9: Social Dimensions & Housing Affordability	The proposal provides a mix of apartment types, which encourages diversity. 30.5% of apartments are adaptable.
Principle 10: Aesthetics	An appropriate composition of building elements, textures, materials and colours within the development has been generally achieved.

8.2 Apartment Design Guide (ADG)

The proposal is affected by the ADG. The following table contains an assessment of the proposal against key controls of the ADG. Refer to the Assessment section of this report for further details with respect to performance of the proposal against the ADG.

Apartment Design Guide (ADG) – Key Controls			
Building separation	<p><i>Up to 12m:</i> 3m non habitable 4.5m habitable</p> <p><i>12 – 25m:</i> 6m non habitable 9m habitable</p>	<p>6m 6m</p> <p>6m 6m habitable</p>	<p>Yes Yes</p> <p>Yes No (33%)</p>
Solar access	Living rooms and private open space, 3 hours direct sunlight between 9am and 3pm, mid winter to 70% of apartments.	142 of the proposed 197 dwellings (72%) receive in excess of 2 hours of sunlight to living room windows and private open space areas during mid winter	Yes
Maximum depth of open play layout apartments	8m	8.7m max	No (8.8%)
Natural ventilation	60% of apartments to be naturally cross ventilated. Max. Depth 18m	133 of the 197 or 67.5% are naturally cross ventilated < 18m	Yes Yes
Apartment size	Studio: 35m ² 1br: 50m ² 2br: 70m ² 3br: 90m ²		
Ceiling heights	2.7m	2.7m	Yes
Private open space:	<i>Primary balconies:</i>		
– 1 br apartment	8m ² , min. 2m depth	11.5m ² min, 2m depth	Yes
– 2 br apartment	10m ² , min. 2m depth	15.5m ² min, 2m depth	Yes
– 3 br apartment	12m ² , min 2.4m depth	14.7m ² min, 2m depth	Yes
– Ground level apartments (or on a podium)	15m ² with min 3m depth	18m ² min, 3.4m depth	Yes
Communal open space (COS):			
– Size:	25% of site area (1,985m ²)	53% (4,225m ²)	Yes
– Solar Access:	Direct sunlight to at least 50% of COS for 2 hours, 9am – 3pm	<50%	No but acceptable on merit

Residential storage	6m ³ per 1br apartment 8m ³ per 2br apartment 10m ³ per 3br apartment	All 6m ³ on plans 8 – 10m ³ All 11m ³	Yes - Fully compliant subject to condition requiring additional 13 storage areas in basement.
	At least 50% of storage to be located within the apartments	At least 50% of storage is located within apartments	Yes

8.3 Local Controls – SSLEP 2015 and DSSDCP 2015

The compliance table below contains a summary of applicable development controls:

Standard/Control	Required	Proposed	Complies? (% variation)
Sutherland Shire Local Environmental Plan 2015			
Building Height	25m	25.80m NE corner of Block A (Kingsway) 25.69m SW corner of Block B (railway line) 25.63m northern lift overrun Block A 25.08m southern lift overrun Block B	No (up to 3.2% variation, or 800mm)
FSR	2.0:1 (15,880m ²)	1.997:1 (15,863m ²)	Yes
Landscaped Area	30%	30%	Yes
Sutherland Shire Development Control Plan 2015			
Amalgamation pattern	3 sites (Site 8, 10 & 13)	1 site	No
Building envelopes	Consistent with Miranda Pinnacle Street Precinct Building Envelope Plan – 3 separate buildings, 4 and 8 storeys in height	Inconsistent – 2 building forms, 6-8 storeys in height	No
Articulation / Streetscape Integration	Built form articulated to avoid large expanses of broken wall	Appropriate integration with Kingsway and University Road	Yes
Street setbacks	7.5m from Kingsway (1.5m articulation zone permitted) 6m to University Rd	7.5m (no articulation) 6m	Yes Yes

Standard/Control	Required	Proposed	Complies? (% variation)
Side setback (railway)	6m	6.6m	Yes
Rear setback (eastern boundary)	9m for "Site 8"	6m adjacent to Kingsway, 10.63m otherwise	No (33%)
	19m for "Site 10"	6m and 10.63m	No (68.4%)
	9m for "Site 13"	10.79m	Yes
Basement street setbacks (deep soil)	6m from University Rd	6m	Yes
	7.5m from Kingsway but may extend into articulation zone (max. 30% of frontage)	7.5m	Yes
	Deep soil setback of 6m from Kingsway	7.6 – 9.2m	Yes
	Deep soil setback of 6m from eastern boundary	6m	Yes
Adaptable apartments	30% (59 apartments)	30.5% (60 apartments)	Yes
Open space:- – Common	Min 100m ² Min 10m wide	> 1,400m ² 33.3m wide	Yes Yes
	– Private	>12m ² >2.5m	Yes Yes
Car parking ¹	Min. 263 residential spaces	263 residential spaces	Yes
	Min. 49 visitor spaces	40 visitor spaces	No (18.4%)
Solar access: Apartments	70% of apartments receive 2hrs mid winter	>70% apartments	Yes
Open space	Direct sun between March and September	Achieved	Yes

9.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

The application was referred to the following internal and external specialists for assessment and the following comments were received:

9.1. Sydney Trains – NSW Government

The application was referred to Sydney Trains for concurrence in accordance with Clause 86 of the Infrastructure SEPP as the proposal involves excavation to a depth greater than 2m within 25m of a rail corridor. The following additional information was requested by Sydney Trains by letter received on 7 August 2015:

- Geotechnical and structural report / drawings
- Construction methodology with details pertaining to structural support during excavation
- Cross sectional drawings showing ground surface, rail tracks, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the Rail Corridor
- Detailed Survey Plan showing the relationship of the proposed development with respect to RailCorp's land and infrastructure

The applicant submitted the requested information to Sydney Trains on 17 November 2015. Sydney Trains advised the applicant on 25 November 2015 that engineering issues remain, but nonetheless issued a letter providing concurrence subject to the issuing of a deferred commencement consent. Appropriate conditions of consent have been included within the recommendation below. A copy of the Sydney Trains concurrence letter is held at **Appendix D**.

9.2. Roads and Maritime Service (RMS) – NSW Government

The application was referred to RMS on 26 August 2015 pursuant to Clause 104 of the Infrastructure SEPP as the proposal constitutes traffic generating development. As at the time of writing, no formal submission has been received from RMS in relation to the proposal.

9.3. Architectural Review Advisory Panel (ARAP)

The proposal was considered by Council's ARAP on 2 separate occasions, being at a Pre-DA ARAP meeting on 4 June 2015 and again during assessment of the DA on 13 August 2015. The ARAP made the following comments:

- The proposal has good articulation and aesthetics of the building facades.
- The proposed height variation is not supported as it is a result of a poor response to the topography of the site and insistence on a single continuous basement slab.
- The chosen placement of the central communal open space is not convincing as it lends a resort style feel to the proposal.
- The 2 building form of the proposal is not supported.
- A 6m deep soil basement setback is required along University Road.
- Landscaped treatment should be more informal.
- The proposed density is acceptable.

A copy of the Report from ARAP is attached at **Appendix E**.

9.4. NSW Police (Miranda Local Area Command)

The DA was referred to the Miranda Local Area Command Crime Prevention Officer in accordance with Council's adopted policy for RFBs over 50 units. The comments made by the Crime Prevention Officer have been taken into account in the assessment of the DA. In particular, NSW Police has advised that crime is currently low in the area and this proposal will have minimal impact on police resources. Various reasonable and enforceable conditions that were recommended by the Officer have been included within the recommended consent conditions. A copy of the full NSW Police comments is held at **Appendix F**.

9.5. Architect

Council's Architect has undertaken a review of the amendments that have been made to the proposal in response to the ARAP's comments and Council's requests. Overall, the amended proposal's built form and aesthetics is considered to be an appropriate response to the constraints of the site. The Architect notes that following the developer's consultation with Miranda Public School, the preferred outcome is to provide more openness and light to the open play areas of the school, which drove the proposed 2 building form rather than the 3 building form required by the DSSDCP 2015.

9.6. Traffic Engineer

Council's Traffic Engineer has reviewed the proposal with respect to traffic and parking impacts and made the following recommendations:

- Indented on-street parking should be provided within University Road.
- The signalised pedestrian crossing on Kingsway at the north-eastern corner of the site should be relocated to the intersection of Kingsway and University Road (and Miranda Public School gate and linkage pathway relocated if necessary).
- A splay measuring 5m x 5m should be provided at the north-western corner of the site and the kerb return between Kingsway and University Road adjacent to the development site should be widened.

9.7. Development Engineer

Council's development engineer has reviewed the proposal in conjunction with the above comments from Council's Traffic Engineer and has provided suitable conditions of consent.

9.8. Environmental Health

Council's Environmental Health Officer has reviewed the proposal including the acoustic impact assessment report submitted with the DA. No objection to the proposal has been raised and suitable conditions have consent were recommended, which have been included within the recommendation.

10.0 ASSESSMENT

Following a detailed assessment of the application having regard to the Heads of Consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 and the provisions of relevant environmental planning instruments, development control plans, codes and policies, the following matters are considered important to this application.

10.1 Amalgamation Pattern and Building Envelopes

The proposal is inconsistent with the amalgamation and building envelope controls within Chapter 7 of DSSDCP 2015. These controls require the site to be split into 3 smaller lots and therefore into 3 separate built forms rather than 2 as proposed. The controls were developed by Council primarily because it was not expected that a developer would obtain options on all of the sites on the eastern side of University Road, rather than for any specific urban design outcome. The central building anticipated by the controls was expected to have a 19m setback from the eastern boundary (shared with Miranda Public School) primarily to minimise privacy impacts to the sensory playground in the school grounds. However, the 2 building form proposed, with a 33m wide central communal open space, achieves a similar outcome with respect to amenity impacts to the school. Refer to “Setback from Miranda Public School” below in relation to a letter submitted in support of the proposal co-signed by both the NSW Department of Education and Miranda Public School Principal.

The objectives of the amalgamation and building envelope controls are nonetheless met by the proposal for the following reasons:

- The amalgamated parcel is of sufficient size to realise the maximum allowable FSR whilst being generally compliant with SEPP 65 and the ADG
- No adjacent lots will be isolated by the proposed amalgamation
- The proposal will make a positive contribution to the streetscape
- A high standard of amenity is provided for the residents particularly due to the large central communal open space area
- A safe and efficient vehicle entry point has been achieved
- A large landscaped space at the centre of the site will complement similar spaces on newly developed sites to the west
- The proposal will have no adverse impacts to pedestrian connectivity within the Pinnacle Street Precinct
- The proposal will have no adverse impacts to adjacent future residential apartments with respect to solar access due to the large central communal open space
- Sufficient variations in height are achieved by way of reduced number of storeys at the centre of the site and increased side setbacks to upper level apartments.

10.2 General Urban Design

The 2 building built form is not generally favoured by the ARAP (refer to Section 9.4 of this report). However, this outcome has largely been driven by extensive consultation between the developer and Miranda Public School immediately adjoining the site to the east. The school has a sensitive receiver being a sensory playground used by disabled schoolchildren. The proposed built form comprising 2 buildings will result in improved openness and light to the school and particularly the sensory playground, due to extensive visual relief at the centre of the site in the form of a 33m wide communal open space.

10.3 Height of Buildings

A maximum building height of 25m applies to the site pursuant to Clause 4.3 and the Height of Buildings Map of SSLEP 2015. The proposal has a maximum height of 25.80m at the north-eastern corner of Block A adjacent to Kingsway and 25.69m at the south-western corner of Block B adjacent to the railway line. The proposal therefore involves a variation of up to 3.2% and fails to comply with the height of buildings development standard of SSLEP 2015.

The objectives of the height of buildings development standard set out in clause 4.3 (1) of SSLEP 2015 are as follows:

- (a) *to ensure that the scale of buildings:*
 - (i) *is compatible with adjoining development, and*
 - (ii) *is consistent with the desired scale and character of the street and locality in which the buildings are located or the desired future scale and character, and*
 - (iii) *complements any natural landscape setting of the buildings,*
- (b) *to allow reasonable daylight access to all buildings and the public domain,*
- (c) *to minimise the impacts of new buildings on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion,*
- (d) *to ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways and public reserves,*
- (e) *to ensure, where possible, that the height of non-residential buildings in residential zones is compatible with the scale of residential buildings in those zones,*
- (f) *to achieve transitions in building scale from higher intensity employment and retail centres to surrounding residential areas.*

The proposed development is located within zone R4 – High Density Residential. The objectives of this zone are as follows:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the supply of housing that meets the needs of the Sutherland Shire's population, particularly housing for older people and*

- *people with a disability.*
- *To promote a high standard of urban design and residential amenity in a high quality landscape setting that is compatible with natural features.*
- *To minimise the fragmentation of land that would prevent the achievement of high density residential development.*

The applicant has lodged a written request in accordance with the requirements of Clause 4.6 of SSLEP 2015. A full copy of this request is held at **Appendix G** and the most relevant points are summarised below:

- *The proposal will achieve a better outcome than strict compliance as it provides for a more effective and appropriate massing of the allowable building density, thereby minimising impacts on neighbouring properties (solar access improved, outlooks are improved and perceived streetscape bulk is lessened).*
- *Strict compliance with the height control will reduce amenity to the school by relocation of bulk from the top floor to the centre of the site, reduce internal amenity for ground floor apartments (if the entire building is lowered further below natural ground level), and/or bedrooms or apartments will be removed from the development.*
- *The height breach is not associated with additional density beyond what is expected by the controls.*
- *The design of the proposal is challenged by the site's topography as it falls towards the Kingsway and to the railway, and it is considered a significantly better outcome to place the additional mass at the northern and southern ends of the site away from the sensitive land uses.*

The applicant in its Objection has not satisfactorily addressed the desired scale or future scale of the street and locality in which the buildings are located. It is held by Council that the proposal is inconsistent with the desired future scale of the Miranda Pinnacle Street Precinct and is therefore inconsistent with the objective at cl 4.3(1)(a)(ii) of SSLEP 2015. This precinct has been "up zoned" under SSLEP 2015 from low density to high density residential and, accordingly, has a new 25m building height limit to accommodate the increased FSR permissible therein. As such, Council's desired future scale for the locality is 25m across the entire site and particularly adjacent to Kingsway (an arterial road) where a development of this nature will either positively or negatively impact the public domain. The proposal is the first site to be developed within the Pinnacle Street Precinct and therefore has the potential to create an undesirable precedent. There are no significant site features or constraints that would prevent a compliant building.

The proposal is also inconsistent with the objective of the height of buildings standard at cl 4.3(1)(c) of SSLEP 2015. The proposal will result in overshadowing of backyards of the nearby properties known as 143 – 159 Karimbla Road located on the southern side of the adjacent railway line. Due to the non-compliant height of the proposal at its southern end, overshadowing to the north-facing private open space areas of those properties is not *minimised* as required by the objective in question.

The applicant's Objection to the standard states the following:

"Strict compliance with the height control will inevitably have one of more of the following consequences:

- *reduced amenity to the adjoining school by relocation of building bulk from the top floor to the centre of the site;*
- *reduced internal amenity for the ground floor apartments (ie by lowering the overall height of the buildings to sit further below natural ground level);*
- *the omission of bedrooms or apartments from the development.*

Each of these consequences carries a social, economic and environmental cost and would lead to a suboptimal environmental planning outcome (in comparison with the proposed development).

The non-compliant height is considered to be largely a direct result of the decision to employ a single continuous basement slab across the entire site at one level, rather than to provide a more finessed response to the topography of the site. As such, achieving strict compliance with the height standard could be readily achieved by way of a more skilled design rather than wholesale relocation of GFA from the top floor to the centre of the site as suggested by the applicant. Notwithstanding, Council also disagrees that relocating GFA from the top floors to the centre of the site will automatically result in adverse amenity impacts to the school with respect to privacy and solar access. A skilful design could relocate GFA without adverse impacts.

The applicant also suggests that reducing the overall height of the building will result in reduced amenity to some apartments by virtue of lowering them further below natural ground level. Council agrees with this to an extent; the small number of apartments to which this applies may need to be deleted or reassessed due to poor amenity within those apartments caused by potential overlooking from the public domain, particularly the 2 apartments in Block A that address University Road (the remainder of potentially affected apartments are on the eastern elevation and, by virtue of facing inward may be acceptably lowered further depending on finished levels within the site). However, the removal of a small number of apartments (possibly as few as 2) will not, in Council's view, cause the proposal to be inconsistent with the R4 zone objective to "encourage the supply of housing that meets the needs of the Sutherland Shire's population" on the basis that the proposal seeks to replace 14 single dwellings with over 190 apartments. Rather, the potential for the proposal to create an undesirable height precedent for the entire Pinnacle Street Precinct is contrary to the above R4 zone objective to "promote a high standard of urban design". As such, though the proposal is generally consistent with the objectives of the R4 zone, a fully compliant proposal would remain consistent with the objectives but to a higher degree.

The applicant has neither provided Council with satisfactory reasons as to why the proposal cannot be lowered further (beyond the assumption that the developer wants to minimise excavation), nor successfully demonstrated that the non-compliant proposal is in the public interest apart from reducing adverse impacts to the adjacent school (even though a fully compliant proposal will not necessarily have a greater level of impact to the school). As such, the applicant's Objection fails to demonstrate sufficient environmental planning grounds to justify varying this development

standard in the particular circumstances of this site. Further, the Objection fails to demonstrate that compliance with the height development standard is unreasonable or unnecessary in the context of the proposal, particularly as this proposal will serve to set up the standard of future development in the precinct.

The proposed variation does not raise any matters of State or regional environmental planning significance. However, it is considered that there is significant public benefit to maintain the height development standard in the circumstances of this case. Compliance could be achieved fairly readily with only a minor reduction in overall building height.

In conclusion, the variation to the height development standard fails to satisfy all relevant parts of clause 4.6 and therefore the variation is not supported. As such, Council recommends that a deferred commencement condition be imposed that requires the overall building height to be reduced by 800mm to achieve strict compliance with the 25m building height standard.

This amendment will require the deletion of 2 apartments in Block A (northern building) that are located on the Ground Floor and face University Road. They are adjacent to a void area. These apartments already have poor amenity due to their elevation relative to street level, and this will be exacerbated once the building is dropped by 800mm. The condition requires that they be deleted and replaced by additional void / sub floor area. The external wall to this new void area must be recessed by at least 500mm from the edge of the apartment balconies over, and be consistent in finish with adjacent external walls.

Another effect of the required amendment is that the northernmost and southernmost pedestrian entry pathways from University Road into the building will have grades that are too steep for an accessible path of travel, or would require extensive lengths of switchback ramps that would detrimentally impact the streetscape. However, an accessible path of travel to the 11 Ground Floor apartments that these 2 entries service (6 apartments in Block A, accounting for the deletion of 2 apartments, and 5 in Block B) could be achieved via the remaining 2 pedestrian pathways to the building, subject to modifying 4 units (2 in each Block) on Level 01 to provide additional corridor length. The northern and southern pedestrian pathways could have stair cases that still provide access directly into the Ground Floor. As such, it is considered that there is at least 1 acceptable solution, but the responsibility is on the developer to satisfactorily address the condition in order to activate the consent.

10.4 Setback from Miranda Public School

The proposal fails to comply with the minimum building setback of 19m from the eastern boundary, generally adjacent to the Sensory Playground of Miranda Public School, as required by DSSDCP 2015. This particular development control was the outcome of meetings held prior to DA lodgement between the developer, the Department of Education, Miranda Public School and Council.

As identified within Part 10.1 above, the SSDCP 2015 contains an Amalgamation Plan and a Building Envelope Plan that apply to the site. The abovementioned 19m side setback control applies to the middle of the 3 lots in the Amalgamation Plan only

(Site 10). Any building on Site 10 in a 3 building scheme should therefore be setback 19m from the eastern boundary.

Refer to Image 1 below. The minimum 19m setback is depicted by yellow shading. The proposal involves 2 incursions into the 19m building setback, which are depicted by red shading. These non-compliant sections are 6m and 10.63m from the boundary and they equate to 35% of the 19m setback area's width. Therefore, 65% of the 19m setback area will have no built form.

This outcome is supported by the NSW Department of Education and the Principal of Miranda Public School. It is preferred to 3 compliant buildings as the central communal open space area provides relief between built forms. A letter of support co-signed by the NSW Department of Education Manager Sydney Asset Management Unit and the Principal of Miranda Public School is held at **Appendix B**.

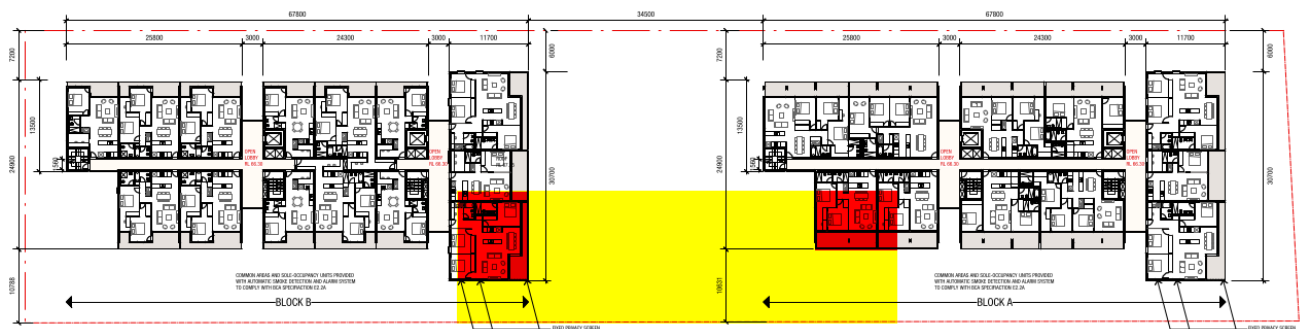


Image 1 – Minimum 19m building setback as highlighted yellow (red indicates non-compliant portions of the proposal)

SSDCP 2015 requires that the remainder of the site (*i.e.* outside the highlighted yellow section) have a 9m setback from the eastern side boundary. Two north facing apartments have a 11.7m long eastern wall that is set back 6m – the southernmost of these apartments has only a very small section of wall outside the highlighted yellow 19m setback area. This outcome is considered to be acceptable on the basis that all east facing balconies are setback 10.63 – 10.79m, *i.e.* 1.63 – 1.79m greater than the 9m setback required. This increased setback satisfactorily offsets the non-compliant sections.

10.5 Residential Amenity

The design guidelines contained within the ADG relate to the 10 design quality principles specified in SEPP 65. The proposal has been reviewed by Council's ARAP and Architect and has been found to adequately satisfy the ADG with respect to the internal and open space areas (including apartment and balcony sizes), circulation, natural ventilation (subject to condition of consent), accessibility, adaptability and solar access. Reasonable internal amenity will be afforded to future occupants.

Compliant natural cross ventilation can be achieved without dependence upon mid block apartments that require their front door to be open. Some of the corner apartments that achieve cross ventilation rely on windows that open onto common walkways (open lobby). Therefore a condition is recommended to relocate such windows out of the common walkways or provide additional openings.

There are some technical non-compliances with respect to building separation to the east. The north-facing units of each building have a 6m setback from the eastern side boundary. Fixed privacy louvre screens have been added to Levels 4 – 7 (*i.e.* over 12m) on each building. This remains a technical non-compliance however the affected adjoining site is Miranda Public School which is unlikely to be redeveloped for residential flat buildings in the foreseeable future.

The proposal does not achieve compliance with the ADG requirement that 50% direct sunlight be provided to the principal area of communal open space for at least 2 hours between 9am and 3pm in winter. The proposal does nearly achieve compliance with this control, and is considered acceptable on merit because between 39% and 70% of the principal area will receive direct sunlight at all times between 9am and 3pm in winter. (70% at 9am, 51% at 10am, 39% at noon, 45% at 1pm, 56% at 2pm and 70% at 3pm.)

The southern half of the site is located within the Rail Noise Buffer due to the adjacent Cronulla railway line, whilst the entire site is located within the 20,000 – 40,000 Annual Average Daily Traffic (AADT) Road Noise Buffer due to the site's proximity to Kingsway. The provisions of the Infrastructure SEPP 2007 do not technically apply as traffic volumes do not exceed 40,000. However, it is considered "best practice" for residential development to comply with the NSW Department of Planning's "Development near Rail Corridors and Busy Roads – Interim Guideline".

The applicant has submitted an Acoustic Impact Assessment Report that addresses this matter. The report indicates that the development is capable of being occupied without an unacceptable impact on residential amenity subject to noise attenuation through design including laminated glass on the worst affected external building facades and adequate sound isolation ratings of external walls and roof. A standard condition of consent has been included in the recommendation, requiring details of the necessary acoustic attenuation treatment to be submitted with the application for a Construction Certificate and certification that all necessary noise attenuation measures have been installed.

The proposal technically complies with the cross ventilation requirements of the ADG, however in reality cross-ventilation is unlikely to be achieved at all times due to the site's location immediately adjacent to the Cronulla railway line. The abovementioned acoustic report submitted with the DA identifies that noise levels from the railway are such that mechanical ventilation / fresh air supply to air conditioning is required. However, at various times of the evening it would be possible for residents aware of the train schedule to open doors and/or windows to ventilate the rooms.

Drawings Nos. 0920 and 0921 detail residential storage provision within the proposal. Full compliance with the ADG is contingent on there being 71 x 6m³ storage areas within the basement; however, only 58 are shown on the basement plans. There is room for additional storage areas and therefore a design changes condition has been recommended requiring that at least 71 storage areas (each at least 6m³) be provided within the basement levels. Thus compliance will be achieved.

10.6 Traffic and Parking

With respect to traffic generation, the proposal has been reviewed by Council's Traffic Engineer. No objection was raised to the proposal subject to the Kingsway and University Road intersection being signalised to cope with increased volume of turns in/out of University Road and the provision of indented parking on University Road. (Signalisation of the intersection would also involve the relocation of the nearby pedestrian crossing on Kingsway.) Council's standard frontage design condition is recommended to be imposed and has been modified to include the signalisation of the intersection and the provision of approximately 20 indented car parking spaces. It is noted that at the time of writing, RMS has not provided any comment in relation to this matter.

In relation to number of car parking spaces within the basement parking levels, the proposal fails to achieve compliance with the most recently exhibited version of DSSDCP 2015, but achieves compliance with the DSSDCP 2015 rates at the time of DA lodgement. Car parking rates are now expressed as a minimum, but were previously a maximum. Notwithstanding, Council in its letter dated 2 September 2015 advised the applicant that the maximum rate of parking (312 spaces) should be provided in the development on the basis that the site is in close proximity to Miranda Public School (with restricted parking at the northern end of University Road) and Westfield shopping centre, which has time limited parking. The amended proposal has 303 spaces, which is a shortfall of 9 spaces. There are opportunities to introduce 2 additional spaces by reorienting Car Wash Bays 1 and 2 in the Ground Floor parking level. This will increase parking provision to 305. Furthermore, as 2 apartments are now recommended to be deleted, the actual number of total spaces required is decreased to 309. Therefore, the proposal will be only 4 spaces short. A condition of consent is recommended allocating car parking so that residential parking is fully compliant with SSDCP 2015 and visitor parking occupies the remaining spaces. The visitor parking provision will be only 4 spaces short.

Council's Traffic Engineers have also recommended that a 5m x 5m splay be provided at the intersection of Kingsway and University Road. This recommendation was made on the basis that no comment has yet been received from RMS in relation to the proposal and Council is requiring the signalisation of the intersection. The provision of a splay at the corner of the site will afford additional room for the redesign of the intersection if necessary.

10.7 Waste Management

The application has not adequately addressed waste management within the development. The amended waste management plan received on 25 September 2015 was contrary to the architectural plans in many regards. A further amended waste management plan and architectural plans were received on 4 November 2015.

In essence, the amended proposal has 4 waste storage rooms on Basement Level 01. Waste is sent to these rooms from the residential levels above via 4 "Elephant's Foot" garbage chute systems. The southernmost of the 4 waste storage rooms in the basement has a lift that will be used to relocate the bins up to a 50m² bin holding room on the Ground Floor. A private contractor will be responsible for moving all the bins in the 3 northernmost waste storage rooms up to the ground floor via the bins

lift. The bins will then be emptied by a private contractor vehicle that has reversed into a new hard stand collection area within the street setback of Block B.

The primary issue with the above amended waste management proposal is that the new hard stand collection area of Block B has a grade that is too steep to be accessed by a truck of sufficient size to empty all of the bins. The second issue is that this hard stand collection area is too close to the northern extremity of the proposed pocket park at the southern end of University Road. Council is unwilling to reduce the size of the pocket park.

As waste management has not yet been satisfactorily resolved, a deferred commencement condition is recommended that requires the provision of a hard stand truck collection area within the site boundary that has acceptable grades in accordance with AS2890.2:2002

11.0 SECTION 94 CONTRIBUTIONS

The proposed development will introduce additional residents to the area and as such will generate Section 94 Contributions in accordance with Council's adopted Contributions Plans. These contributions include:

Open Space:	\$1,486,322.57
Community Facilities:	\$251,777.28
Miranda Centre Open Space Embellishment:	\$520,788.69

These contributions are based upon the likelihood that this development will require or increase the demand for local and district facilities within the area. It has been calculated on the basis of 195 new residential apartments with a concession of 14 existing allotments.

Should the JRPP not adopt the below recommendation to delete 2 of the proposed 197 apartments, the above developer contributions should be revised upwards accordingly prior to the issue of any development consent.

12.0 DECLARATION OF AFFILIATION

Section 147 of the EP&A Act requires the declaration of donations or gifts in excess of \$1,000. In addition, Council's DA form requires a general declaration of affiliation. No signed declaration has been made for this DA.

13.0 CONCLUSION

The proposed development is for the demolition of 14 dwelling houses and ancillary buildings and the construction of a residential flat building at 660-664 Kingsway and 2-22 University Road, Miranda.

The subject land is located within *Zone R4 High Density Residential* pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being the construction of 2 *residential flat buildings*, is a permissible land use within the zone with development consent.

The application has been assessed having regard to the Heads of Consideration under Section 79C (1) of the Environmental Planning and Assessment Act 1979 and the provisions of Sutherland Shire Local Environmental Plan and all relevant Council DCPs, Codes and Policies.

In response to public exhibition 2 submissions were received. The matters raised in these submissions have been addressed within the body of this report. The objections were considered by Council's Submission Review Panel and were found to be not substantive.

However, despite attempts by Council to have the applicant reduce the height of the building (to comply with SSLEP 2015) and resolve waste management, the proposal remains deficient in these 2 areas. The proposal is generally considered worthy of support as it reflects the desired future character of the Miranda Pinnacle Street Precinct, which has recently been upzoned under SSLEP 2015. Therefore Council recommends that DA15/0742 be approved subject to a deferred commencement consent with conditions to reduce the building height, satisfactorily resolve waste management and resolve outstanding engineering matters raised by Sydney Trains.

14.0 RECOMMENDATION

- 14.1 That Development Application No. DA15/0742 for Demolition of 14 dwellings and construction of 2 residential flat buildings containing 197 units and 3 levels of basement carparking at 2-22 University Road and 660-664 Kingsway, Miranda (Lots 27 – 40 in DP 7580) be determined by the granting of a deferred commencement development consent, subject to the draft conditions of consent detailed in Appendix "A" of this Report.