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DRAFT CONDITIONS OF DEVELOPMENT CONSENT
Development Application No. DA15/0742

PART 1 - DEFERRED COMMENCEMENT CONDITIONS

To enable the submission of further information to clarify or resolve specific aspects of the proposed development this Development Consent is issued as a "Deferred Commencement" Consent under the provisions of Section 80(3) of the Environmental Planning and Assessment Act as amended. The Consent does not operate until the applicant satisfies the Council as to the following matters.

The required information must be submitted within 12 months of the date of issue of this development consent.

Note- Under the provisions of Clause 95A(5) of the Environmental Planning and Assessment Regulation 2000 upon submission of the required information, Council must advise in writing whether or not it is satisfied as to the relevant matters.

1. Design Changes - Height of Building

The following amendments must be made to the building:

- i) The entire development must have a maximum building height of 25 metres above existing ground level at any point on the site, based on the surveyed levels on the survey plan titled "Plan of Detail and Level at No.2-22 University Road Miranda" Issue No. 4, dated 19 October 2015 and prepared by Linker Surveying. This reduction in overall height must be achieved by dropping the entire building (including basement levels and podium) by 800mm, i.e. 800mm deeper excavation.
- ii) Two (2) apartments in Block A (northern building) that are located on the Ground Floor facing University Road, directly adjacent to a void, must be deleted and replaced with additional void / subfloor area. The external wall to this new void must be recessed by at least 500mm from the edge of the apartment balconies over (no change to the balcony size or location is permitted) and be consistent in finish with adjacent external walls of the building.
- iii) All entry pedestrian pathways and vehicle access ways must comply with relevant Australian Standards.

2. Design Changes - Waste Management

An appropriate hard stand waste collection loading bay (or bays) must be provided within the site for the collection of waste as per the Waste Management Plan prepared by Elephants Foot Waste Compactors Pty Ltd dated 28/10/2015. The bay must be of sufficient length to accommodate an MRV truck plus required clearances for the bin loading apparatus and operational personnel. Vehicle access to the waste collection loading bay/s must comply with AS2890.2 - 2002 with respect to grades / transitions and manoeuvring into / out of the site and must be achieved without requiring a reduction in size of the proposed public park

at the southern end of University Road as detailed in Chapter 7 ("R4 Pinnacle Street Precinct") of the Draft Sutherland Shire Council Development Control Plan 2015.

3. Design Changes - Landscaped Area

In addition to the requirements of Conditions 1 and 2 above, the proposal must have a minimum deep soil landscaped area of 30% of the total site area. Hard paved pathways, pedestrian and vehicle entry ways and waste truck collection areas etc. must all be excluded from landscaped area.

4. Sydney Trains Approval / Certification

Approval / certification must be obtained in writing from Sydney Trains certifying that the outstanding matters listed within Attachment A of the Sydney Trains letter of concurrence dated 25 November 2015 have been satisfactorily resolved.

PART 2 - CONDITIONS OF CONSENT

5. Approved Plans and Documents

The development must be undertaken substantially in accordance with the details and specifications set out on the Plan / Drawings:

<i>Plan number</i>	<i>Reference</i>	<i>Prepared by</i>	<i>Date</i>
To be completed upon satisfaction of Conditions 1 - 3	To be completed upon satisfaction of Conditions 1 - 3	To be completed upon satisfaction of Conditions 1 - 3	To be completed upon satisfaction of Conditions 1 - 3

and any details on the application form and on any supporting information received with the application except as amended by the following conditions.

Note: The following must be submitted to Sutherland Shire Council prior to the commencement of any building work.

- i) A Construction Certificate.
- ii) Notification of the appointment of a Principal Certifying Authority and a letter of acceptance from that Principal Certifying Authority.
- iii) Notification of the commencement of building works with a minimum of 2 days notice of such commencement.

6. Design Changes Required

A. Before Construction

The following design changes must be implemented:

- i) A 5m by 5m splay must be provided at the intersection of Kingsway and University Road.
- ii) All windows that open onto the common walkways / open lobbies on all residential levels must be relocated out of the walkways, or additional openings within those rooms must be provided outside the common walkways / lobbies for cross ventilation reasons.
- iii) At least 71 residential storage areas must be provided within the basement levels. Each storage area must have a minimum storage capacity of 6m³.
- iv) Car Wash Bays 1 and 2 located within the Ground Floor car parking area must be rotated 90 degrees and 1 additional car parking spaces provided next to each (*i.e.* 2 additional car parking spaces in total).

Details of these design changes must be included in documentation submitted with the application for a Construction Certificate.

7. Requirements of Authorities

A Requirements from Other Authorities

The development must be undertaken in accordance with the requirements of Sydney Trains as follows:

- i) Items B1 to B25 in Attachment B of the Sydney Trains concurrence letter dated 25 November 2015; and
- ii) Any additional conditions issued as part of Sydney Trains approval/certification upon resolution of the matters at Item A1 in Attachment A of the aforementioned concurrence letter.

A copy of the concurrence letter is attached to this development consent. These requirements must be incorporated in the application for Construction Certificate where required.

8. Endorsement of Linen Plan of Subdivision for Consolidation

A. Construction

- i) The Plan of Subdivision must include the provision of a 5m by 5m splay at the intersection of the Kingsway and University Road.
- ii) The Plan of Subdivision for the consolidation of Lots 27 to 40 in Deposited Plan No.7580 into one lot shall be registered with the Land Titles Office prior to release of the Construction Certificate.

9. Future Parking Restrictions

A. Ongoing

- i) An on-street parking permit or the like cannot be issued to current and / or future owners / occupiers of the development.
- ii) A notation must be added to the section 149(5) certificate advising future owners that their unit / property is burdened by a parking permit restriction.

10. Public Place Environmental, Damage & Performance Security Bond

A. Before Construction

Prior to the issue of a Construction Certificate, the person acting on this consent must provide security to Sutherland Shire Council against damage caused to any Council property and / or the environment as a consequence of the implementation of this consent. The security may be provided by way of a deposit with Council or a bank guarantee. A non refundable inspection / administration fee is included in the bond value.

It is the responsibility of the person acting on this consent to notify Sutherland Shire Council of any existing damage to public areas in the vicinity of the development site by the submission of a current dilapidation report supported by photographs. This information must be submitted to Council at least two (2) days prior to the commencement of works.

In the event that the dilapidation report is not submitted two days prior to commencement and the public area sustains damage the person acting on this consent may be held liable.

Should any public property and / or the environment sustain damage as a result of the works associated with this consent, or if the works put Council's assets or the environment at risk, Council may carry out any works necessary to repair the damage and / or remove the risk. The costs incurred must be deducted from the

bond.

The value of the bond is \$28,200.

Note: Bond amount includes a non refundable administration fee which must be paid separately.

Use of Bank Guarantee - As bond releases may occur under different timeframes only one bond amount / bond purpose is permitted on a Bank Guarantee. Multiple bonds will require multiply bank guarantees to be lodged.

B. After Occupation

A request for release of the bond may be made to Sutherland Shire Council after all works relating to this consent have been completed. Such a request must be submitted to Council on the 'Bond Release Request Form' signed by the owner or any person entitled to act on the consent and must be accompanied by a current dilapidation report including photographs.

SECTION 94 CONTRIBUTIONS

The following dedication of land and/or monetary contributions have been levied in relation to the proposed development pursuant to Section 94 of the Environmental Planning and Assessment Act 1979.

The Contributions Plan may be viewed on line on Council's web page (search for S94 Contributions Plan). A copy may also be viewed or purchased at the Customer Service Counter in Council's Administration Centre, Eton Street, Sutherland during office hours.

11. Monetary Contribution for Shire-Wide Open Space and Recreational Facilities

A. Before Construction

Pursuant to Section 94 of the Environmental Planning and Assessment Act 1979 and Sutherland Shire Council's Contributions Plan - Shire Wide Open Space and Recreation Facilities 2005, a monetary contribution of \$1,486,322.57 must be paid to Sutherland Shire Council toward the cost of land identified for acquisition and works contained in the Works Programme of the Contributions Plan.

This contribution has been assessed and calculated in accordance with the Shire Wide Open Space and Recreation Facilities 2005, Contribution Plan on the basis of 195 new residential apartments with a concession for 14 existing allotments.

The contribution will be indexed on 1 July in each year in accordance with the Implicit Price Deflator for Gross Fixed Capital Expenditure - Private Dwellings, with amended rates being available from Council.

Payment must be made prior to the issue of the Construction Certificate.

12. Community Facilities, Shire Wide 2003 Plan

A. Before Construction

A monetary contribution of \$251,777.28 must be made for the cost of providing community facilities.

This contribution has been assessed pursuant to s.94 of the Environmental Planning and Assessment Act, and the Sutherland Shire Contributions Plan - Community Facilities in the Sutherland Shire, after identifying the likelihood that this development will require or increase the demand for community facilities within the shire. It has been calculated on the basis of 195 new residential apartments with a concession for 14 existing allotments.

The contribution will be indexed on 1 July in each year in accordance with the Implicit Price Deflator for Gross Fixed Capital Expenditure - Private Dwellings, with amended rates being available from Council.

Payment must be made prior to the issue of the Construction Certificate

13. S94 - Miranda Centre

A. Before Construction

Pursuant to Section 94 of the Environmental Planning and Assessment Act 1979 and Miranda Centre Open Space Embellishment Plan, a monetary contribution of \$520,788.69 must be paid to Sutherland Shire Council toward the cost of works contained in the Works Programme of the Contributions Plan.

This contribution has been assessed and calculated in accordance with the Miranda Centre Open Space Embellishment Plan on the basis of 195 new residential apartments with a concession for 14 existing allotments.

The contribution will be indexed on 1 July in each year in accordance with the Implicit Price Deflator for Gross Fixed Capital Expenditure - Private Dwellings, with amended rates being available from Council.

Payment must be made prior to the issue of the Construction Certificate.

14. Approvals Required under Roads Act or Local Government Act

A. Before Construction

No occupation or works are to be carried out on public land (including a road or footpath) or access provided over a public reserve adjacent to the development site without approval being obtained from Sutherland Shire Council and the necessary fee paid under the Roads Act 1993 and/or the Local Government Act 1993.

Note: Approval under the Roads Act or Local Government Act cannot be granted by a Principal Certifying Authority or by a Private Certifier. Failure to obtain approval may result in fines or prosecution.

15. Design and Construction of Works in Road Reserve (Council Design)

A. Design

Council has determined that the proposed development generates a need for the following works to be undertaken by the applicant in the road reserve. To this end an application under the Roads Act shall be submitted to Sutherland Shire Council, prior to the release of the Construction Certificate, for a road frontage design drawing and consent to undertake the required frontage works. This design will generally comply with the approved architectural design drawings,

except where amended and/or addressing the following;

- i) Establish the property alignment levels and the crossing profiles,
- ii) Construct road closure at the southern end of University Road and indented parking spaces between existing street trees to be retained and protected;
- iii) Construct a 6.6m wide vehicle crossing,
- iv) Provide approximately 20 indented parking bays,
- v) Remove all existing vehicle crossings,
- vi) Construct a 1.2m footpath between existing trees, curving footpath as required,
- vii) Alter / install street signage where required,
- viii) Undergrounding of all existing power lines along the frontage,
- ix) Reconstruct the cul-de-sac bowl as a "T" head to enable trucks to turn around in the street, with associated kerb / gutter, carriageway shoulder, street pit and extend Council's stormwater drainage pipeline,
- x) Reconstruct the intersection of the Kingsway and University Road as a traffic light controlled intersection, providing lane marking, pedestrian crossing marking, street lighting, reconstruct kerb returns, perambulator crossings,
- xi) Regrade, topsoil, turf and landscape the footpath verge to final design levels,
- xii) Adjust public services infrastructure where required,
- xiii) Remove 2 existing street trees,
- xiv) Where space allows install a mixture of *Eucalyptus racemosa* and *E.tereticornis* street trees, and
- xv) Ensure there are adequate transitions between newly constructed and existing infrastructure.

Evidence of the lodgement of this application must be provided to the PCA prior to the release of the Construction Certificate.

B. Before Construction

Prior to the release of the Construction Certificate property alignment levels and crossing profiles must be obtained from Sutherland Shire Council.

C. Before Occupation

Prior to the occupation of the building or the issue of an Occupation/Subdivision Certificate the following certification must be provided to Sutherland Shire Council:

- i) The supervising engineer must certify the road frontage works were constructed to their satisfaction and in accordance with the development consent and associated Roads Act consent.
- ii) The supervising arborist, landscape designer or landscape architect must certify the street trees are the correct species and were installed in accordance with the development consent and associated Roads Act consent.

16. Site Management Plan

A. Before Commencement of Works including Demolition

An Environmental Site Management Plan must accompany the application for a Construction Certificate. If demolition is to commence prior to the issue of a

Construction Certificate the applicant must submit to Sutherland Shire Council a separate Demolition Site Management Plan. These plans must satisfy the Objectives and Controls of Sutherland Shire Development Control Plan 2015 relating to environmental site management and must incorporate the following throughout demolition and construction:

- i) safe access to and from the site during construction and demolition
- ii) safety and security of the site, road and footpath area including details of proposed fencing, hoarding and lighting
- iii) method of loading and unloading excavation machines, building materials
- iv) how and where, construction materials, excavated and waste materials will be stored.
- v) methods to prevent material being tracked off the site onto surrounding roadways
- vi) erosion and sediment control measures

B. During Works

The site management measures set out in the above plan must remain in place and be maintained throughout the period of works and until the site has been stabilised and landscaped.

17. Pre-commencement Inspection

A. Before Works

A Pre-commencement Inspection/meeting is to be convened by the Applicant on-site a minimum 5 days prior to any demolition and/or construction activity and between the hours of 8.00 am and 4.30 pm Monday to Friday. The meeting must be attended by a representative of Council's Civil Assets Branch, the Principal Certifying Authority, the builder/site manager of the building/civil construction company and where necessary the supervising engineer. The attendance of the owner is required when it is intended to use more than one builder/principal contractor throughout the course of construction.

The purpose of the meeting is to:

- i) Ensure safe passage for pedestrians, Work and Hoarded Zones are maintained in accordance with Council requirements;
- ii) Check the installation and adequacy of all traffic management devices;
- iii) Confirm that the supervising engineer has a copy of Council's Specification for Civil Works Associated with Subdivisions and Developments.

Note: An inspection fee must be paid to Council prior to the lodgement of the Notice of Commencement. Please refer to Sutherland Shire Council's Adopted Schedule of Fees and Charges.

18. Supervising Engineer

A. Before Construction

The applicant must engage an Accredited Certifier in civil engineering works or a Charter Civil Engineer to supervise construction of any:

- i) Road frontage works.
- ii) Construction / installation of stormwater drainage.

- iii) Rainwater harvesting & reuse.
- iv) All other works that form part of a subdivision.

B. During Construction

The engineer must supervise the works as listed above to ensure compliance with:

- i) All relevant conditions of development consent
- ii) Any Consent issued under the Roads Act for this development

C. Before Occupation

The supervising engineer must certify the works required in “A” above were undertaken and completed in accordance with the requirements of this Development Consent and to their satisfaction.

19. Noise Control During Construction and Demolition

To minimise the impact on the surrounding environment:

A. During Works

The LAeq sound pressure level measured over a period of 15 minutes when the construction or demolition site is in operation, must not exceed the ambient background level (LA90 15min) by more than 10dB(A) when measured at the nearest affected premises.

20. Damage to Adjoining Properties

A. Before Works

To minimise vibration damage and loss of support to buildings / structures and properties in close proximity to the development site, a Geotechnical Engineers Report must be prepared detailing constraints to be placed on earth moving and building plant and equipment and the method of excavation, shoring, underpinning and support. This report must be provided to the person undertaking the excavation and the Principal Certifying Authority.

B. During Works

The constraints and recommendations of the Geotechnical Engineers Report must be implemented.

21. Public Utilities

This condition is imposed to facilitate the provision of services to the development and reduce conflicts between services and lot boundaries, buildings or associated facilities.

A. Before Construction

Suitable arrangements must be made with all relevant utility service providers to ensure the development is appropriately serviced by electricity, gas, telecommunications and the like, and any necessary underground conduits are provided.

Note: Should these requirements result in any significant change to the approved design an application must be made to modify the consent under s.96 of the Environmental Planning and Assessment Act.

22. Demolition & Bulk Earthworks Security Bond

A. Before Demolition

At least two days prior to the commencement of demolition works the applicant shall provide security to Council to the value of \$100,000 against damage caused as a consequence of demolition and / or bulk excavation works. The security may be provided by way of a deposit or bank guarantee with the Council. Should neighbouring property sustain damage as a result of the demolition and / or bulk excavation works Council may carry out any works necessary to repair / stabilise the damage and the cost of these works will be deducted from the security.

This bond will be released upon satisfactory completion of the demolition, the bulk excavation and construction of the basement levels sufficient to ensure stability of the surrounding ground. Such request shall be submitted to Council on the '*Bond Release Request Form*' signed by the owner or any person entitled to act on the consent, together with Certification from an Accredited Certifier or a Chartered Structural Engineer, to the effect that the aforementioned works were completed to their satisfaction.

23. Basement Car Park and Vehicle Access-way

A. Design

The vehicular access-way and car park layout shall be designed and constructed to comply with the approved architectural design drawings, except where modified by the following;

- i) Align with Council's issued vehicular crossing levels.
- ii) A minimum headroom of 2.2m measured from the parking floor to the underside of any beam, ventilation duct or service conduit, or to the underside of any door including a security door and fittings when those doors are in an open position.
- iii) The vertical alignment of the vehicular access-way shall comply with AS2890.1:2004 to ensure a B85 vehicle will not scrape.
- iv) Where parking bays are located adjacent to storage areas the walls / cages of the storage areas cannot encroach into the design envelope for the parking bay, cite; figure 5.2 of AS2890.1:2004, and parking bay can be enclosed or caged.
- v) The security door fitted to the car parking area entrance must be independently mounted on rubber pads to prevent vibration noise transmission through the concrete walls and / or columns.

B. Before Construction

Certification from an Accredited Certifier or a Chartered Civil Engineer or a Registered Surveyor, to the effect that the car park layout and vehicle access-way design was prepared having regard to the conditions of development consent and to their satisfaction, shall accompany the application for the Construction Certificate.

Note: Be advised that item iii) above is based on a B85 vehicle (Ford Falcon Sedan). The recommended condition will not necessarily protect exotic or altered cars from “scraping” the vehicular access-way.

24. Stormwater Drainage, Rainwater Harvesting & Reuse System

A. Design

The stormwater drainage, rainwater harvesting and rainwater reuse systems shall be designed and constructed in accordance with the approved stormwater drainage design drawings, Australian Standard AS3500.3:2003 and the BASIX Certificated issue against this development, except where modified by the following;

- i) Layout of the drainage system showing the alignment of all pipelines and associated structures, rainwater tank/s, detention vessel and finished surface levels,
- ii) All levels reduced to Australian Height Datum,
- iii) The rate of discharge of stormwater from the site to a drainage system under Council's control shall be controlled so that it does not exceed the pre-development rate of discharge.

B. Before Construction

- i) Certification from an Accredited Certifier in Civil Engineering or a Chartered Civil Engineer, to the effect that the stormwater drainage, rainwater reuse and water harvesting systems design was prepared having regard to the conditions of development consent and to their satisfaction, shall accompany the application for the Construction Certificate.
- ii) Certification from an Accredited Certifier for stormwater design or a Chartered Civil Engineer, to the effect that the basement pump-out system design was prepared having regard to Sections 5 and 9 and Appendix L of AS/NZS3500.3:2003, shall accompany the application for the Construction Certificate.

C. Before Occupation

- i) A Works-As-Executed drawing (WAED) of the stormwater drainage system shall be prepared by a Registered Surveyor. This drawing must detail the alignment of pipelines, pits, the rainwater tanks and the detention facilities. An original or a colour copy shall be submitted to Sutherland Shire Council.
- ii) The Supervising Engineer must certify the WAED of the stormwater drainage system that the stormwater drainage works, rainwater harvesting facility and rainwater reuse systems were constructed to their satisfaction and in accordance with the Development Consent. Prior to the occupation or use of the building the Applicant / Owner shall submit to Council a copy of the aforementioned letter of certification.
- iii) Certification from an Accredited Certifier for stormwater design or a Chartered Civil Engineer, to the effect that the basement pump-out system was constructed to their satisfaction and in accordance with the development consent.

D. Ongoing

- i) The operation of all devices or appliances installed within the development

approved by this consent as required by conditions pertinent to rainwater harvesting and rainwater reuse shall be maintained in good operating order at all times.

ii) The stormwater detention facility shall be:

- Kept clean and free from silt, rubbish and debris.
- Be maintained so that it functions in a safe and efficient manner.
- Not be altered without prior consent in writing of the Council.

Note: Upon submission of the Works-As-Executed drawing for the stormwater drainage system a notation will be added to the section 149(5) certificate advising future owners that their property is burdened by a stormwater detention facility.

25. Endorsement of Linen Plan of Subdivision for Consolidation

A. Construction

- i) The Plan of Subdivision for the consolidation of Lots 27 to 40 in Deposited Plan No.7580 into one lot shall be registered with the Land Titles Office prior to release of the Construction Certificate.
- ii) The Plan of Subdivision must include the provision of a 5m by 5m splay at the intersection of the Kingsway and University Road.

26. Approved Landscape Plan

A. Design Changes

The landscape works on the site must be carried out in accordance with the approved Landscape Plan prepared by Site Image (Issue B, dated 22.09.2015) dated 21 September 2015) except as amended by the following:

- i) The location of existing trees must be updated in accordance with the revised survey and arborist report, and their removal/retention must comply with Conditions 27, 28 & 29 of this consent;
- ii) Tree Protection Zones (TPZ) must be shown on plan for all existing trees to be retained and protected;
- iii) As the subject site is identified as being within a Greenweb Restoration area, new tree and shrub plantings shall be irregularly spaced and consist of a mixture of indigenous species to achieve a much more informal appearance than that shown in the approved Landscape Plan;
- iv) Within the deep soil areas in the front setback along University Road and the Kingsway, plant clusters of *Eucalyptus racemosa* (Narrow Leaved Scribbly Gum), *E.tereticornis* (Forest Red Gum) and *E.paniculata* (Grey Ironbark) to provide strong streetscape plantings;
- v) Planter boxes for small trees on slab shall have a minimum soil depth of 1000mm;
- vi) The communal open space areas and all planter boxes on slab must be provided with a water-efficient irrigation system, connected to a pump and the rainwater/OSD tank, to enable effective landscape maintenance;
- vii) The private open space of each dwelling must be provided with one tap with a removable water key, connected to a pump and the rainwater tank/OSD tank;
- viii) As the subject site is identified as being within a Greenweb Restoration area, all new tree plantings must be indigenous species and 50% of understorey

plants must be indigenous species. All indigenous species must be selected from Council's 'Native Plant Selector' available on Council's website (www.sutherlandshire.nsw.gov.au <<http://www.sutherlandshire.nsw.gov.au>>) and search for Native Plant Selector);

- ix) Each ground floor unit shall be provided with a clothes line easily accessible from the laundry. Each unit above the ground floor must be provided with a clothes line on a balcony. Ensure that clothes lines are not visible above the balustrade.

The applicant must engage a suitably qualified Landscape Designer or Landscape Architect to oversee any design changes to the approved Landscape Plan and amendments required above. Details of these design changes must be included in the documentation submitted with the application for a Construction Certificate.

Notes:

A Landscape Designer is a person eligible for membership of the Australian Landscape Designers and Managers and a Landscape Architect is a person eligible for membership of the Australian Institute of Landscape Architects as a Registered Landscape Architect.

If demolition works to occur prior to the Construction Certificate being issued, tree protection measures must be installed prior to commencement of demolition.

B. Prior to Occupation/Occupation Certificate

The landscape works must be completed in accordance with the approved Landscape Plan and amendments required by 'A' above. A Final Landscape Inspection must be carried out and a certificate issued by Council's landscape officer prior to occupation or the issue of an occupation certificate (interim or final). This certificate is required to ensure that all landscaping works and the deep soil percentage requirements have been carried out in accordance with 'A' above, and that all new indigenous plants on the site and within the road reserve are the correct species.

To arrange a Final Landscape Inspection please phone 9710-0333 48 hours prior to the required inspection date. An inspection fee of \$225 is required to be paid, prior to the inspection. Additional inspections will be charged at a rate of \$150 each.

C. Ongoing

All landscaping works required by 'A' above must be maintained for 12 months following the final landscape inspection date.

Any plants found faulty, damaged, diseased or dead shall be replaced with the same species in the same sized container within one month with all costs borne by the owner.

Note: If difficulty is experienced sourcing suitable indigenous plants from other suppliers, plants grown from locally provenance seed may be available from:

Sutherland Shire Council Nursery

27. Trees on Private Land

A. Tree Removal

The removal of the following trees as numbered in the arborist report prepared by Tree IQ (Revision B, dated 9th July 2015) is approved:

i) Trees identified as listed below:

Tree No.	Tree Species (botanical and common name)	Location
2	<i>Eucalyptus nicholli</i> (Narrow Leaf Peppermint)	On boundary, SW corner of site
9	<i>Leptospermum petersonii</i> (Lemon Scented Tea Tree)	Western boundary, centre of site
10	<i>Juniperus</i> spp.	Western boundary, centre of site
16	<i>Musa</i> spp. (Banana)	NW corner of site
18	<i>Cotoneaster</i> spp. (Cotoneaster)	NW corner of site
23	<i>Callistemon viminalis</i> (Bottlebrush)	SE corner of site
24	<i>Leptospermum petersonii</i> (Lemon Scented Tea Tree)	SE corner of site
25	<i>Callistemon viminalis</i> (Bottlebrush)	SE corner of site
26	<i>Melaleuca stypheloides</i> (Prickly Leaf Paperbark)	SE corner of site
27	<i>Tristanopsis laurina</i> (Water Gum)	SE corner of site
28	<i>Musa</i> spp. (Banana)	SE corner of site
29	<i>Callistemon viminalis</i> (Bottlebrush)	SE corner of site
30	<i>Callistemon viminalis</i> (Bottlebrush)	SE corner of site
32	<i>Livistona australis</i> (Cabbage Tree Palm)	Near eastern boundary, centre of site
34	<i>Acer palmatum</i> (Japanese Maple)	Near eastern boundary, centre of site
36	<i>Eucalyptus sideroxylon</i> (Mugga Ironbark)	Near eastern boundary, centre of site
37	<i>Eucalyptus sideroxylon</i> (Mugga Ironbark)	Near eastern boundary, centre of site
38	<i>Eucalyptus</i> spp. (Eucalypt)	Near eastern boundary, northern end of site
39	<i>Rondeletia</i> spp.	Centre of site, northern end
40	<i>Callistemon viminalis</i> (Bottlebrush)	Centre of site, northern end
41	<i>Camellia</i> spp.	Centre of site, northern end
42	<i>Melaleuca bracteata</i> (Black Tea Tree)	Near eastern boundary, northern end of site

iii) Any declared noxious plant. The applicant is to ensure that all noxious plants

- are properly identified and controlled/removed.
- iv) Any tree species exempted by the Sutherland Shire Local Environmental Plan 2015.

All other vegetation that would require approval to be removed must be protected.

B. Design

- i) 17 trees are approved for removal as part of this consent. Where trees are proposed to be removed Sutherland Shire Council's Development Control Plan 2015 requires indigenous replacement canopy tree planting at a ratio of 4 to 1 on private land.
- ii) 68 replacement trees are required to be planted.
- iii) Replacement trees planted within the site must not be located within 3m of a building or proposed building or swimming pool.
- iv) Trees must have a minimum container size of 5 litres

An amended Landscape Plan showing the location of all replacement trees on the site must be provided prior to the release of the Construction Certificate.

Note: Where replacement trees cannot be accommodated on site, Council offers offsite planting under a 'Deed of Agreement', at a cost of \$100 per tree. Offsite planting will be undertaken as part of Council's Green Street Program. 'Deed of Agreement' forms can be downloaded from Council's website at

www.sutherlandshire.nsw.gov.au/forms

[<http://www.sutherlandshire.nsw.gov.au/forms>](http://www.sutherlandshire.nsw.gov.au/forms). A completed form and payment must be submitted to Council prior to the release of the Construction Certificate.

C. Prior to Occupation/Occupation Certificate

The replacement tree planting must be completed in accordance with the approved Landscape Plan. A Final Landscape Inspection must be carried out and a certificate issued by Council's landscape officer prior to occupation or the issue of an occupation certificate (interim or final). This certificate is required to ensure that tree planting has been carried out in accordance with 'B' above, and that all new indigenous plants on the site and within the road reserve are the correct species.

To arrange a Final Landscape Inspection please phone 9710-0333 48 hours prior to the required inspection date. An inspection fee of \$225 is required to be paid, prior to the inspection. Additional inspections will be charged at a rate of \$150 each.

D. Ongoing

Trees required by this condition must be maintained and protected until they are covered by Council's Controls for Preservation of Trees and Bushland Vegetation (SSCDP 2015 Chapter 38). Any replacement trees found damaged, dying or dead must be replaced with the same species in the same container size within one month with all costs to be borne by the owner.

Note: If you have difficulty sourcing suitable indigenous plants from other suppliers, plants grown from local provenance seed may be available from:

Sutherland Shire Council Nursery
 345 The Boulevard, Gympie
 Ph: 02 9524 5672
 Opening hours - Monday to Friday 7.00am-3.00pm (excluding public holidays)

28. Removal of Trees on Council Land

A. Design

Council has preferred supplier agreements in place with arborists who are approved to carry out arbor works on Council land. Removal of the trees listed below must only be undertaken using Council's preferred supplier at the applicant's expense. The applicant is responsible for contract management and payment of the arborist prior to works being undertaken.

Select from Council's list of preferred suppliers listed on Council's website: <http://www.sutherlandshire.nsw.gov.au/Residents/Trees/Trees-on-Council-or-Public-Land>. Payment of the quoted amount provided must be made prior to any works commencing on site.

The following trees as numbered in the arborist report prepared by Tree IQ (Revision B, dated 9th July 2015) have been approved for removal within the road reserve:

Tree No.	Tree Species (botanical and common name)	Location
5	<i>Leptospermum petersonii</i> (Lemon Scented Tea Tree)	University Rd, SW corner of site
8	<i>Eucalyptus crebra</i> (Narrow Leaf Ironbark)	University Rd, centre of site

29. Tree Retention and Protection

A. Before Works

Prior to the commencement of any demolition, excavation or construction works on site the applicant shall engage a suitably qualified and experienced Arborist to oversee the measures for the protection of existing trees as listed below.

Note: An Arborist is a person with a current membership of the National Arborist's Association of Australia at a grade of General Member, Affiliate Member or Life Member, or alternatively a person who has obtained an Australian Qualifications Framework AQF Level 5 in Arboriculture.

Prior to the commencement of any works, including demolition, the supervising Arborist must oversee the protection of the following trees as listed in the table below to ensure the installation and adequacy of all tree protection measures.

Tree No.	Tree Species (botanical and common name)	Location
1	<i>Eucalyptus tereticornis</i> (Forest Red Gum)	University Rd, near SW corner of site
1A	Small Ironbark next to <i>E.tereticornis</i> (not in Arborist report)	University Rd, near SW corner of site
3	<i>Callistemon viminalis</i> (Bottlebrush)	University Rd, near SW

		corner of site
4	<i>Eucalyptus crebra</i> (Narrow Leaf Ironbark)	University Rd, near SW corner of site
6	<i>Eucalyptus crebra</i> (Narrow Leaf Ironbark)	University Rd, near SW corner of site
7	<i>Eucalyptus crebra</i> (Narrow Leaf Ironbark)	University Rd, near SW corner of site
11	<i>Eucalyptus crebra</i> (Narrow Leaf Ironbark)	University Rd, middle of site
12	<i>Eucalyptus racemosa</i> (Narrow Leaf Scribbly Gum)	Western boundary, near middle of site
13	<i>Eucalyptus racemosa</i> (Narrow Leaf Scribbly Gum)	Western boundary, near middle of site
14	<i>Eucalyptus crebra</i> (Narrow Leaf Ironbark)	University Rd, northern end of site
15	<i>Eriobotrya japonica</i> (Loquat)	Western boundary, northern end of site
15A	<i>Camellia</i> app. (not in Arborist report)	Western boundary, northern end of site
19	<i>Grevillea robusta</i> (Silky Oak)	School grounds, NE corner of site
20	<i>Jacaranda mimosifolia</i> (Jacaranda) and <i>Acacia</i> spp. (Wattle)	Southern boundary
21	<i>Eriobotrya japonica</i> (Loquat)	Southern boundary
21A	<i>Morus nigra</i> (Mulberry)	SE corner of site
22	<i>Jacaranda mimosifolia</i> (Jacaranda) and <i>Pittosporum undulatum</i> (Sweet Pittosporum)	SE corner of site
31	<i>Eucalypt</i> spp. (Eucalypt)	School grounds, middle of eastern boundary
33	<i>Quercus palustris</i> (Pin Oak)	Middle of eastern boundary
35	<i>Eucalyptus tereticornis</i> (Forest Red Gum)	Middle of eastern boundary

The trees identified for retention must be protected by the following measures:

- i) Protective fencing constructed of 1.8m high chain wire mesh supported by robust posts must be installed in accordance with Option 1 in the Arborist report Dwg. No.03 prepared by Tree IQ dated 9th July 2015. Signage must be erected on the fence with the following words clearly displayed "TREE PROTECTION ZONE, DO NOT ENTER".
- ii) The tree protection zone within the protective fencing must be mulched with a maximum depth 75mm of suitable organic mulch (woodchips or composted leaf chip mulch) and kept regularly watered for the duration of the works subject to this consent.
- iii) No development or associated activity is permitted within the fenced tree protection zone for the duration of works subject to this consent. This includes vehicular or pedestrian access, sheds, washout areas, excavations, backfilling, installation of services (including stormwater), removal of top soil, stockpiling of soil or building materials.

- iv) Where site access/egress is required over the roots of trees identified for retention and protection, provide hardwood rumble boards over a 200mm thick layer of wood chip.

B. During Construction

- i) The tree protection measures detailed in 'A' above must be maintained during construction.
- ii) The supervising Arborist must be present during any approved hand excavation or under boring works within the Tree Protection Zone (TPZ) of any tree identified for retention and protection and have the authority to direct works to ensure the trees long term preservation.
- iii) The supervising Arborist must strictly supervise that there is no disturbance or severing of roots greater than 30mm diameter and to cleanly cut those roots between 10-30mm in diameter.
- iv) If the trees identified for retention in 'A' above are damaged or destabilised during construction then works must cease and Council's Tree Assessment Officer (ph. 9710 0333) must be contacted to assess the tree/s and recommend action to be taken.

30. Car Wash Bays

To prevent contamination of the stormwater drainage system, car-wash bay must be provided on site in accordance with the approved architectural plans:

A. Design

The wash-bays must be graded to an internal drainage point and connected to the sewer.

B. Before Construction

Details of the design satisfying 'A' above must accompany the application for a Construction Certificate.

C. Before Occupation

The Principal Certifying Authority must be satisfied that

- i) 'A' above has been complied with and
- ii) any discharge to the sewer from the premises is in accordance with the requirements of Sydney Water.

D. Ongoing

All car-wash, engine degreasing and steam cleaning must be conducted in the wash-bay detailed in 'A' above. Wastewater must be treated in accordance with the requirements of Sydney Water.

31. Garbage, Recycling and Green-waste Storage Areas

To ensure the proper storage of waste from the premises:

A. Design

The garbage and recycling storage areas must have a smooth impervious floor that is graded to a floor waste. A tap and hose must be provided to facilitate regular cleaning of the bins and all waste water must be discharged to the sewer

in accordance with the requirements of Sydney Water. Garbage bins must be designed to prevent the escape of any liquid leachate and must be fitted with a lid to prevent the entry of vermin.

B. Before Construction

Details of compliance with 'A' above must form part of the documentation accompanying the applications for a Construction Certificate.

C. Before Occupation

The works must be completed prior to the issue of any Occupation Certificate.

D. Ongoing

All waste and recycling bins must be stored wholly within the approved waste storage areas. The bins must only be put out for collection in the evening prior to pick-up and returned to the storage area as soon as possible after pick-up.

32. External Lighting - (Amenity)

To ensure that any lighting on the site does not cause a nuisance to neighbours or motorists on nearby roads:

A. Design

All lighting must be designed in accordance with Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting.

B. Ongoing

All lighting must be operated and maintained in accordance with the Standard above.

33. Noise Control - Design of Plant and Equipment (General Use)

To minimise the impact of noise from the development, all sound producing plant, equipment, machinery, mechanical ventilation system or refrigeration systems:

A. Design

All plant and equipment must be designed and / or located so that the noise emitted does not exceed an LAeq sound pressure level of 5dB above the ambient background level when measured at the most affected point on or within any residential property boundary.

Note: The method of measurement of sound must be carried out in accordance with Australian Standard 1055.1.

B. Before Occupation

Certification must be provided by a qualified acoustic engineer that all work associated with the installation of the acoustic measures has been carried out in accordance with 'A' above.

C. Ongoing

All plant and equipment must be operated and maintained in accordance with 'A' above.

34. Rail Noise and Vibration Design Criteria (Residential & Noise Sensitive Receivers)

To minimise the impact of noise on the occupants from the adjoining rail corridor:

A. Design

The building must be designed to meet the internal noise level criteria provided in:

- i) State Environmental Planning Policy (Infrastructure) 2007; and,
- ii) 'Development near Rail Corridors and Busy Roads - Interim Guideline' produced by the NSW Department of Planning.

B. Before Construction

Details of the acoustic attenuation treatment required to comply with 'A' above, must be prepared by a qualified acoustic engineer. These details must accompany the application for a Construction Certificate.

C. Before Occupation

Certification must be provided by a qualified acoustic engineer that all work associated with the installation of the acoustic measures has been carried out in accordance with 'A' above.

35. Noise from Road and Rail

To minimise the impact of noise from the adjoining major road and rail corridor on the occupants:

A. Design

The building design must be in accordance with the recommendations of the acoustic report by Renzo Tonin & Associates dated 10 July 2015 approved as part of this application.

B. Before Construction

Details of the acoustic attenuation treatment must accompany the documentation forming part of the Construction Certificate.

C. Before Occupation

Details of the acoustic attenuation treatment must accompany the application for a Construction Certificate in accordance with 'A' above and must include all post construction validation test results.

36. Noise and Vibration Control - Residential Car Park

To minimise noise and vibration from use of the security door in the car park:

A. Design

The proposed security door fitted to the car parking area entrance must be independently mounted on rubber pads or otherwise installed to prevent vibration noise transmission through the concrete walls and / or columns.

B. Before Occupation

The Principal Certifying Authority must be satisfied that 'A' above has been complied with.

37. Car-Park Ventilation

To ensure adequate ventilation for the car park:

A. Design

The car-park must be either mechanically ventilated by a system complying with AS1668.2 -1991 or alternatively, the natural ventilation system must be certified by a qualified mechanical ventilation engineer to the effect that the system is adequate. The certification shall confirm that the system will protect the health of occupants of the car park at anytime it is used and satisfies the atmospheric contaminate exposure rates specified in the Worksafe Australia document: Workplace Exposure Standards for Airborne Contaminants.

B. Before Construction

Details of compliance with 'A' above must form part of the application for a Construction Certificate.

C. Before Occupation

Certification must be provided by a qualified mechanical ventilation engineer that the installation of the ventilation system has been carried out in accordance with 'A' above.

D. Ongoing

The ventilation system must be operated and maintained in accordance with 'A' above.

38. Demolition Work

To ensure that demolition of structures is carried out in an environmentally acceptable and safe manner:

A. Before Commencement

If works involve the removal of more than 10 square metres of asbestos material, a bonded asbestos licence is required. A friable asbestos licence is required to remove, repair or disturb any amount of friable asbestos. For further information contact the NSW Workcover Authority.

B. During Works

- i) The demolition of the existing building must be carried out strictly in accordance with Australian Standard 2601 - The Demolition of Structures.
- ii) The applicant must ensure that the demolition contractor has a current public risk insurance coverage for a minimum of \$5 million. A copy of the Policy must be submitted to the Council prior to demolition.

To ensure that the removal and transportation of any asbestos material, regardless of the quantity, is carried out in an environmentally acceptable and safe manner, all work must comply with the following:

- a) Work Health and Safety Act 2011;
- b) Work Health and Safety Regulation 2011;
- c) Safe Work Australia Code of Practice - How to Manage and Control Asbestos in the Workplace;
- d) Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC:2002(2005)];
- e) Workcover NSW 'Working with Asbestos - Guide 2008';
- f) Protection of the Environment Operations Act 1997; and
- g) Protection of the Environment Operations (Waste) Regulation 2005.

Asbestos waste in any form must be disposed of at a waste facility licensed by the Department of Environment Climate Change & Water to accept asbestos waste.

39. Dilapidation Report - Adjoining Properties

A. Before Works

To assist in the resolution of any future disputes about damage to properties adjoining the development site, prior to commencement of any work on site the Applicant or principal contractor must provide dilapidation reports on the adjacent buildings at No. 2 Sylva Avenue, Miranda (Miranda Public School) including any basements and ancillary structures. The reports must be provided to the Principal Certifying Authority and to the owners of the properties that are the subject of the report.

The reports must be prepared by a suitably qualified and experienced person, such as a structural engineer.

40. Design Requirements for Adaptable Housing

A. Design

A report prepared by a suitably qualified Adaptable Housing Specialist must be submitted with the Construction Certificate, demonstrating that the development complies with the requirements of AS4299 - Adaptable Housing. The report must contain a completed checklist (Appendix A - AS4299) demonstrating compliance with the requirements of a Class C Adaptable House.

41. Verification of Design for Construction - SEPP 65

A. Design

Design verification must be provided by a registered Architect pursuant to SEPP 65 stating that the design intent approved by the Development Consent has been maintained in the building / architectural plans submitted with the Construction Certificate. This must accompany the application for a Construction Certificate.

B. Before Occupation

Prior to the issue of the final Occupation Certificate design verification must be provided in accordance with SEPP 65.

42. Certification Requirement of Levels

A. During Construction

At the following stages of construction:

- i) Prior to the pouring of each floor or roof slab,
- ii) Upon completion of the roof frame.
- iii) Prior to the pouring / installation of the swimming pool shell

A registered surveyor must provide the Principal Certifying Authority with Certification that the stage of structure complies with the development consent in respect of levels.

B. Before Occupation

The certification referred to above must form part of the application for an Occupation Certificate.

43. Sydney Water Tap inTM & Compliance Certificate

A. Before Construction

The plans approved as part of the Construction Certificate must be submitted to a Sydney Water Tap inTM to determine as to whether the development will affect Sydney Water's sewer and water mains, stormwater drains and / or easements, and if further requirements need to be met. Customers will receive an approval receipt. Please refer to the web site www.sydneywater.com.au.

B. Before Occupation / Prior to issue of Subdivision Certificate

A Compliance Certificate under s73 of the Sydney Water Act, 1994, must be submitted to Council by the Principal Certifying Authority. Sydney Water may require the construction of works and/or the payment of developer charges.

Sydney Water Advice on Compliance Certificates:

An application must be made through an authorised Water Servicing Coordinator. For details see the Sydney Water web site at www.sydneywater.com.au/customer/urban/index or by telephone 13 20 92.

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water / sewer extensions can be time consuming and may impact on other services as well as building, driveway or landscaping design.

44. Dial Before You Dig

A. Before Construction

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW).

It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig

service in advance of any construction or planning activities.

45. Noise Control and Permitted Hours for Building and Demolition Work

A. During Works

To minimise the noise impact on the surrounding environment:

- i) The LAeq sound pressure level measured over a period of 15 minutes when the construction or demolition site is in operation, must not exceed the ambient background level (LA90 15min) by more than 10dB(A) when measured at the nearest affected premises.
- ii) All building and demolition work must be carried out only between the hours of 7.00am and 6.00pm Monday to Friday inclusive, 8.00am and 3.00pm Saturdays. No work must be carried out on Sundays and Public Holidays.

46. Toilet Facilities

A. During Works

Toilet facilities must be available or provided at the work site at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site before works begin and must be maintained until the works are completed.

Each toilet must:

- i) be a standard flushing toilet connected to a public sewer, or
- ii) have an on-site effluent disposal system approved under the Local Government Act 1993, or
- iii) be a temporary chemical closet approved under the Local Government Act 1993

47. Street Numbering and Provision of Letter Box Facilities

A. Before Occupation

- i) Street / unit / shop numbers must be clearly displayed.
- ii) Suitable letterbox facilities must be provided in accordance with Australia Post specifications.
- iii) All letterboxes must be located within the secure entry foyers.
- iv) The dwellings must have the following street address format: proposed Block A will be known as No.6 and proposed Block B will be known as No.18, within each Block proposed Unit 1 on the ground floor will be known as G01 and proposed Unit 1 on the next floor up will be known as 101 etc.

48. Car Parking Allocation

A. Before Subdivision

Car parking must be allocated to individual strata lots as part of their unit entitlement.

Visitor parking facilities and/or car wash bays must be designated as common property on any strata plan.

Parking must be allocated on the following basis:

- Residential dwellings: 260 spaces
- Residential visitors: 45 spaces

- Car wash bays: 4 spaces

B. Ongoing

The car-parking provided must only be used in conjunction with the dwellings contained within the development and not for any other purpose.

49. Basement Car Park Security Requirements

A. Design

The following design requirements must be satisfied:

- Security shutters / roller door must be installed at the main entry to the basement car park levels. An intercom system must be installed for visitors to gain entry.
- Storage rooms within the basement car park levels must be fitted with deadlocks.
- The basement car park levels must be painted white to reflect light (thereby improving security), appear larger and more spacious and reduce the number of lights required to illuminate the basement.

50. Closed Circuit Television (CCTV)

A. Before Occupation

To increase resident safety and security, a CCTV system must be installed to monitor all common areas (including letter boxes), the access / exit driveway and all basement car park levels including lift areas.

51. Undergrounding of Power Lines

B. Before Occupation

All power lines along the frontage of the site (Urunga Parade) must be placed underground and street lighting installed to the satisfaction of Ausgrid prior to the issue of any Occupation Certificate. A copy of certification from Ausgrid that the works have been completed to Ausgrid's satisfaction must accompany an application for any Occupation Certificate.

52. General Deliveries / Loading

A. Ongoing

- All general deliveries to the site must be carried out within the hard stand waste collection / loading bay within the site.
- The hard stand waste collection / loading bay must be clearly signposted as being used for both the collection of waste and for all general deliveries / loading.

END OF CONDITIONS

Martin Southwell - 9710 0250
File Ref: PAD15/0050

6 July 2015



Galileo Miranda Nominee Pty Limited
L 9 1 Alfred St
SYDNEY NSW 2000

Dear Sir/Madam

Pre-Application Discussion No. PAD15/0050

Proposal: Land amalgamation and development of residential apartments

Property: 2-22 University Road and 660-664 Kingsway, Miranda

Council refers to the pre-application meeting (PAD) held on 2 June 2015 regarding the above development proposal. Carine Elias (Team Leader), Martin Southwell (Environmental Assessment Officer), Nicole Askew (Environmental Assessment Officer), David Jarvis (architect) and Barbara Buchanan (landscape architect) attended the meeting on behalf of Council. Paul Marshall (Galileo), Neil Werrett (Galileo), Barry Stephenson (Galileo), Michael Gaston (KannFinch), Simon Fleet (Urban Possible), Jeff Mead (Planning Ingenuity) and Ross Shepherd (Site Image) attended on behalf of the applicant.

The proposal was also considered at a Pre-DA Architectural Review Advisory Panel (ARAP) meeting on 4 June 2015, for which a separate report dated 22 June 2015 has been provided. This PAD letter is to be read in conjunction with the Report from ARAP.

The purpose of this letter is to provide a summary of the issues discussed at the meeting and provide information that will assist you should you proceed with preparing a development application (DA). Council cannot provide you with certainty on the determination of the proposal until a DA has been lodged and assessed.

Your DA will need to be supported by a Statement of Environmental Effects addressing all relevant Environmental Planning Instruments and Development Control Plans.

The Site and Proposal:

The development site (“the site”) is located on the eastern side of University Rd. It is rectangular in shape and presently consists of 14 separate allotments (2-22 University Rd and 660-664 Kingsway). It has a frontage width to University Road of about 185m and a frontage width to Kingsway of about 42m, yielding a total area of 7,940m². The site is flat across the middle portion but falls towards both the Kingsway and the

railway to the north and south, respectively. All of the existing allotments are occupied by detached dwelling houses. There are a number of street trees on the University Rd frontage.

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 proposal is to develop a 6 – 8 storey residential flat building (RFB) comprising 194 units. The RFB will be arranged in 2 separate buildings (north and south) with a central landscaped courtyard. Two basement car parking levels are proposed.

The Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015) was gazetted on 23 June 2015. The subject land is located within Zone R4 High Density Residential pursuant to the provisions of SSLEP 2015. The proposal, being an RFB, is permissible with development consent.

A Draft Development Control Plan (DCP) has been prepared to accompany SSLEP 2015. This Draft DCP was considered by Council and was on public exhibition between 28 April and 26 May 2015. The Draft controls are available to view on Council's website. At this point in time Council cannot confirm whether these controls will be adopted.

Comments on the Proposal:

The following comments are provided with respect to the concept plans presented for consideration at the meeting in relation to SSLEP 2015 and DSSDCP 2015. For further site layout and architectural design comments, please refer to the Report from ARAP dated 22 June 2015.

1. Built Form

The proposal is inconsistent with the amalgamation pattern and building envelope controls (including heights) that apply to the site under Chapter 7, Parts 5 and 6 of DSSDCP 2015. These controls have culminated from extensive consultation between the Department of Education and Communities, Miranda Public School, Miranda Public School P&C, Galileo and Council. (Refer to "*Miranda Public School Sensory Regulation Playground*" on the following page.) Thus it is the expectation that new development on the site should be consistent with these controls.

It is conceivable that there may be some benefits in the proposed 2 building form compared to a 3 building proposal, such as a larger central communal open space. However, there will be a greater challenge to achieve a balance of solid to open areas (*i.e.* the envisioned rhythm of 3 separate buildings) that would not dominate the streetscape and also not be an abrupt contrast with the likely future built form on 4 amalgamated sites on the western side of the street. Council shares the concerns of ARAP in this respect, in that the proposal presents as 2 large, separate buildings that will dominate the streetscape and appear as one very large development along the entire length of the street, which would be out of the desired future character in the area. The ARAP has recommended that

further overall site planning and built form strategies be considered which break down the scale.

In view of the above, Council is not yet convinced that the 2 building proposal achieves the objectives of DSSDCP 2015 with respect to streetscape impacts and built form.

The proposal also fails to achieve compliance with the maximum building height development standard of 25m that applies to the site under SSLEP 2015. The building has a height of about 27m both immediately adjacent to Kingsway and at the top of the northernmost lift overrun. It is the expectation of Council that new development proposals will comply with the standards of the LEP. The proposal must be designed to achieve compliance with the standard across the whole site. (Please refer to the definition of *building height* under SSLEP 2015, which states that lift overruns are included in height measurements.)

2. Miranda Public School Sensory Regulation Playground

Chapter 7 of DSSDCP 2015 contains specific controls that will inform how new development on the site relates to the Sensory Regulation Playground at Miranda Public School. As mentioned above, there is a history of discussions between the Department of Education and Communities, Miranda Public School, Miranda Public School P&C, Galileo and Council with respect to ensuring that the redevelopment of the site does not adversely impact the playground and the disabled children that it benefits. This matter was also considered at the Council Meeting of 2 March 2015 (refer to DAP081-15). The controls within DSSCP 2015, outlined below, reflect the resolution of that meeting.

Development on Site 10 in the Pinnacle Street Amalgamation Plan must have a minimum setback of 19m from the eastern side boundary. Please refer to the Building Envelope Plan on Page 12 of Chapter 7 of DSSDCP 2015. The 19m setback must extend from the southern edge of the Site 10 building envelope to the southern edge of the Site 8 building envelope. The proposal is setback 12m within this area (Levels 1 – 5 plus the ground floor gym) which does not comply or afford sufficient separation from the playground.

Boundary fencing must be provided along the eastern boundary of the site in accordance with Chapter 7, Part 14.2.2 of DSSDCP 2015. In particular, a 2.4m high masonry fence must be provided along the boundary of the playground.

All architectural plans submitted with the DA should clearly and accurately show the location and size of the playground and buildings setbacks from it.

3. Parking and Traffic

Chapter 7 of DSSDCP 2015 specifies car parking rates expressed as a maximum rather than a minimum. This is a draft control which is presently being reviewed by Council. There is potential for the controls to change prior to the determination of any DA for the development. A number of submissions have been received by Council during the public exhibition of DSSDCP 2015 supporting both maximum and minimum parking rates in the R4 zones in

Miranda. Council's Development Engineer has reviewed the proposal and indicated that a minimum parking rate is more appropriate in this location.

The proposal is identified as Traffic Generating Development and therefore a Traffic and Parking Report must be provided with the DA. The proposal will be referred to Roads and Maritime Services (RMS) for comment.

4. Basement Setback

Chapter 7 of DSSDCP 2015 requires a deep soil landscaped setback of 6m from the University Rd site boundary. The proposed nil setback for the underground carpark from University Rd will adversely impact the existing street trees severely. A 6m setback of deep soil is critical for retaining the existing trees and growing a second row of indigenous trees that will reinforce the streetscape, particularly as the site is located within a Greenweb Restoration area.

The basement should be reconfigured to achieve compliance with this control. Note that if the basement is pushed closer to the eastern boundary, care must be taken to protect the roots of the large trees in the school next door (located to the south of the sensory garden).

5. Landscaping and Pocket Park

The proposal does not achieve the minimum 30% deep soil landscaped area required under SSLEP 2015. The deep soil quantum will be reduced further once hard paved areas are included in the design.

It is of critical importance that sufficient deep soil area (6m width) be provided along the eastern boundary of the site. This planting must afford dense screening and achieve a height of at least 6m. Please refer to Chapter 7, Part 11 of DSSDCP 2015 for further requirements.

The current landscape design reads as being walled off from the public domain. It should be revised to provide glimpses into the garden and pool area from University Rd. This would greatly enhance the pedestrian experience when combined with the pocket park at the southern end of the street.

The pedestrian path leading from Kingsway along the eastern boundary will take activation away from University Rd. Pedestrians should be directed to the use of the street, which would allow the utilisation of the space on the eastern side of the buildings for private open space.

The layout of the plantings is very formal and enclosed. A less rigid approach that celebrates local biodiversity and indigenous plant form and character should be employed, particularly as the site is located in a Greenweb Restoration area. This requires new plantings to be 100% indigenous trees and 50% indigenous understorey species. Suitable species are available from Native Plant Selector on Council's website by inserting the address of the project.

The four entry points to the buildings off University Rd that extend out to the road are an overstatement. In order to provide the maximum deep soil for the existing

and future street trees, any new footpath should be located hard against the front boundary and the entry pavement should meet the footpath on the boundary.

At the Pre-DA ARAP meeting, Site Image put forward a sketch for the new pocket park at the southern end of University Rd. The design repeats the highly structured layout of the proposal's internal landscape. A second alternative for the pocket park has been prepared by Conzept Landscape Architects as part of the proposal to redevelop 13-21 University Rd. As both developments are imminent, Council's Asset Management Group will prepare a design for the park and associated road works to ensure a smooth transition with the developments.

6. Engineering Matters

The basement and access ramps must be designed in accordance with AS2890.1 as amended.

Appropriate water harvesting and re-use is to be utilised. On-Site Detention (OSD) is required if the post-development landscaped area is less than the current area.

The topography of the site is such that stormwater can be disposed of to Kingsway to the north and into the existing culvert and Council system at the southern end of University Rd. A suitable hydraulic design must be submitted with the DA. There may be scope to provide a wetland basin or pond within the proposed pocket park at the southern end of University Rd (subject to the final design of the park).

7. Other Considerations

The DA will be referred to Sydney Trains for review and comment as the proposal involves excavation greater than 2m within 25m of the adjacent rail corridor.

Acoustic assessment will be required as half the site is located within the Rail Noise Buffer and the entire site is located within 20,000 – 40,000 Annual Average Daily Traffic (AADT) Road Noise Buffer.

DSSDCP 2015 requires that any required services such as electricity substations be integrated into the design of the proposal.

The proposed garbage storage location is impractical for the southern block of units. Moreover, the storage area appears to be too small and will likely be visually unappealing when viewed from University Rd. Garbage bin provision must be in accordance with the Waste Management Requirements of the new DCP.

Consideration should also be given to providing an adaptable mix of all unit types. Currently there are only 1 and 2 bedroom adaptable units proposed.

Conclusion:

The proposal involves the amalgamation of 14 sites and the construction of an RFB comprising 194 units in 2 buildings with a central courtyard and 2 basement car parking levels.

The proposal is inconsistent with the amalgamation and building envelope controls for the site under DSSDCP 2015. Council is not yet convinced that the proposal achieves the objectives of those controls, particularly with respect to streetscape impacts and built form. Creating such large building forms means that the design needs to be more sensitive to prevent visually imposing buildings from dominating the street. Furthermore, the proposal does not achieve the required separation from the Sensory Regulation Playground immediately to the east of the site in Miranda Public School. Additional detailed built form and architectural design comments have been provided within the Report from ARAP and this letter should be read in conjunction with those comments.

The proposed non-compliance with the 25m building height limit of SSLEP 2015 is not supported. The proposal should be modified to achieve compliance across the entirety of the site. Council expects that proposals submitted under SSLEP 2015 will achieve strict compliance with the new development standards.

Council also does not support a reduced setback to the basement from University Rd. This will severely impact both existing and future street trees and should be modified to comply with DSSDCP 2015.

The total number of car parking spaces should be finalised once there is more certainty about the new parking controls for this area. Council's Development Engineer is not convinced that a reduced parking rate is appropriate in this location.

It is important to note that the information provided in this letter is based on the planning instruments applicable at the time of writing. You should make yourself aware of any subsequent changes to legislation or local planning controls before lodging your development application.

Council's Development Enquiry Officers are available to assist you with the lodgement requirements for your application (9710 0520).

Please contact Council if you believe any of the above information to be incorrect or if you need clarification of the advice provided. Your initial point of contact should be Martin Southwell (9710 0250) as this is Council's Environmental Assessment Officer who will most likely be responsible for the assessment of your DA.

Yours faithfully

Mark Adamson
Manager – Projects and Development Assessment
for J W Rayner
General Manager

The General Manager
Locked Bag 17
SUTHERLAND NSW 1499

Cc: Galileo Group Pty Ltd
Level 9, 1 Alfred Street
SYDNEY NSW 2000

Dear Sir,

**RE: DEVELOPMENT APPLICATION DA15/0742
660-664 KINGSWAY & 2-22 UNIVERSITY ROAD, MIRANDA**

We refer to the above Development Application currently under assessment by Council.

As Council are aware, the applicant for the proposed development, Galileo Group Pty Ltd, has consulted with Miranda Public School and the NSW Department of Education extensively during the last 12 months in relation to redevelopment of the site.

The school and the school P&C has reviewed several iterations of development plans and has considered their merits in relation to impact on the school grounds, and particularly our sensory playground.

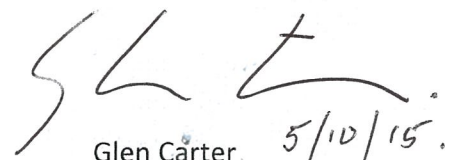
We acknowledge that the plans submitted with the application, namely a "two building" scheme with large separation between those buildings, is favoured by the school over previous iterations of the scheme due to the relief it provides adjacent to the school boundary.

We support the location of and setbacks to the buildings proposed and raise no objection to the Development Application before Council.

Yours Sincerely,



Glenn Downie
Manager
Sydney Asset Management Unit


Glen Carter
Principal
Miranda PS

NSW Department of Education

Level 13, 1 Oxford Street, DARLINGHURST NSW 2010 Locked Bag 53, DARLINGHURST NSW 1300 T 0412 952 259



25 November 2015

The General Manager
Sutherland Shire Council
Locked Bag 17
Sutherland NSW 1499

ATTENTION: Martin Southwell

Dear Sir/Madam,

**STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007
DEVELOPMENT APPLICATION – DA15/0742
660-664 Kingsway & 2-22 University Rd, Miranda**

I refer to Council’s letter requesting Sydney Trains concurrence for the above development application in accordance with clause 86(1) of the above SEPP.

Sydney Trains advises that the proposed development has been assessed in accordance with the requirements of Clause 86(4) being:

- a) the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:
 - (i) the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and
 - (ii) the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and
- b) what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.

In this regard, Sydney Trains has taken the above matters into consideration and has decided to grant its concurrence to the development proposed in development application **DA15/0742** subject to Council imposing the deferred commencement condition provided in Attachment A and operational conditions listed in Attachment B that will need to be complied with upon satisfaction of the Deferred Commencement Condition.

Should Council choose not to impose the deferred commencement condition in Attachment A and the operational conditions provided in Attachment B (as written), then concurrence from Sydney Trains has not been granted to the proposed development.

In the event that this development proposal is the subject of a Land and Environment Court appeal, Council's attention is drawn to Section 97A of the Environmental Planning and Assessment Act 1979 which requires Council to give notice of that appeal to a concurrence authority. Sydney Trains therefore requests that Council comply with this requirements should such an event occur.

Please contact Mr Jim Tsirimiagos on 8575 0780 should you wish to discuss this matter. Finally, Sydney Trains requests that a copy of the Notice of Determination and conditions of consent be forwarded to Sydney Trains.

Yours sincerely,

Kevin Sykes
General Manager Property

Attachment A

Deferred Commencement Condition

This consent is not to operate until the Applicant satisfies the Council, within 12 months of the date of this consent, that it has obtained approval/certification from Sydney Trains as to the following matters and the approval/certification has been forwarded to the Council:

A1

The Applicant shall prepare and provide to Sydney Trains for approval/certification the following items:

- 1. Further detailed methodology in relation to the construction methodology for the proposed shoring.*
- 2. An analysis to demonstrate that the proposed excavation does not result in ground movements that may adversely impact the rail corridor. As such, finite element modelling is required to model both how the retaining systems controls ground movements, and ground movements due to stress relief.*
- 3. Ground movement monitoring and vibration monitoring plan.*
- 4. Final structural plans consistent with the approved architectural plans.*
- 5. Final construction methodology noting the sequencing of excavation and installation of shotcrete between piles adjacent to rail corridor, potential for ground failure if unsupported in flood event, specifically the height of open excavation prior to shotcrete installation.*
- 6. Confirmation required of the slab edge connection detail on level B1 (drawing DA-1506-0301 identifies air plenum with discontinuation of slab and drawing 249691-0000-ST-0003 refers to continuous connection).*
- 7. Design or methodology required to demonstrate suitable drainage to shoring along rail corridor.*

Any conditions issued as part of Sydney Trains approval/certification of the above documents will also form part of the consent conditions that the Applicant is required to comply with.

Attachment B

B1. Unless otherwise advised by Sydney Trains, the Applicant shall prepare and provide to Sydney Trains for approval/certification the following items:

- i. Machinery to be used during demolition, excavation and construction. It should be noted that excavations undertaken in rock are to maintain and limit vibration levels to levels that will not adversely impact Sydney Trains assets.*

Any conditions issued as part of Sydney Trains approval/certification of any of the above documents will also form part of the consent conditions that the Applicant is required to comply with. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming which of the documentation listed in this condition are to now apply and supersede the documentation in Condition A1. The measures detailed in the documents approved/certified by Sydney Trains under this Condition are to be incorporated into the construction drawings and specifications prior to the issuing of the Construction Certificate. Prior to the commencement of works the Principal Certifying Authority is to provide verification to Sydney Trains that this condition has been complied with.

B2. All excavation/ground penetration works within 25m of the rail corridor are to be supervised by a geotechnical engineer experienced with such excavation projects. All footings are to be inspected by the geotechnical engineer to confirm design assumptions.

B3. No rock anchors/bolts are to be installed into Sydney Trains property.

B4. The Applicant is to submit to Council, for its records, copies of any certificates, drawings or approvals given to or issued by Sydney Trains.

B5. Prior to the commencement of works and prior to the issue of the Occupation Certificate, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required unless otherwise notified by Sydney Trains.

- B6. Prior to the commencement of works the Applicant shall peg-out the common property boundary with Sydney Trains land. This work is to be undertaken by a registered surveyor.*
- B7. During all stages of the development extreme care shall be taken to prevent any form of pollution entering the railway corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the Applicant.*
- B8. An acoustic assessment is to be submitted to Council and Sydney Trains prior to the issue of a construction certificate demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads-Interim Guidelines". The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.*
- B9. Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate.*
- B10. Drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from Sydney Trains.*
- B11. Prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*
- B12. Prior to the issue of a Construction Certificate the Applicant must hold current public liability insurance cover for a sum to be determined by Sydney Trains. This insurance shall not contain any exclusion in relation to works on or near the rail corridor. The Applicant is to contact Sydney Trains Rail Corridor Management Group to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of*

this insurance in conjunction with Sydney Trains written advice to the Applicant on the level of insurance required.

- B13. Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (eg roof terraces and external fire escapes) that are within 20m and face the rail corridor, the Applicant is required to install measures (eg awning windows, louvres, enclosed balconies, window restrictors etc) which prevent the throwing of objects onto the rail corridor. These measures are to comply with Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until it has confirmed that these measures are to be installed and have been indicated on the Construction Drawings.*
- B14. The design, installation and use of lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of Sydney Trains. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*
- B15. There is a need to ensure that the roots and foliage of trees being planted beside the rail corridor do not have an impact on the rail corridor. The development's landscaping and planting plan should be submitted to Sydney Trains for review.*
- B16. Prior to the commencement of works appropriate fencing is to be in place along the rail corridor to prevent unauthorised access to the rail corridor during construction. Details of the type of fencing and the method of erection of any new fencing are to be to Sydney Trains satisfaction prior to the fencing work being undertaken.*
- B17. The development shall have appropriate fencing fit for the future usage of the development site to prevent unauthorised access to the rail corridor by future occupants of the development. Prior to issuing of an Occupation Certificate the Applicant shall liaise with Sydney Trains regarding the adequacy of any existing fencing along the rail corridor boundary. Details of the type of new fencing to be installed and the method of erection are to be to Sydney Train's satisfaction prior to the fencing work being undertaken.*
- B18. Prior to the issue of a Construction Certificate the Applicant is to submit to Sydney Trains the demolition, excavation and construction methodology and staging for review and endorsement. The Principal Certifying Authority is not to issue the Construction Certificate until written*

confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

- B19. No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and 1500V catenary, contact and pull-off wires of the adjacent tracks, and to any high voltage aerial supplies within or adjacent to the rail corridor.*
- B20. Prior to the issuing of a Construction Certificate the Applicant is to submit to Sydney Trains a plan showing all craneage and other aerial operations (eg concrete pumps) for the development and must comply with all Sydney Trains requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.*
- B21. The developer must provide a plan of how future maintenance of the development facing the rail corridor is to be undertaken. The maintenance plan is to be submitted to Sydney Trains prior to the issuing of the Occupation Certificate. The Principal Certifying Authority is not to issue an Occupation Certificate until written confirmation has been received from Sydney Trains advising that the maintenance plan has been prepared to its satisfaction.*
- B22. The Applicant is to obtain Sydney Trains endorsement prior to the installation of any hoarding or scaffolding facing the common boundary with the rail corridor.*
- B23. No work is permitted within the rail corridor, or its easements, at any time unless prior approval or an Agreement has been entered into with Sydney Trains. Where the Applicant proposes to enter the rail corridor, the Principal Certifying Authority shall not issue a Construction Certificate until written confirmation has been received from Sydney Trains confirming that its approval has been granted.*
- B24. Prior to the issuing of an Occupation Certificate the Applicant shall provide Sydney Trains and Council as-built drawings and survey locating the development with respect to any rail boundary, Sydney Trains easement and rail infrastructure. This work is to be undertaken by a registered surveyor, to the satisfaction of Sydney Trains representative. The as-built survey is to confirm that there has been no encroachment into any Sydney Trains land or easement area.*

B25. Where a condition of consent requires Sydney Trains endorsement the Principal Certifying Authority is not to issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from Sydney Trains that the particular condition has been complied with.

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Architectural Review Advisory Panel

Proposal:

Demolition of 14 dwellings and construction of 2 residential flat buildings containing 197 units and 2 levels of basement car parking

Property:

660-664 Kingsway MIRANDA NSW 2228

2, 4, 6, 8, 10, 12, 14, 16, 18, 20 & 22 University Road MIRANDA NSW 2228

Applicant:

Galileo Miranda Nominee Pty Limited

File Number:

DA15/0742

The following is the report of the Architectural Review Advisory Panel Meeting held on 13 August 2015 at the Administration Centre, Sutherland Shire Council, Eton Street, Sutherland. The report documents the Panel's consideration of the proposed development described above.

1. "DA15/0742 – Demolition of Existing Structures & Construction of Two (2) Residential Flat Buildings Containing 197 Units and Two (2) Levels of Basement Car Parking at 660-664 Kingsway and 2-22 University Road, Miranda

Council's David Jarvis, Carine Elias, Martin Southwell and Barbara Buchanan outlined the proposal for the Panel, including providing details of Council's relevant codes and policies.

Simon Fleet, Sean Cho, Barry Stephenson, Ross Shepherd, Jeff Mead and Julie Horder addressed the Panel regarding further development of the proposal and how they have addressed the issues raised by the Panel at the previous meeting.

Description of the Site and Proposal

This DA proposal is for land amalgamation and construction of a residential flat building containing 197 units and two (2) basement levels. The site is located at 2-22 University Road and 660-664 Kingsway, Miranda. The site area is 7,940sqm.

The site is within Zone R4 - High Density Residential, maximum FSR is 2:1 (15,880sqm), maximum building height is 25 metres and the landscaped area is 30% of the site.

Key Controls:

Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015)

Draft Sutherland Shire Development Control Plan 2015 (DSSDCP 2015)

Applicant's Submission

The functions and responsibilities of the Panel were explained to the Applicant. The application is subject to State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development (Amendment No. 3), June 2015 and the Apartment Design Guide, June 2015. The Panel notes that this application is to be assessed by Council and determined by the Joint Regional Planning Panel (JRPP).

PRINCIPLE 1 – CONTEXT AND NEIGHBOURHOOD CHARACTER

As previously advised the amalgamated site, the length of the whole block, requires a considered design response that addresses the transition in scale from low density detached dwellings to a density and character that is more aligned with inner urban regeneration areas.

The current proposal prioritises the impact of the building form on the arrival/central area of the adjoining school and erodes the definition of the street. It results in a central open area and longer built forms than set out in the site specific DCP that do not engage well with the future character of the street and give the development a ‘campus’ or ‘resort’ character, which is not appropriate in this residential area.

As also previously advised, there is urban merit in the idea of “making a new street” in this project, with a rhythm and scale that is intimately human and responsive to the idea of the street as a primary social space.

The development is of such a scale that the wider context and character of Sutherland need to be incorporated. This particularly relates to the street tree selection and arrangement. The site sits within the restoration area of the Shire’s Green Web, which will require connected canopies for movement of wildlife.

PRINCIPLE 2 – BUILT FORM AND SCALE

The buildings exceed the increased height available under SSLEP2015 at each end. This is unnecessary and not supported. It is a consequence of the site planning strategy and the continuous basement levels that do not respond to the existing topography.

The scale of the buildings is mitigated by the changes in height within each building, however the tenuous plan articulation of each form into two elements, rather than three, fails to “break down” the scale to a point that is acceptable in the context of integration with the suburban environment. The scale is large and relatively unmediated.

The overall built form proposition remains relatively unchanged from the pre-DA submission, being two substantial buildings separated by a large central open space. The desire for this large private recreational area is driving the bulk and mass of these two buildings to a point where they are likely to be out of scale with other new development, and this is further accentuated by the relentless, singular architectural expression proposed by the architects.

The Panel remains unconvinced by the architect’s various explanations for placement the large central open space – refer to previous meeting comments.

The decision to create a rigidly symmetrical elevation for the entire length of University Road (lower in centre, higher at ends) may be compositionally interesting, but it does not integrate easily with the topography and is foreign to the idea of a finer grained, intimate residential neighbourhood. It would be largely un-noticed from within the street corridor.

The building at each end exceeds the increased height of the SSLEP 2015 due to a forced idea that the built form should mirror the reverse of the street gradient, and is not appropriate. It further results in a continuous ground floor level which digs deep into the peak of the hill and a continuous basement that protrudes out of the ground at each end,

sterilizing street engagement along the Kingsway. The central open space unnecessarily compresses the built form of the buildings, contributing to a discontinuous street pattern and singular architectural expression with a questionable gap when experienced from University Road.

The built form should return to that in the site specific DCP. Another suggestion would be to rotate 90 degrees the northern residential part of block B to face the street, close the gap and introduce a third building along the street, providing an opportunity for a different expression to that new block, creating variety of interest and a linked rhythm. The extra bulk at the ends could then also be reduced.

PRINCIPLE 3 - DENSITY

Whilst the density is acceptable in principle, it must not be at the cost of a well considered urban design strategy, environmental amenity for residents and landscape deep soil provision.

PRINCIPLE 4 - SUSTAINABILITY

Refer to previous meeting comments.

Rain water captured, but no discussion on possible solar energy.

PRINCIPLE 5 - LANDSCAPE

Refer to previous meeting comments. It will be necessary for the Applicant and Council to agree on the landscape requirements in relation to the DCP and SEPP 65/RFDC/ADG.

The key issue related to the landscape proposal relates to the extent and location of deep soil. It is essential that large trees are used to screen and articulate the spaces around and between buildings. Accordingly, the required 6 metre setback for deep soil along University Road must be respected.

Effective screening to achieve privacy for the school from taller buildings requires trees with tall trunks and high open canopies which enable sun access and long views. However the proposal has used screening shrubs and small trees that will only screen at ground and first floor level.

The arrangement of trees along University Road does not reflect the iconic street tree character of the Shire where large trees are arranged informally. Given the development will occupy one entire length of the street to be eventually terminated by a small park, an informal arrangement of STIF tree species with the required deep soil would be preferable to the generally tight planting layout throughout the development.

The lack of differentiation in the graphic representation of plants makes it hard to discern the planting arrangements. The Plant Schedules lack some of the trees such as Turpentine (*Syncarpia glomulifera*) and palms (*Livistona australis*) and the mature heights given for *Eucalyptus botryoides* and *E. robusta* are under-estimates. As the arborist's report recommends transplanting the existing *Livistona australis*, the use of palms in the common open space is understandable, however the arrangement acts against the residential context of the development, resulting in the pool area resembling a resort. It is suggested that the palms be grouped as occurs naturally. Given the

extensive use of walls defining mass planted areas, sections through the various landscape areas are needed.

PRINCIPLE 6 - AMENITY

Refer to previous meeting comments.

Although screened from communal walkways, it appears that there are privacy issues between private courtyards within the clusters.

PRINCIPLE 7 - SAFETY

Refer to previous meeting comments.

The rigidity of the landscape design has focussed on security at the expense of a more integrated precinct.

PRINCIPLE 8 – HOUSING DIVERSITY AND SOCIAL INTERACTION

Refer to previous meeting comments.

Communal open spaces will work well for social interaction but the rigid planting will alienate the street.

PRINCIPLE 9 – AESTHETICS

Notwithstanding the inappropriateness of the built form strategy, the aesthetics of the facades are well crafted and articulated. The building façade design proposal has developed since the previous meeting. The aesthetics of the facades are in themselves of considerable merit however the idea of applying a singular character to the entire development over the entire 190 metre block length is of great concern in this context. The site is within a transitioning leafy, low-density suburb and it is to be expected that large developments will focus on minimising impacts of the transition in scale and density, rather than accentuating them.

The landscape aesthetics are tight and unresponsive to the context

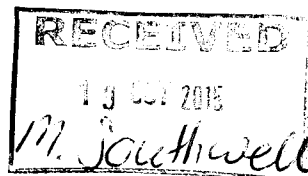
RECOMMENDATIONS AND CONCLUSIONS:

Although the architects show great skill in articulating the building facades, the proposal is based on a confused and overriding gesture of a central open communal space that does not really take its cues from the site and the opportunity to create a positive beat and rhythm down the street, with a park at the rail line end.

The DA submission has not responded to many of ARAP's comments following the pre-DA meeting on 04 June 2015.

There have been minor adjustments, such as the 1200mm basement setback to University Road, however the scheme retains many of the issues that have been raised previously by ARAP."

Frank Stanisic
ARAP Chairman
01 September 2015



NSW Police Force
www.police.nsw.gov.au

ISSUE:

Submission regarding Development Application No. DA15/0742 at 660 to 664 Kingsway, Miranda and 2 to 22 University Road, Miranda submitted by Senior Constable Christopher Shade, Reg'd No. 27402.

BACKGROUND:

See attached file.

COMMENT:

Development Application No.: DA15/0742

Proposal: Demolition of 14 existing dwellings and the erection of a residential apartments comprising of 197 units and 2 levels of basement parking.

Property: 14 existing dwellings comprising of 660 Kingsway, Miranda, 662 Kingsway Road, Miranda, 664 Kingsway, Miranda, 2 University Road, Miranda, 4 University Road, Miranda, 6 University Road, Miranda, 8 University Road, 10 University Road, Miranda, 12 University Road, Miranda, 14 University Road, Miranda, 16 University Road, Miranda, 18 University Road, Miranda, 20 University Road, Miranda & 22 University Road, Miranda,

Police Ref: D/2015/504946

We refer to your development application which seeks approval for the development of residential buildings comprising 192 units with 2 level basement car parking. The proposed development will result in an increase in activity, both in and around the location. Such activity will subsequently increase the risk of crime, along with increasing crime opportunities and potential offenders to the development and its surroundings.

After perusing the paperwork the following suggested treatment options are submitted for consideration including a number of Crime Prevention through Environmental Design (CPTED) factors that should be considered in this development.

Surveillance

The attractiveness of crime targets can be reduced by providing opportunities for effective surveillance, both natural and technical. Good surveillance means that people

Miranda Local Area Command

34 Kingsway, Cronulla

Telephone 02 9527 8199 Facsimile 02 9527 8137 E/Net 58199 E/Fax 58137 TTY 9211 3776 (Hearing/Speech impaired)

ABN 43 408 613 180

NSW POLICE FORCE RECRUITING NOW 1800 222 122

can see what others are doing. People feel safe in public areas when they can easily see and interact with others. Would-be offenders are often deterred from committing crime in areas with high levels of surveillance.

- **Lighting and Technical Supervision**

Lighting should meet minimum Australian standards. Effective lighting contributes to safety by improving visibility, increasing the chance that offenders can be detected and decreasing fear. Special attention should be made to lighting the entry and exit points from the buildings, pathways throughout the site, car park and access/exit driveways.

The access/exit driveways need to be adequately lit to improve visibility and increase the likelihood that offenders will be detected and apprehended. At the same time throughout the site transition lighting is needed to reduce vision impairment, i.e. reducing a person walking from dark to light places.

Security lighting should not illuminate observers or vantage points. Within the residential complex, observers are likely to be “inside” dwellings. Light should be projected away from buildings towards pathways and gates – not towards windows and doors. Additionally, the central pathway through the complex should provide adequate lighting for pedestrian safety. The attached development application does not specify such lighting considerations.

- **Landscaping**

The safety objective of “to see and be seen” is important in landscaped areas. Research and strong anecdotal evidence suggests that vegetation is commonly used by criminals to aid concealment through the provision of entrapment pockets. Dense vegetation can provide concealment and entrapment opportunities.

Species can be selected for different locations on the basis of their heights, bulk and shape. A safety convention for vegetation is: lower tree limbs should be above average head height, and shrubs should not provide easy concealment. It is recommended that 3-5m of cleared space be located either side of residential pathways. Thereafter, vegetation can be stepped back in height to maximise sightlines.

Given the inclusion of shrubs and trees throughout the site within the proposed development, it must be emphasised that the vegetation be kept trimmed and maintained at all times.

Access Control

Physical and symbolic barriers can be used to attract, channel or restrict the movement of people. They minimise opportunities for crime and increase the effort

required to commit crime. By making it clear where people are permitted to go or not go, it becomes difficult for potential offenders to reach and victimise people and their property.

Illegible boundary markers and confusing spatial definition make it easy for criminals to make excuses for being in restricted areas. The proposed development application does not specify access control measures throughout the development. It is, however, crucial that these access control measures be considered.

Consideration should be given to installing security shutters at the entry to the underground car park area. It is noted that the following 'can be conditioned' - "*where security measures to car parks are provided an intercom system shall be installed for visitors to gain entry. This system shall incorporate a CCTV system to ensure that the visitor space availability can be determined*" (Annexure B, SSDCP 2006 Compliance Table, p.15). This security control measure should strongly be considered prior to approval of this development application.

Police would recommend that all residents are allocated access cards to provide temporary activation of security shutters to the basement area. This security access control measure could also be used to gain access into the pool area – access/safety control measures are not specified within the development application.

The proposal does not specify the type of locks to be fitted to roller doors within the basement car park area. Police would recommend that garage doors are designed and installed to the Australian Standards, fitted with quality locks. Within the local area, a common modus operandi of break and enter offenders whilst targeting premises of similar nature, is to access the residential premise via the garage area. Hence, quality deadlock sets should be fitted to internal doors leading from the garage area into individual townhouses. Storage doors within the garage area should also be fitted with quality deadlocks.

Police recommend that the underground car parking areas be painted white to greatly help to reflect light. Painted facilities not only look larger and more spacious than unpainted car parks, but can greatly reduce the number of lights required to illuminate the car park and on-going energy costs.

Police would suggest the use of CCTV to monitor the common areas, access/exit driveways and underground car parks to ensure resident safety and security.

Internal residential entrance doors and frames should be of solid construction. These doors should be fitted with quality deadlock sets, which comply with the Australian/New Zealand standards and Fire Regulations (Australian Building Code) to enable occupants to escape in emergency situations such as a fire. Consideration should be given to installing key operated locks to windows. In addition to this, consideration should be given to installing locks that allow for windows and doors in a partially open position.

Territorial Reinforcement

With few exceptions, criminals do not want to be detected, challenged or apprehended. For offenders, the capability of guardianship (to detect, challenge or apprehend) is an important consideration. It is argued that residents are more effective as guardians (crime deterrents) than passing members of the community.

Territorial reinforcement can be achieved through:

- ✓ Design that encourages people to gather in public space and to feel some responsibility for its use and condition
- ✓ Design with clear transitions and boundaries between public and private space
- ✓ Clear design cues on who is to use the space and what it is to be used for. Care is needed to ensure that territorial reinforcement is not achieved by making public spaces private spaces, through gates and enclosures.

• Environmental Maintenance

Clean, well-maintained areas often exhibit strong territorial cues. Rundown areas negatively impact upon perceptions of fear and may affect community confidence to use public space and ultimately, it may affect crime opportunity. Vandalism can induce fear and avoidance behaviour in a public space, therefore the rapid repair of vandalism and graffiti, the replacement of car park lighting and general site cleanliness is important to create a feeling of ownership. Ownership increases the likelihood that people will report or attempt to prevent crime.

Many graffiti vandals favour porous building surfaces, as 'tags' are difficult to remove. Often a ghost image will remain even after cleaning. Easily damaged building materials may be less expensive to purchase initially, but their susceptibility to vandalism can make them a costly proposition in the long term, particularly in at-risk areas. This should be considered when selecting materials for construction.

The overall design of the outdoor "common areas" should include low barrier vegetation, bright/even lighting, wide/even paving, effective guardianship and an absence of entrapment opportunities. In addition to visible street numbering at the entrance to the complex, and throughout, this development should contain clearly signposted directional signage to assist both visitors and emergency services personnel.

Other Matters

Lighting

Offenders within the area target this type of development, both in its construction phase and when the units are occupied. Police would recommend the use of security

sensor lights and a security company to monitor the site while construction is in progress.

Car Park Security

One of the major issues that have been brought to Police attention in this Local Government Area is the prevalence of offenders breaching the security access to the car park areas, and breaking into the vehicles. Due to the isolation of the garages, these offences are not usually noticed by the owners until much later. It is suggested that this area be monitored by CCTV and appropriately sign-posted to deter potential offenders.

Way-finding

Way-finding in large environments such as this proposed development site can be confusing. Design and definitional legibility is an important safety issue at these locations. Knowing how and where to enter and exit, and find assistance within the development, can impact perceptions of safety, victim vulnerability and crime opportunity. Signage should *reinforce*, but not be an alternative to legible design.

Letter Boxes

Mail theft/identify theft costs to the community millions of dollars annually and due to the size of this proposal (132 units) and the volume of mail that will be delivered, it is highly recommended the letter boxes are secured in the foyer area with access via 'swipe card' or the entry door be fitted with quality locks that are approved by Australian Standards. Multi storey residential apartments are a prime target for mail and identity theft offenders. Letter boxes that are positioned on the outside of the unit complex are easily accessible by a 'master key' or residents leaving the letter boxes unlocked.

The NSW Police Force (NSWPF) has a vital interest in ensuring the safety of members of the community and their property. By using recommendations contained in this evaluation any person who does so acknowledges that:

- It is not possible to make areas evaluated by the NSWPF absolutely safe for the community and their property*
- Recommendations are based upon information provided to, and observations made by the NSWPF at the time the evaluation was made*
- The evaluation is a confidential document and is for use by the Council or the organisation referred to on page one*
- The contents of this evaluation are not to be copied or circulated otherwise than for the purpose of the Council or the organisation referred to on page one.*
- The NSWPF hopes that by using recommendations contained within this document, criminal activity will be reduced and the safety of members of the community and their property will be increased. However, it does not guarantee that the area evaluated will be free from criminal activity if its recommendations are followed.*

RECOMMENDATION:

Forwarded through the Chain of Command for comment then to the General Manager, Sutherland Shire Council. All DA paperwork to be filed for a period of 7 years.

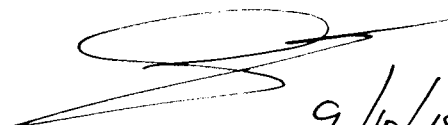


Christopher Shade
Senior Constable
Crime Prevention Officer
Miranda Local Area Command
8 October 2015

- 1) Sergeant Millington - Crime Co-ordinator, Miranda LAC

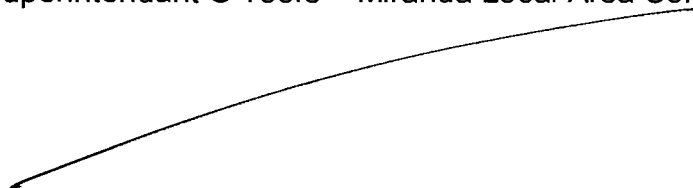
*For the information and attention of
GM SSC. Right Sgt 8/10/15*

- 2) Detective Chief Inspector Woolbank - Crime Manager, Miranda LAC



9/10/15

- 3) Superintendent O'Toole – Miranda Local Area Commander



- 4) General Manager – Sutherland Shire Council

D/2015/504 946

Martin Southwell – 9710 0250
File Ref: DA15/0742

01 October 2015



Sen-Const Shade
Crime Prevention Officer
NSW Police Service
Miranda Local Area Command
34 Kingsway
CRONULLA NSW 2230

Dear Sen-Const

Development Application No. DA15/0742

Proposal: Demolition of 14 dwellings and construction of 2 residential flat buildings containing 197 units and 2 levels of basement carparking

Property: 660-664 Kingsway and 2-22 University Road, Miranda

This letter is to advise that Council has received the above development application.

The application was received by Council on 14 July 2015 and was on public exhibition between 30 July 2015 and 20 August 2015. It is being referred to NSW Police Service for a Crime Risk Assessment in accordance with the protocol established between Council and NSW Police (copy enclosed). A copy of the application form and internal floor plans are attached. Other supporting plans and information can be accessed from Council's website at www.sutherlandshire.nsw.gov.au, go to Track / Development Applications.

The application seeks development consent to demolish all existing houses on the site and construct a new residential flat building comprising 197 units.

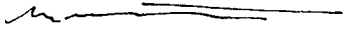
Your comments are requested in relation to Crime Prevention through Environmental Design (CPTED) and 'Safer by Design' aspects of the proposal in addition to any general local policing issues which may be relevant in considering the application.

In making any recommendations to Council, NSW Police should be aware that Council can only request changes to a proposal or impose conditions which are *directly* related to the current proposal. For example, Council cannot use an application for additions to an existing hotel as an opportunity to retrospectively reduce approved hours of operation.

In your response please clearly indicate whether NSW Police supports the proposal or has an objection to it being approved. If supporting the proposal, please specify any modifications or conditions of consent that you consider appropriate. In accordance with the enclosed protocol, if no response is received within 21 days, Council will assume NSW Police do not have any objections to the proposal.

If you need further information or wish to meet with Council staff to discuss the proposal please contact Martin Southwell on 9710 0250 or email msouthwell@ssc.nsw.gov.au and quote the application number in the subject.

Yours faithfully



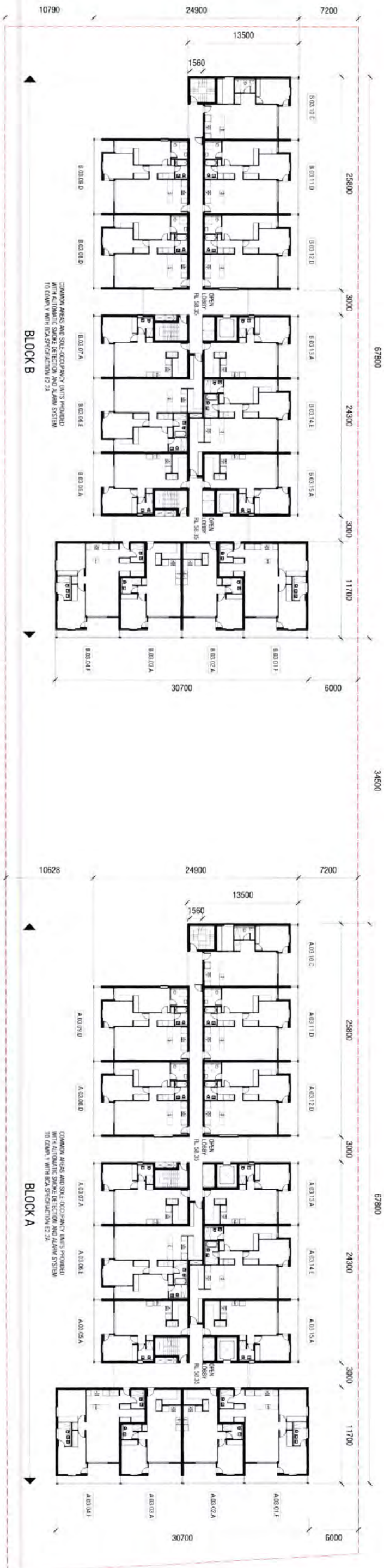
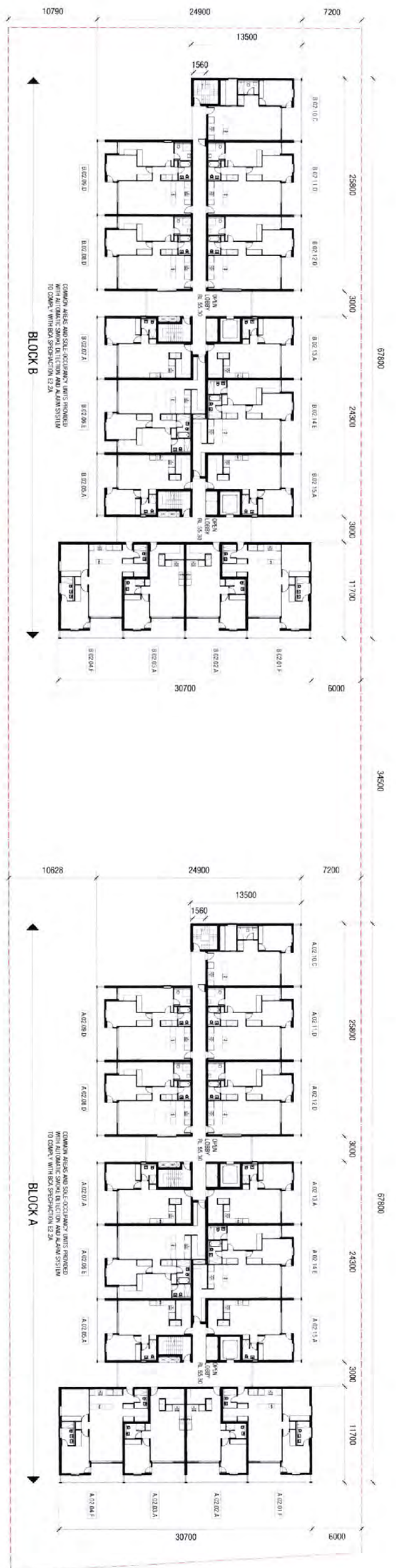
Martin Southwell

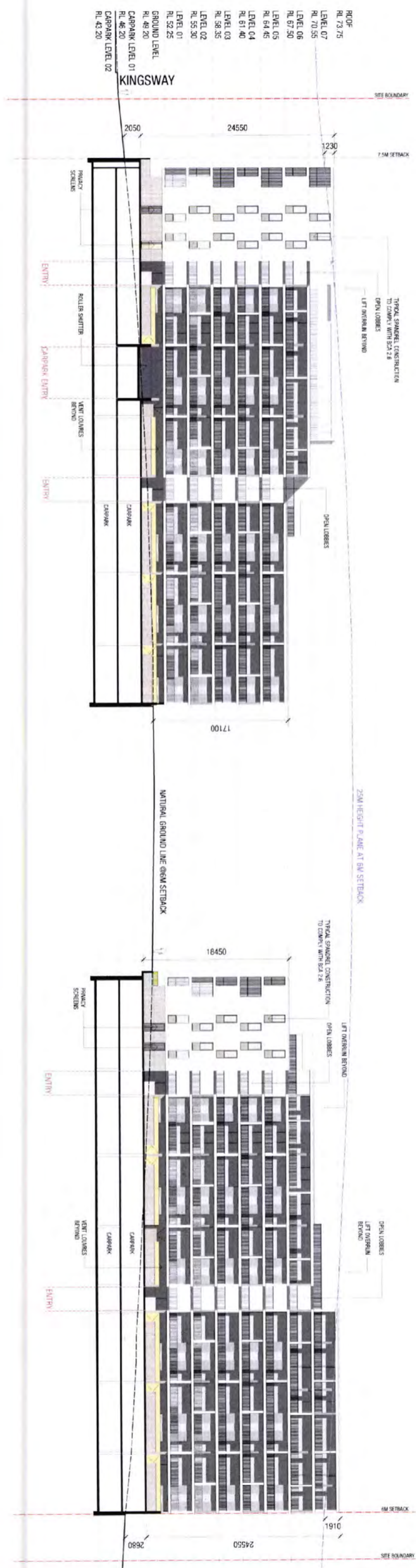
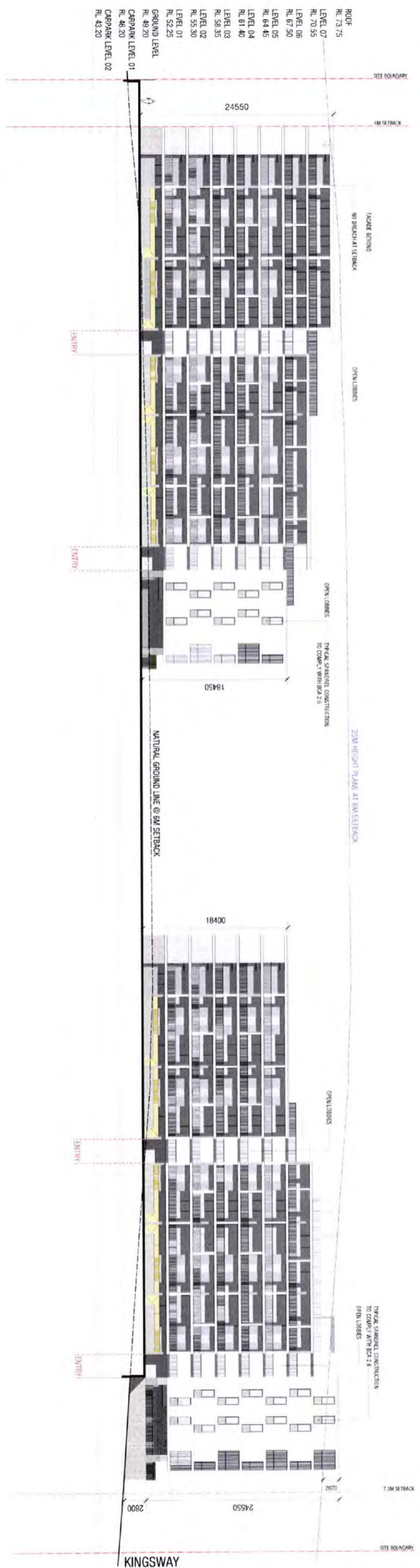
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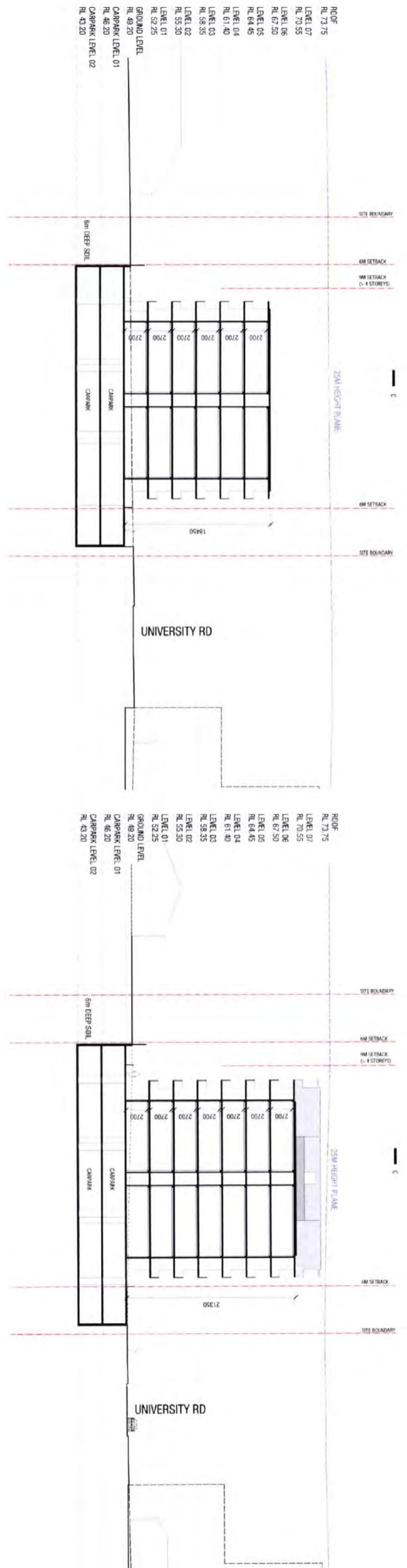
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gion) Business Paper (10 December 2015) - (2015SYE091)

JRPP (Sydney East Region) Business Paper (10 December 2015) - (2015SYE091)

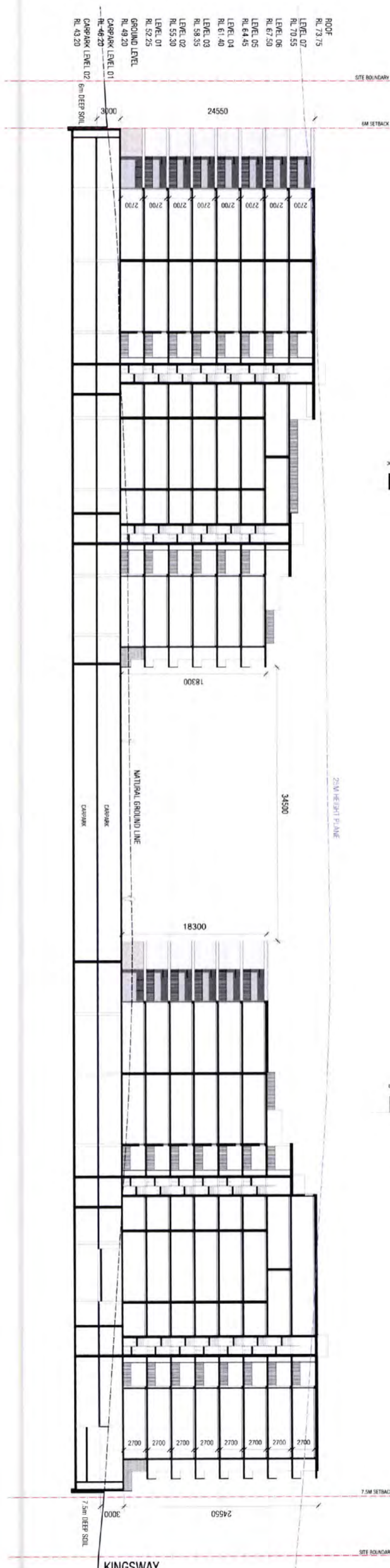
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01 - EAST-WEST SECTION AA (BLOCK A)

02 - EAST-WEST SECTION BB (BLOCK B)



03 - NORTH-SOUTH SECTION CC

ARCHITECTURE: **KAMU FINCH**
CLIENT: PROJECT MANAGER: **GALLEO MIRANDA PTY LTD**
ARCHITECT: **UP**
PLANNING CONSULTANT: **PLANNING CONSULTANT**
RESCOTONIAN: **RESCOTONIAN**
ACCESS CONSULTANT: **ACCESS CONSULTANT**
ELEVATIONS FOOT: **ELEVATIONS FOOT**
DOUGLAS PARTNERS: **DOUGLAS PARTNERS**

REV DATE AMENDMENT
12/07/15 DA SUBMISSION

REV DATE AMENDMENT
REV DATE AMENDMENT

PROJECT: **UNIVERSITY ROAD, MIRANDA**
DRAWING NO: **1506**
DATE: **10-07-2015**

SCALE: **1:250 @ A1**

SECTION: **SC**
DATE: **10-07-2015**

PROJECT NO: **0001**

CLAUSE 4.6 VARIATION STATEMENT - MAXIMUM HEIGHT (CLAUSE 4.3)

1. Introduction

Clause 4.3 (2) of SLEP 2015 relates to the maximum height requirements and refers to the *Height of Buildings Map*. The relevant map identifies the subject site as having a maximum height of 25m. Building height is defined as:

“ **building height** (or **height of building**) means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.”

The Development Application as lodged involved a height breach of a maximum of 2070mm at the north eastern corner of Block A and 1910mm at the south western corner of Block B. The amended plans, as now submitted include a reduction in the height of the proposed buildings. The development as now proposed involves a minor height breach of 870mm which occurs at the north eastern corner of Block A and a breach of 710mm on Block B which occurs at the south western corner. As indicated in the elevations included in Figures 1 and 2 below, the encroachments relate to the proposed roof slabs and the lift overruns on the northern portion of Block A and the southern portion of Block B. Furthermore, the northern elevation of Block A and the southern elevation of Block B are provided in Figures 3 and 4, respectively. Figures 3 and 4 clearly demonstrate the minor extent of the exceedance with the datum taken as compliant at one corner and then the elevation climbs to a non-compliance. That is, the datum exceedance is a product of the crossfall of the site.

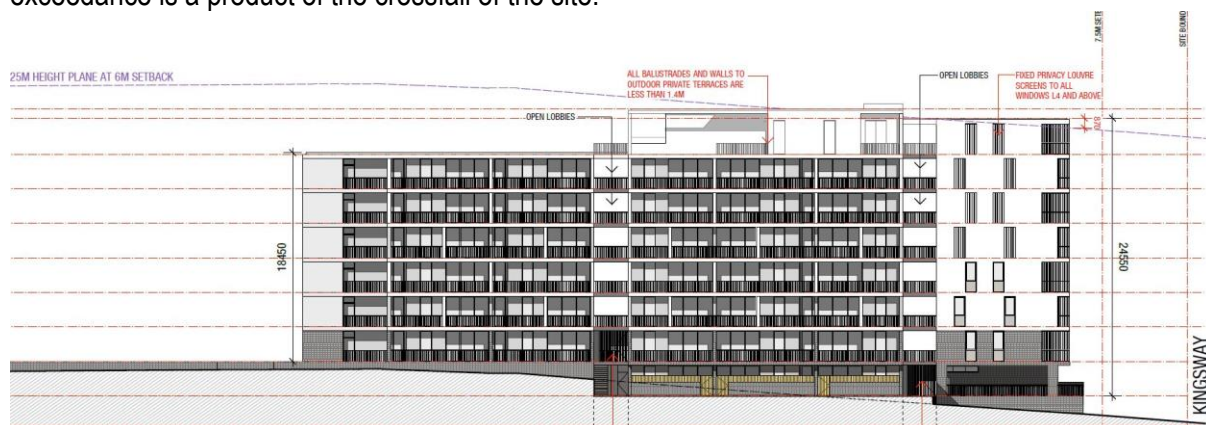


Figure 1: Eastern elevation of Block A showing extent of non-compliance (height plane dashed in purple)

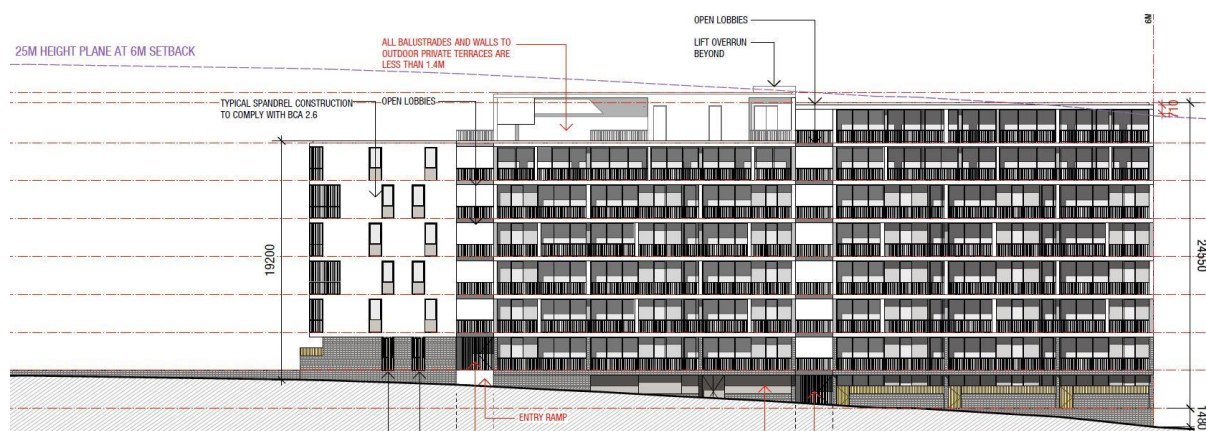


Figure 2: Western elevation of Block B showing extent of non-compliance (height plane dashed in purple)

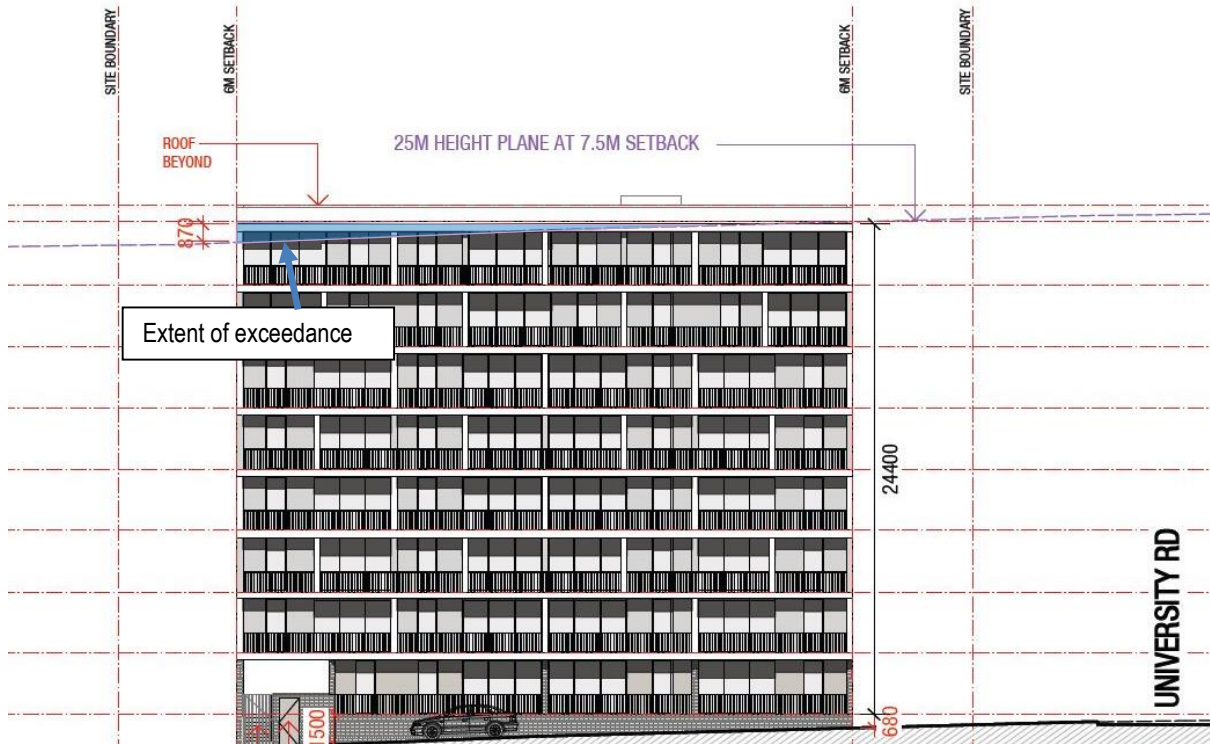


Figure 3: Northern elevation of Block A showing extent of non-compliance

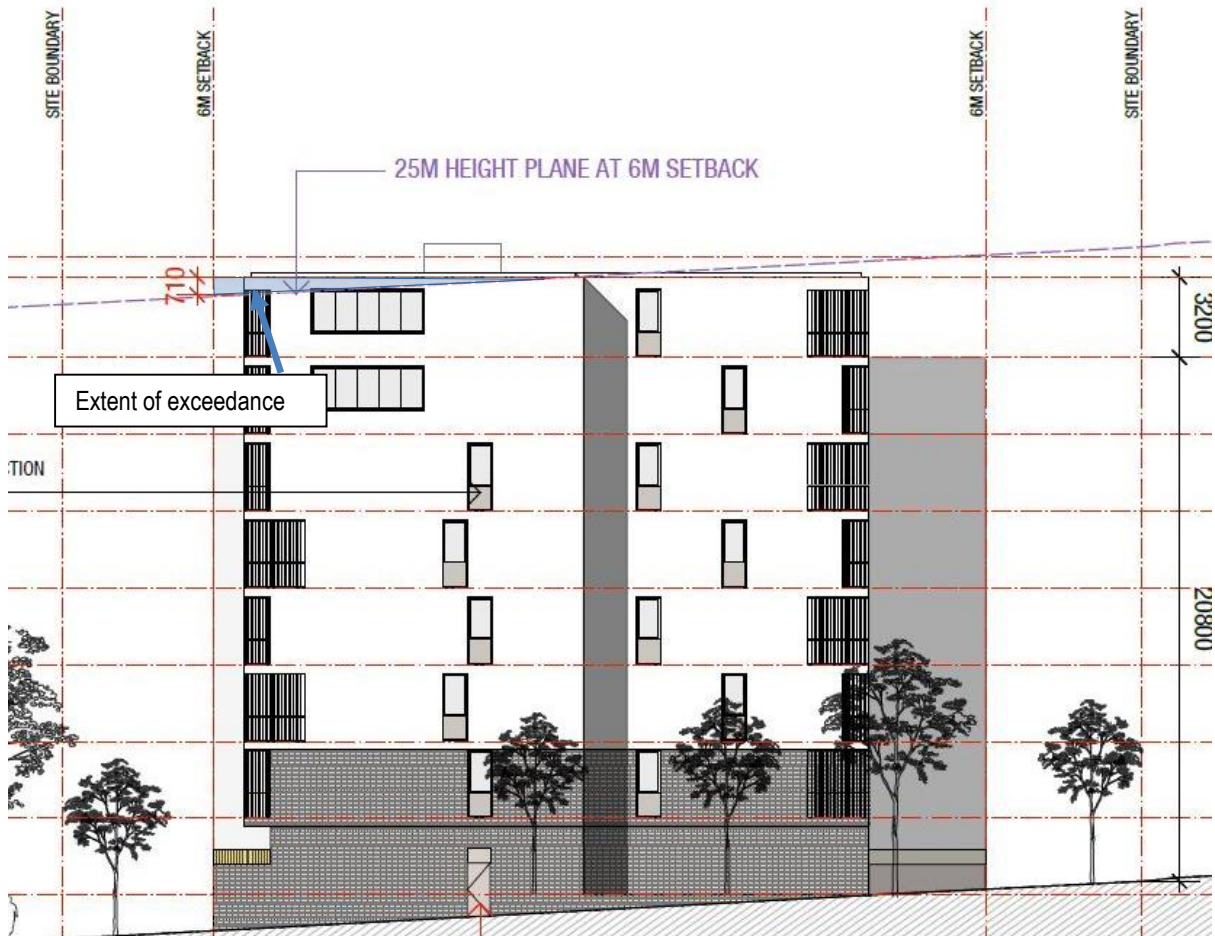


Figure 4: South elevation of Block B showing extent of non-compliance

That maximum height control is a "development standard" to which exceptions can be granted pursuant to clause 4.6 of the LEP.

The objectives and provisions of clause 4.6 are as follows:

"4.6 Exceptions to development standards"

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
 - (b) *the concurrence of the Director-General has been obtained.*
- (5) *In deciding whether to grant concurrence, the Director-General must consider:*
 - (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Director-General before granting concurrence.*
- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
 - (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

Note. *When this Plan was made it did not include Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living.*
- (7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*
- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following:*
 - (a) *a development standard for complying development,*

- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
- (c) clause 5.4,
- (ca) clause 4.3A (2)."

The development standards in clause 4.3 are not “expressly excluded” from the operation of clause 4.6. This submission will address the requirements of subclauses 4.6(3) & (4) in order to demonstrate that the exception sought is consistent with the exercise of “an appropriate degree of flexibility” in applying the development standard, and is therefore consistent with objective 1(a). In this regard, it is noted that the extent of the discretion afforded by subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in, for example, subclause 4.6(6).

The balance of this request will be divided into the following sections, each dealing with the nominated aspect of clause 4.6:

- consistency with the development standard objectives and the zone objectives (clause 4.6(a)(ii));
- sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)); and
- compliance is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a)).

2. Consistency with the development standard objectives and the zone objectives (clause 4.6(a)(ii))

The objectives and relevant provisions of clause 4.3 are as follows, inter alia:

4.3 Height of buildings

- "(1) The objectives of this clause 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 *Height of Buildings Map* nominates a maximum height of 25m for the site. It is hereby requested that an exception to this development standard be granted pursuant to clause 4.6 so as to permit a maximum height of 25.87m for the subject development.

Objectives (e) and (f) are not applicable to the proposal. In order to address the requirements of subclause 4.6(4)(a)(ii), each of the relevant objectives of clause 4.4 are addressed in turn below.

Objective (a)

The scale of the proposed buildings has been driven by a strong focus to ensure compatibility with the adjoining school to the east of the site. It is noted that objective (a) refers to being “compatible” with adjoining development. It is considered that “compatible” does not promote “sameness” in built form but rather requires that development fits comfortably with its urban context. Of relevance to this assessment are the comments of Roseth SC in *Project Venture Developments Pty Ltd v Pittwater Council* [2005] NSWLEC 191:

“ 22 There are many dictionary definitions of *compatible*. The most apposite meaning in an urban design context is *capable of existing together in harmony*. *Compatibility* is thus different from *sameness*. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.”

The proposed encroachments into the maximum building height affects only the north portion of Block A and the southern portion of Block B. Within the centre of the site the height is well below the maximum building height and in fact the centre of the site is free from buildings which provides significant relief in built form terms. The siting and scale of the proposed development has been designed to take into account the slope of the site (akin to a dome shape) and distribute building mass in a manner that best minimises impact on adjoining development. That is, the opportunity is available to increase building volume within the centre of the site where the proposal is well below maximum height limits. Preference has been given to increasing the height at the northern and southern ends of the site at points of little or no impact. Accordingly, the proposed area of non-compliance results from the consolidation of building mass on the site in a manner that minimises as far as practicable, impacts on adjoining properties.

The subject site is not situated within any specific “character area” and is not subject to a “desired future character statement”. The desired future character must therefore be gleaned from the suite of built form controls that apply under the LEP and Draft DCP 2015 and from the zone objectives. In this regard, the zone objectives promote the provision of varied housing types in a high density environment and in floor space terms, the proposal is within the allowable maximum FSR. Additionally, the site is located within the Pinnacle Street Precinct under the Draft DCP 2015, the strategy for which is to create an exemplary medium to high rise residential community in a landscaped setting. The proposed development is a high quality, well designed high density scheme sited within in a landscaped setting and is thus consistent with the vision for the Pinnacle Street Precinct.

Accordingly, it is considered that the scale of the buildings is compatible with adjoining development, the desired future character of the locality and the natural setting. The minor height breach does not offend this compatibility in any noticeable way. The proposal therefore satisfies Objective (a).

Objective (b)

In terms of daylight access to buildings and the public domain, the proposed height non-compliance does not contribute towards any additional overshadowing of the adjoining public domain or Miranda Public School. In fact, the proposed height non-compliance is a result of the preferred consolidation of the building envelopes to the northern and southern ends of the site and this scheme minimises shadow impacts on the adjoining school compared to a compliant built form (i.e. 3 buildings as per the building envelopes within the Draft DCP 2015).

The Architectural Report submitted with the application includes shadow diagrams comparing the impact between the proposal and a Draft DCP 2015 building envelope scheme between 9am and 3pm in mid-

winter. It is demonstrated that the proposed scheme provides a better outcome in terms of sunlight access to the adjoining school and the public domain.

Objective (c):

In terms of views, the height of the building will not result in any significant additional view loss compared with a compliant building. Views from likely future buildings on the western side of University Road will be generally towards the north and views will be maintained in that direction. Some views through the site from the western side of University Road will be improved by the provision of a large separation between buildings and the centre of the site. Refer to Section 4.3.6 of this Statement for further discussion on views.

In terms of privacy, the non-compliance will not have any additional impacts on adjoining properties. The primary outlook from the proposed buildings are to the north over Kingsway, to the west over University Road and over the common open space in the centre of the site, not adjoining buildings. Additionally, the removal of building mass completely from the centre of the site minimises the opportunity to overlook into the school.

The proposal will not compromise the use and enjoyment of neighbouring properties. The examination of the proposal in this report demonstrates that there will be no unreasonable detrimental impact to privacy and daylight access for neighbouring properties. The development will enhance the interface with the public domain.

In relation to solar access, this has been addressed in relation to Objective (c) above.

Matters of visual impact have largely been addressed in relation to Objective (a).

Objective (d):

Matters of visual bulk have largely been addressed in relation to Objective (a). In essence, it is considered that given the location of the proposed non-compliance, architectural treatment of the building in terms of setbacks, materials and viewing points from which the non-compliances would be seen, visual impacts will be minimal. The proposed development provides for a floor space ratio that is consistent with the maximum allowed. Accordingly, the proposal satisfies Objective (d).

The proposed development is therefore consistent with the objectives for maximum height, despite the numeric non-compliance.

Zone Objectives

Clause 4.6 (4) also requires consideration of the relevant zone objectives. The objectives of the *Zone R4 High Density Residential* 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 zone objectives overlap to a large extent with the objectives of the height control and have been addressed above. Further to that, it is considered that the proposal directly responds to the housing needs of the community by providing a high quality residential flat development, which is encouraged by the recently gazetted Sutherland LEP 2015.

3. Sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b))

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, as discussed above it is considered that there is an absence of significant impacts of the proposed non-compliance on the amenity of future building occupants, on area character and on neighbouring properties.

On “planning grounds” and in order to satisfy that the proposal meets objective 1(b) of clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve “a better outcome for and from development”, it is considered that the proposal provides for a more effective and appropriate massing of the allowable building density so as to minimise impacts on neighbouring properties. That is, solar access is improved views and outlooks are improved and perceived streetscape bulk is lessened. As indicated, the proposal provides for a floor space ratio which complies with the maximum permitted and accordingly, the height breach is not associated with additional density beyond what is expected by the controls.

The design of the development on the subject site is challenged by its topography, being a dome shaped allotment which falls towards Kingsway to the north and the rail corridor to the south. Whilst it would be possible to provide additional building mass that complied with the height controls through the addition of building mass in the centre of the site, such an approach would increase shadow impacts on the school and increase the mass of development adjacent to the school. It is considered to be a significantly better planning outcome to place the additional mass at the northern and southern end of the site away from the sensitive land uses associated with the adjoining school. Therefore, on balance, the proposal is considered to achieve a planning purpose of enhancing the amenity of the adjoining school in the absence of any additional adverse impacts.

4. Compliance is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a))

In *Wehbe v Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. It states, inter alia:

“ An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”

However, in *Four2Five v Ashfield Council* [2015] NSWLEC 90 the Land and Environment Court said that whether something was ‘unreasonable or unnecessary’ is now addressed specifically in clause 4.6(4)(a)(ii), with separate attention required to the question of whether compliance is unreasonable or unnecessary. Accordingly, while the objectives of the standard are achieved despite non-compliance with the standard, this request goes further. It seeks to demonstrate that requiring strict adherence to the standard would be ‘unreasonable or unnecessary’ for reasons **that are additional** to mere consistency with the development standard.

Preston CJ in *Wehbe* expressed the view that there are four additional ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:

1. ...
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

This list was not exhaustive.

Additionally, in an analogous context, in *Botany Bay City Council v Saab Corp* [2011] NSWCA 308, Court of Appeal said that a requirement may be unreasonable when ‘the severity of the burden placed on the applicant is disproportionate to the consequences attributable to the proposed development’ (at paragraph 15).

Having regard to all of the above, it is considered that compliance with the maximum building height development standard is unreasonable or unnecessary in the circumstances of this case for the reasons set out below:

- Strict compliance with the height control will inevitably have one or 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).

- To the extent that strict compliance must be achieved by reducing amenity to the adjoining school:
 - the height control objective set out in clause 4.3(c) of the LEP (‘to minimise the impacts of new buildings on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion’) would be thwarted as adverse environmental effects (privacy and overshadowing impacts) would not be minimised.

- a burden will be imposed on the applicant, future occupiers of the development, the adjoining school and the wider community and this burden will be disproportionate to the consequences attributable to the proposed development.
- To the extent that strict compliance must be achieved by reducing internal apartment amenity:
 - the LEP aim set out in Clause 1.2(2)(b) ('to establish a broad planning framework for controlling development, minimising adverse impacts of development, protecting areas from inappropriate development and **promoting a high standard of urban design**') would be undermined,
 - a burden would be imposed on the applicant and future occupiers of the development and this burden will be disproportionate to the consequences attributable to the proposed development,
- To the extent that strict compliance must be achieved by omitting bedrooms or apartments:
 - The R4 objective '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' would be undermined.
 - the LEP aim set out in clause 1.2(2)(e) ('to concentrate development in localities with adequate infrastructure that is accessible to transport and centres') would be undermined;
 - the LEP aim set out in clause 1.2(2)(i) ('to meet the future housing needs of the population of Sutherland Shire would be undermined.

The proposal is compliant with the relevant objectives, with no (or negligible) adverse environmental impacts and will provide for additional housing within a highly suitable location.

5. Conclusion

The development proposal will provide diverse and additional housing choice with superior amenity. This is achieved by well-planned and functional apartments with high solar and cross ventilation performance, and access to common open space.

Accordingly, for the reasons stated above, we respectfully request that the consent authority permit the variation to the maximum building height development standard.