

## JOINT REGIONAL PLANNING PANEL (Sydney East Region)

<b>JRPP No:</b>	<b>2015SYE123</b>
<b>DA No:</b>	<b>DA15/1037</b>
<b>Local Government Area:</b>	<b>Sutherland Shire</b>
<b>Proposed Development:</b>	<b>Demolition of 10 existing dwellings and the erection of a residential apartment building comprising 130 units, basement parking and associated landscape works</b>
<b>Street Address:</b>	<b>Lots 10 - 14 DP 7580 and Lots 1- 23 DP 31129 – 1 - 5 Pinnacle Street and 13 – 21 University Road, Miranda</b>
<b>Applicant/Owner:</b>	<b>Miranda One Pty Ltd</b>
<b>Number of Submissions:</b>	<b>Three</b>
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	<b>The development has a capital investment value of more than \$20 million and as such is nominated under Schedule 4A (3) of the Environmental Planning and Assessment Act 1979</b>
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment</li> <li>• Apartment Design Guide (ADG)</li> <li>• Sutherland Shire Local Environmental Plan (SSLEP) 2015</li> <li>• Draft Sutherland Shire Development Control Plan (DSSDCP) 2015</li> <li>• Section 94 Developer Contributions Plans: <ul style="list-style-type: none"> <li>• Shire-Wide Open Space and Recreation Facilities 2005</li> <li>• Section 94 Community Facilities Plan</li> </ul> </li> </ul>
<b>List all documents submitted with this report for the panel's consideration:</b>	<ul style="list-style-type: none"> <li>• Draft Conditions of Development Consent</li> <li>• Sydney Trains concurrence letter</li> <li>• Architectural Review Advisory Panel (ARAP) comments</li> <li>• NSW Police comments</li> <li>• Applicant's Clause 4.6 Objection to Building Height</li> </ul>
<b>Recommendation:</b>	<b>Deferred Commencement Consent</b>
<b>Report By:</b>	<b>BirchallA, Development Assessment Officer Sutherland Shire Council</b>

## **1.0 EXECUTIVE SUMMARY**

### **1.1 Reason for Report**

Pursuant to the requirements of Schedule 4A (3) of the Environmental Planning and Assessment Act 1979, this application is referred to the Joint Regional Planning Panel (JRPP) as the development has a capital investment of more than \$20 million. The application submitted to Council nominates the value of the project as \$42,651,784.

### **1.2 Proposal**

The application is for two residential flat buildings comprising of 130 units and two and half levels of basement parking for 213 cars at the above property.

### **1.3 The Site**

The subject site is irregular in shape and is located between Pinnacle Street to the west and University Road to the east. The site has a total area of 5,636m<sup>2</sup> and falls some 6.6m from the north-west corner to the railway corridor in the south-east.

### **1.4 The Issues**

The main issues identified are as follows:

- Building separation
- Solar access
- Height
- Adaptable dwellings

### **1.5 Conclusion**

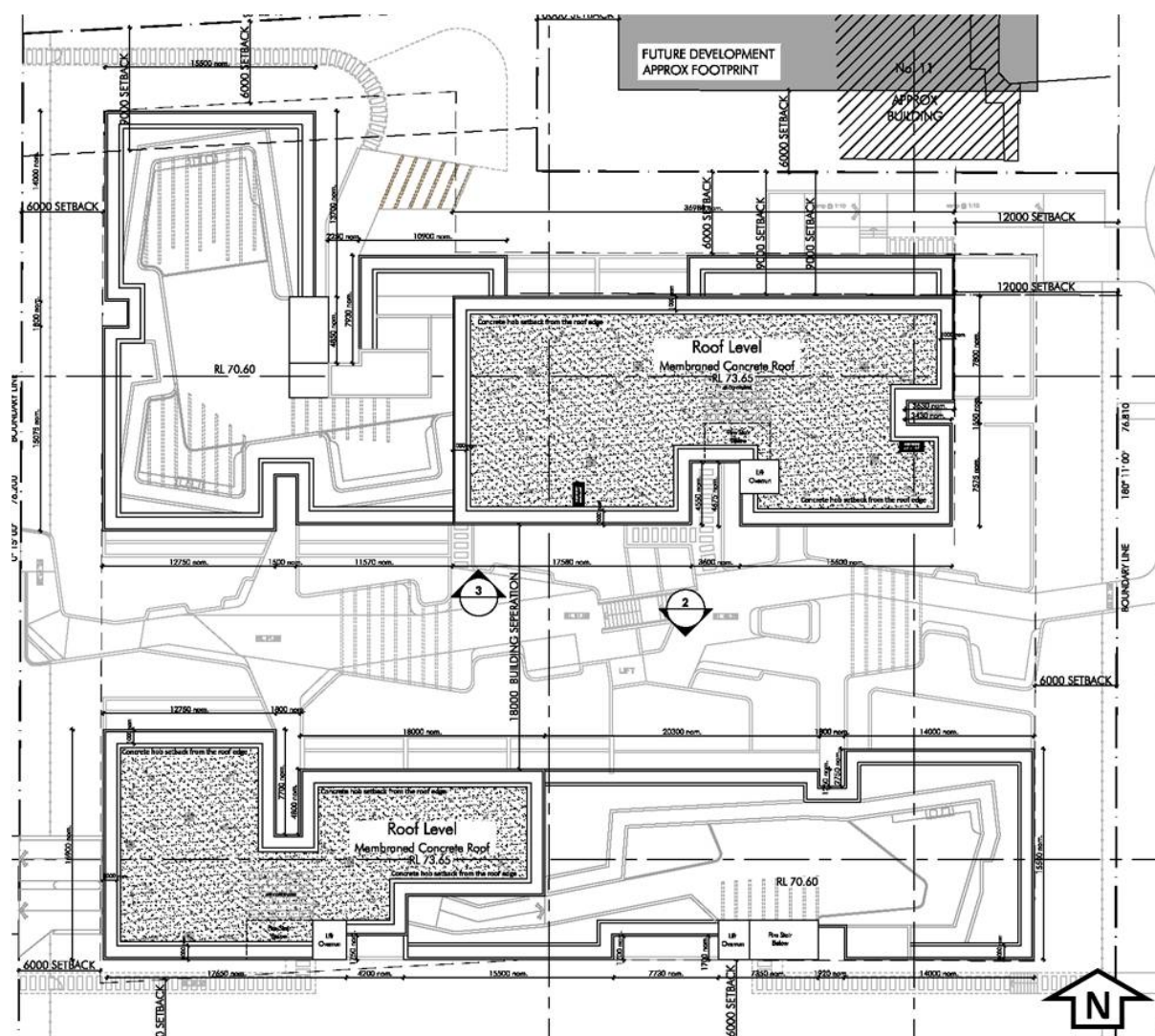
Following detailed assessment of the proposed development the current application is considered worthy of support, subject to conditions which seek compliance with the ADG requirements for solar access and building separation.

## **2.0 DESCRIPTION OF PROPOSAL**

An application has been received for the demolition of all existing structures and the construction of two residential flat buildings up to 8 storeys in height and accommodating 130 residential units. Each building includes an east and west lift core and includes a mix of 1, 2 and 3 bedroom apartments. Two levels of basement car parking and a small above ground car park accommodate 213 parking spaces. This includes 181 residential and 32 visitor spaces. Three car wash bays and three waiting bays are also proposed. These are accessed from the south east corner of Pinnacle Street.

The southern building (Block B) consists of 8 levels (7 residential) at the western core and steps down to 7 storeys to the east which includes a roof top terrace accessed from both cores. The eastern core of the northern building (Block A) is 8 storeys high and steps down to 6 storeys to the west which includes a roof top terrace accessed from the western core only. The two buildings are separated by a wide central open space which includes a pedestrian path to link Pinnacle Street to the proposed park at the southern end of University Road.

All existing trees on the site are to be removed while five of the existing street trees along Pinnacle Street and University Road are proposed to be retained. A strip of deep soil is maintained along each boundary which will provide opportunity for privacy planting between residential developments and to the railway line. Stormwater is discharged to the railway corridor.



Site plan

### 3.0 SITE DESCRIPTION AND LOCALITY

The subject land is located at 1 – 5 Pinnacle Street, Miranda, 13 - 21 University Road, Miranda. Currently situated on the site are 10 dwellings and outbuildings.

The site is irregular in shape. It has a primary western frontage to Pinnacle Street of 76.2m and an eastern frontage to University Road of 64m and a depth of approximately 80m. The site has a total area of 5,636m<sup>2</sup>.

The site falls from the north to the south by approximately 4.5m along the University Road frontage and approximately 3m along the Pinnacle Street frontage. There is also a cross fall from north-west to south-east of approximately 6.68m. The site drains to the railway corridor to the south.

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

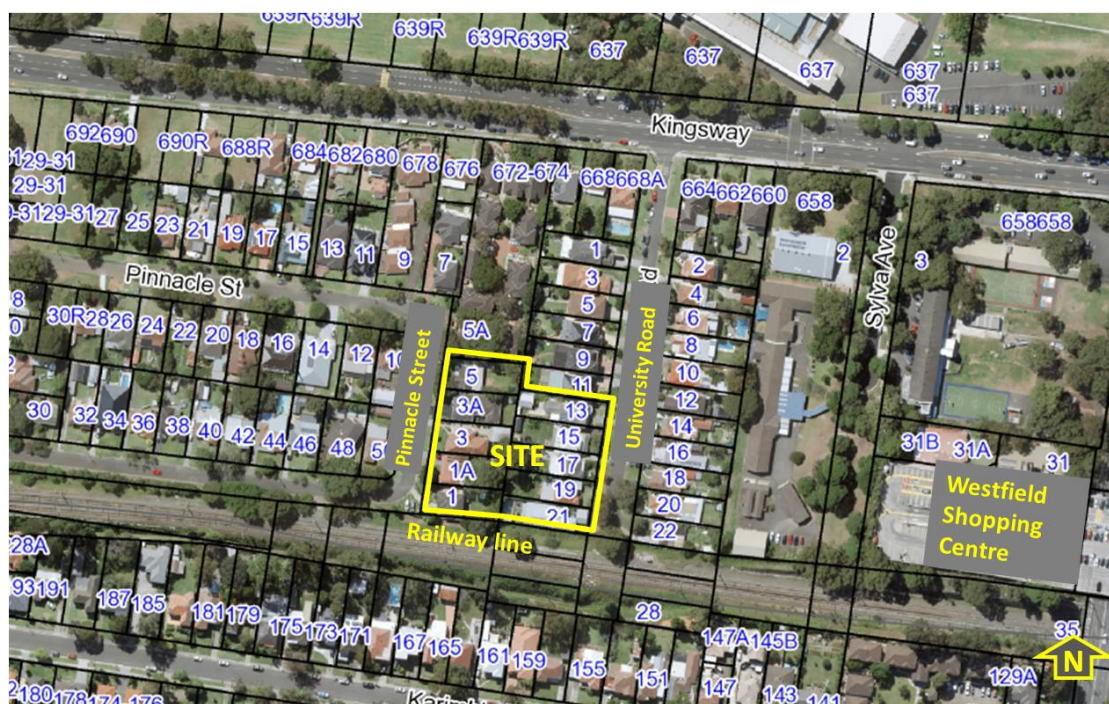
North of the site consists of a townhouse development to the west fronting Pinnacle Street and single dwellings to the east fronting University Road. Only the eastern side forms part of



the Pinnacle Street Precinct. Both the eastern side of University Road and the western side of Pinnacle Street currently consist of 1 and 2 storey dwelling houses, however, most of these properties are at some stage of development. Immediately to the south is the Sutherland-Cronulla railway line with low density residential developments located directly south of this.



**Aerial of the site**



**Locality Plan**

## 4.0 BACKGROUND

A history of the development proposal is as follows:

- There has been no pre-application discussion or pre-DA ARAP for this proposal.
- The amalgamation pattern detailed in the Pinnacle Street Precinct DCP requires a pedestrian path to be created, in equal amounts, between amalgamated sites 9 and 11 to provide a public connection between Pinnacle Street and University Road.
- As this development breaks the amalgamation pattern by one lot to the north east (No 11 University Road), discussions were held with Council to discuss options of relocating the path further south between two buildings on amalgamated site 11.
- The current application was submitted on 14 September 2015.
- The application was placed on exhibition with the last date for public submissions being 15 October 2015. Three submissions were received.
- The application was considered by Council's Submissions Review Panel on 15 November 2015.
- An Information Session was held on 6 October 2015 and 5 people attended.
- A letter was sent to the applicant on 28 October 2015 requesting that the following additional information be provided by 11 November 2015.
  - *Reduce the height of the southern building to comply with the height limit.*
  - *The first level of parking is above ground and therefore parking over Council requirement is counted as floor space.*
  - *Improve access to the communal open space.*
  - *Provide a more 'open' access through the site.*
  - *Provide additional waste storage to Block B and confirm suitable access by private waste collection truck.*
  - *Provide evidence that the on-site detention tank is suitably sized.*
- Council staff met with the applicant to discuss revised plans on 18 November 2015.
- Amended plans were lodged on 2 December 2015.

## 5.0 ADEQUACY OF APPLICANT'S SUBMISSION

In relation to the Statement of Environmental Effects, plans and other documentation submitted with the application or after a request from Council, the applicant has provided adequate information to enable an assessment of this application, including a clause 4.6 Objection requesting a variation to the height standard.

## 6.0 PUBLIC PARTICIPATION

The application was advertised in accordance with the provisions of Chapter 12 of DSSDCP 2015. Fifty (50) adjoining or affected owners were notified of the proposal and three submissions were received as a result.

Submissions were received from the following properties:

Address	Date of Letter/s	Issues
159 Karimbla Road	24 September 2015	1
161 Karimbla Road	14 October 2015	1, 2, 3, 4, 5, 6, 7
	15 October 2015	1, 2, 4, 7

The issues raised in these submissions are as follows:

6.1 Issue 1 – Overshadowing of the rear of properties on the southern side of the railway.  
Comment: The proposal as submitted was considerably over the height limit resulting in unacceptable overshadowing of the rear of the some of the dwellings on the southern side of

the railway. The revised shadow diagrams provided show that the shadows of the amended built form will have minimal impact on buildings to the south after 9am in midwinter and on properties for much of the day.

**6.2 Issue 2 – The development does not comply with the new height limits.**

Comment: The proposal as submitted was over the height limit by a full storey to the west and up to 1.5 storeys to the east due to the topography of the site. The revised plans remove level 8 from the southern building as well as over half of level 7 with a roof top common open space at top of level 7 at this location. The lift and stair access to the southern roof top terrace breach the height limit by a maximum of 3.8m while the lift overrun to the remainder of level 7 breaches the height limit by some 1.5m. This matter is addressed below in the “Assessment” section of this report.

**6.3 Issue 3 – Privacy from the multiple levels of residential**

Comment: This matter is addressed below in the “Assessment” section of this report.

**6.4 Issue 4 – Stormwater runoff**

Comment: This matter is addressed below in the “Assessment” section of this report.

**6.5 Issue 5 – Loss of north easterly breeze**

Comment: The addition of this building at the proposed location will have an impact on winds through the area. An open space of over 30m has been provided between the two new residential flat buildings along university road to allow north east breezes to filter through the area.

**6.6 Issue 6 – Noise from mechanical plant and echo of passing trains**

Comment: Noise from building services will be controlled to comply with the Industrial Noise Policy (INP) outlined by New South Wales Office of Environment and Heritage (OEH). The applicable noise limits are determined according to the policy and using representative background noise levels which have been determined from the long-term noise survey conducted on site. The submitted acoustic report recommendations are to be implemented as per condition of consent. Significant landscaping along the southern boundary, building articulation and the variety of materials will limit any potential echoing affect of passing trains.

**6.7 Issue 7 –Local traffic Impacts and cumulative impacts**

Comment: The proposal has been assessed by Council's Traffic and Transport unit. The proposed development complies with floor space allowances and parking requirements and therefore will have traffic impacts as envisaged by the development of the new Pinnacle Street Precinct. The management of traffic within the precinct will be assessed and addressed by Council's Traffic and Transport unit as a whole.

**6.8 Issue 8 – Non-compliance with DCP amalgamation pattern and setbacks**

Comment: The applicant was unable to secure the north eastern most lot to complete the amalgamation pattern detailed in the DCP. As this impacted on the envisaged pedestrian thoroughfare from Pinnacle Street to University Road, the applicant has proposed a thoroughfare through the centre of the site. This matter is further addressed below in the “Assessment” section of this report.

The proposal generally complies with all setbacks around the perimeter of the site for both the basement and the building. Sections of the building do not comply with setbacks as required between habitable rooms at upper levels. This matter is further addressed below in the “Assessment” section of this report.

### Submission Review Panel (SRP)

The 3 submissions received by Council during public exhibition were considered by Council's SRP on 15 November 2015. The SRP concluded that all matters raised within the submissions are either not substantive or can be dealt with via condition of consent.

### Revised Plans

The applicant lodged revised architectural plans on 2 December 2015. The amendments made to the original proposal included the following:

- Level 8 and the eastern side of level 7 of Block B have been deleted and floor space added over two additional floors to the western side of Block A.
- Additional roof top terrace added to eastern core of Block B.
- Deletion of 2 units to provide a total of 130 units over the development.
- Car parking numbers and layout revised to reflect revised unit number.
- Addition of a second waste storage room to serve residents of Block B.
- South western units of Block A amended and windows to the western elevation added to provide solar access.
- Addition of windows to side elevations to improve cross ventilation.
- Lawn areas added to ground floor courtyards.
- Minor internal layout changes and balcony treatments amended to match revised elevations.

It was deemed unnecessary to renotify the amended proposal on the basis that all amendments were either minor in the context of the overall development or significantly reduced the impact on adjoining properties.

## **7.0 STATUTORY CONSIDERATIONS**

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

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

- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)
- State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment
- Apartment Design Guide (ADG)
- Development near Rail Corridors and Busy Roads - Interim Guideline
- Sutherland Shire Local Environmental Plan (SSLEP) 2015
- Draft Sutherland Shire Development Control Plan (DSSDCP) 2015
- Section 94 Developer Contributions Plans:
  - Shire-Wide Open Space and Recreation Facilities 2005
  - Section 94 Community Facilities Plan
  - Miranda Centre Open Space Embellishment Plan

## **8.0 STATEMENT OF COMPLIANCE**

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



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

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

<b>Design Quality Principles</b>	<b>Assessment</b>
Principle 1: Context and neighbourhood character	The proposal is an appropriate response to the large site and the upzoning of the Miranda Pinnacle Street Precinct at the periphery of Miranda Centre. It will contribute positively to the identity of the area. The development is consistent with desired future character of the Pinnacle Street Precinct as envisaged under SSLEP 2015.
Principle 2: Built Form and Scale	The proposed scale is a positive response to the site. It is generally consistent with the built form envisaged in DSSDCP 2015 and is compatible with the scale of the new development that will occur within the Pinnacle Street Precinct. Adopting a 2 building scheme allows for a large central open space area that provides a thoroughfare between Pinnacle Street and the proposed park on University Road. Each of the 2 RFB buildings step down part way to provide a roof top communal open space, and the uppermost storey is generally recessed from the sides and affords some articulation to the scale.
Principle 3: Density	The proposed density is acceptably distributed across the site. The density of the proposal is an appropriate response to the new development Floor Space Ratio and Landscaped Area development standards that apply to the new Miranda Pinnacle Street Precinct under SSLEP 2015.
Principle 4: Sustainability	The development incorporates BASIX requirements and sustainability measures into its overall design. Implementation of conditions will ensure dwellings will receive adequate solar access and cross ventilation so as to enhance water and energy efficiency and to provide suitable amenity to the building's future occupants.
Principle 5: Landscape	The proposed development includes compliant deep soil areas for tree planting and landscaped areas on the podium which reinforce the existing and desired future character of the locality. Extending private open space of ground floor dwellings where appropriate will increase the dwelling types being offered by the development. A suitable condition of consent is recommended.
Principle 6: Amenity	The proposal has the potential to adequately satisfy the provisions of the ADG with respect to residential amenity, including appropriate building and floor plan layout, solar access, natural ventilation and visual/acoustic privacy.
Principle 7: Safety	The proposed development incorporates Crime Prevention Through Environmental Design (CPTED) Principles in the design. Additional conditions of consent have been imposed.
Principle 8: Housing	The proposal provides a mix of apartment types and sizes, which



Diversity and Social Interaction	encourages diversity including adaptable and garden apartments. Several areas of formal and informal meeting spaces will provide a high level of social interaction.
Principle 9: Aesthetics	An appropriate composition of building elements, textures, materials and colours within the development has been generally achieved.

## 8.2 Apartment Design Guide (ADG)

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

<b>Apartment Design Guide (ADG) – Key Controls</b>			
Building separation	<i>Up to 12m:</i> 4.5m non habitable 6m habitable  <i>12 – 25m:</i> 6m non habitable 9m habitable	6m 6m  - 6m balconies	Yes Yes  <b>No (33%)</b>
Solar access	Living rooms and private open space, 2 hours direct sunlight between 9am and 3pm, mid winter to 70% of apartments.	79 of the proposed 130 dwellings (60.7%) receive 2 or more hours of sunlight to living room windows and 76 (58.5%) to private open space areas during mid winter	<b>No (16.5%)</b>
Maximum depth of open plan layout apartments	8m	8.8m max (unit 508)	<b>No (10%)</b>
Natural ventilation	60% of apartments to be naturally cross ventilated. Max. Depth 18m	84 of the 130 or 64.6% are naturally cross ventilated < 18m	Yes  Yes
Apartment size	1br: 50m <sup>2</sup> 2br: 70m <sup>2</sup> 3br: 90m <sup>2</sup>	1br: Min. 50m <sup>2</sup> 2br: Min. 75m <sup>2</sup> 3br: Min. 98m <sup>2</sup>	Yes Yes Yes
Ceiling heights	2.7m	2.7m	Yes
Private open space:	<i>Primary balconies:</i> 8m <sup>2</sup> , min. 2m depth 10m <sup>2</sup> , min. 2m depth 12m <sup>2</sup> , min 2.4m depth  15m <sup>2</sup> with min 3m depth	10m <sup>2</sup> min, 2m depth 10m <sup>2</sup> min, 2m depth 14m <sup>2</sup> min, 2.4m depth  25m <sup>2</sup> min, 4.3m depth	Yes Yes Yes  Yes

Communal open space (COS):			
- Size:	25% of site area (1,409m <sup>2</sup> )	> 25% of the site	Yes
- Solar Access:	Direct sunlight to at least 50% of COS for 2 hours, 9am – 3pm	>50%	Yes
Residential storage	6m <sup>3</sup> per 1br apartment 8m <sup>3</sup> per 2br apartment 10m <sup>3</sup> per 3br apartment	Between 5m <sup>2</sup> and 25m <sup>2</sup> in basement as well as additional within apartments	Yes
	At least 50% of storage to be located within the apartments	At least 50% of storage is located within apartments	Yes

### 8.3 Local Controls – SSLEP 2015 and DSSDCP 2015

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

Standard/Control	Required	Proposed	Complies? (% variation)
<b>Sutherland Shire Local Environmental Plan 2015</b>			
Building Height	25m	27.8m max.	<b>No (11.2% or 2.8m)</b>
FSR	2:1 (11,272m <sup>2</sup> )	2:1 (11,273.04m <sup>2</sup> )	Yes
Landscaped Area	30% (1,691m <sup>2</sup> )	30% (1,691.6m <sup>2</sup> )	Yes
<b>Sutherland Shire Development Control Plan 2015</b>			
Amalgamation pattern	2 sites (Site 11 & 12)	1 site (less 1 lot)	<b>No</b>
Building envelopes	Consistent with Miranda Pinnacle Street Precinct Building Envelope Plan – 2 separate buildings, 4 and 8 storeys in height	Inconsistent – 2 building forms, 6-8 storeys in height	<b>No</b>
Articulation / Streetscape Integration	Built form articulated to avoid large expanses of broken wall	Articulation through varying building setbacks, use of balconies and materials	Yes
Street setbacks	6m to both streets (no articulation zone permitted)	6m to Pinnacle St  6m (Block B) and 12m (Block A) to University Rd	Yes  Yes
Side setback (railway)	6m	6m	Yes
Basement street setbacks (deep soil)	6m to both streets  Deep soil setback of 6m from side boundaries	6m  Min. 6m	Yes  Yes
Adaptable apartments	30% (39 apartments)	28.5% (37 apartments)	<b>No (5.1%)</b>

Standard/Control	Required	Proposed	Complies? (% variation)
Open space:- – Common	Min 100m <sup>2</sup> Min 10m wide	> 1,400m <sup>2</sup> Up to 26m wide	Yes Yes
Private open space: – 1 br apartment – 2 br apartment – 3 br apartment – Ground level apartments (or on a podium	8m <sup>2</sup> , min. 2m depth 10m <sup>2</sup> , min. 2m depth 12m <sup>2</sup> , min 2.4m depth 15m <sup>2</sup> with min 3m depth	10m <sup>2</sup> min, 2m depth 10m <sup>2</sup> min, 2m depth 14m <sup>2</sup> min, 2.4m depth 25m <sup>2</sup> min, 4.3m depth	Yes Yes Yes Yes
Car parking	Min. 180 residential spaces  Min. 33 visitor spaces	181 residential spaces  32 visitor spaces	Yes  <b>No (3%)</b> Yes overall
Solar access: Apartments	70% (91) of apartments receive 2hrs mid winter	58.5% (76) apartments	<b>No (16.5%)</b>
Open space	Direct sun between March and September	Achieved	Yes

## 9.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

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

### 9.1. Sydney Trains – NSW Government

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

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

The applicant submitted the requested information to Sydney Trains on 2 December 2015. Sydney Trains responded to this with a request for further clarification in an email dated 21 January 2016.

Clause 86(5) of the Infrastructure SEPP notes the following:

*The consent authority may grant consent to development to which this clause applies without the concurrence of the chief executive officer of the rail authority for the rail corridor if:*

- (a) the consent authority has given the chief executive officer notice of the development application, and*
- (b) 21 days have passed since giving the notice and the chief executive officer has not granted or refused to grant concurrence.*

As more than 21 days have lapsed and Sydney Trains have neither granted nor refused to grant concurrence, Council is of the opinion that the consent can be granted to the development.

A request for further information has been received prior to finalising the assessment of the application. While it is considered that outstanding issues can be resolved, it is critical that Sydney Trains is satisfied that the development will not impact the adjacent rail infrastructure prior to the activation of the consent. A deferred commencement condition is therefore recommended requiring the applicant to receive this assurance from Sydney Trains.

A copy of the email and attachment from Sydney Trains is attached at **Appendix B**.

#### 9.2. Architectural Review Advisory Panel (ARAP)

The proposal was considered by Council's ARAP on 8 October 2015. The ARAP made the following comments:

- The proposal is generally well conceived with positive landscaped space between.
- The public way should be designed as a public street and should not be gated.
- The additional height on the southern building is to be redistributed if it impacts on the dwellings on the south side of the railway. Additional shadowing studies are needed.
- Many bathrooms are denied a window and bedrooms a second window for cross ventilation. Additional windows to voids between buildings would improve cross ventilation and natural light to units particularly to the northern building.
- The aesthetic is strong and well conceived but should not be so inflexible as to limit the amenity of apartments.

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

#### 9.3. NSW Police (Miranda Local Area Command)

The DA was referred to the Miranda Local Area Command Crime Prevention Officer in accordance with Council's adopted policy for RFBs over 50 units. The comments made by the Crime Prevention Officer have been taken into account in the assessment of the DA. The NSW Police advise that many simple measures can improve the safety and security of the area and should be considered at the DA stage. Various reasonable and enforceable conditions that were recommended by the Officer have been included within the recommended consent conditions. A copy of the full NSW Police comments is held at **Appendix D**.

#### 9.4. Engineering

Council's development engineer has undertaken an assessment of the application and advised that subject to suitable conditions of development consent no objection is raised to the proposal.

#### 9.5. Architect

Council's architect has undertaken an assessment of the application and advised that generally the development is well designed. The development does not comply with the ADG design criteria for solar access or building separation. These matters are addressed

below in the “Assessment” section of this report and suitable conditions of consent have been recommended.

#### 9.6. Landscape Architect

Council’s landscape architect has undertaken an assessment of the application and advised that subject to suitable conditions of development consent no objection is raised to the proposal.

#### 9.7. Traffic and Transport

Council’s traffic engineer has undertaken an assessment of the application and advised that subject to a condition of development consent to widen Pinnacle Street by 1m along the frontage, no objection is raised to the proposal.

### **10.0 ASSESSMENT**

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

#### 10.1 Amalgamation Pattern

The size and shape of a land parcel influences the relationship of a new building to its neighbours. In order to promote the efficient use of land and allow design constraints to be more easily resolved, amalgamation patterns have been defined for land within the Pinnacle Street Precinct as shown in the map ‘Miranda Pinnacle Street Precinct Amalgamation Plan’. The exercise to define amalgamation patterns also informs requirements relating to height, massing, basement car parking, vehicular access, streetscape and amenity to achieve good planning outcomes.

The site amalgamation pattern also informs building envelopes which ensure that a residential flat building can realise the maximum floor space ratio of 2:1 with heights up to 25 metres while also complying with the design requirements of SEPP 65 as well as the streetscape and vehicle access strategy for this precinct.

The proposal encompasses 10 existing lots which generally combines 2 Amalgamation Sites (Sites 11 and 12) as per the DCP amalgamation requirements. However, one lot of Site 11 has not been secured and is therefore not part of this application, effectively breaking the amalgamation pattern.

The direct implications of this are that the required pedestrian thoroughfare along the northern perimeter of Site 11 and the Building Envelope Plan cannot be implemented as defined in the Precinct DCP.

Clause 5.2.3 of the Miranda Pinnacle Street Precinct DCP requires a new east west pedestrian path connecting Pinnacle Street with University Road when redevelopment of any part of amalgamated sites 9 and 11 occurs. The intent of the pedestrian path is to improve pedestrian and visual permeability through the precinct, and to provide a direct pedestrian route from Pinnacle Street to University Road.

Providing the required path along the northern boundary of the newly proposed site amalgamation was not considered appropriate by Council as it would not allow a direct physical connection or the desired visual connection. The DCP requirement has been addressed by providing a wide pedestrian path between the two residential towers through



the middle of the site. This central space will consist of feature landscaping and casual seating, and is over 10m wide at its narrowest point, providing a high quality and inviting visual and physical connection between Pinnacle Street and the proposed park at the southern end of University Road.

The path drops 3.4m half way through the site due in part to the topography of the site and in part to the semi basement car park to the east. To manage the change in levels, both stairs and a lift are proposed to ensure both direct and equitable passage around the precinct. While providing stairs and a lift through this public access way was not envisaged by the Draft DCP, the overall proportions and quality of the space offers a supportable resolution. To further improve the connectivity and interface of the two site levels as a functional and open public way, a condition of consent requires the main flight of stairs in the central walkway to be widened to 3.0m.

The exclusion of No. 11 University Road from the development site will not isolate this lot which can readily be incorporated into Amalgamation Site 9 directly to the north. Furthermore, a development application has been received for an amalgamated site on the corner of University Road and Kingway which incorporates an additional lot to that envisaged by the Amalgamation Plan. Four lots thus remain directly north of the proposed development. This is the same number of lots as intended as part of amalgamation Site 9.

The proposal also provides for efficient and safe vehicle entry points and will make a positive contribution to the streetscape while presenting a high standard of amenity to future residents of the development as well as the precinct. The objectives and controls of the amalgamation requirements have therefore been met and the revised amalgamation pattern is supported.

## 10.2 Building Envelopes

While the Building Envelope Plan shows the preferred built form layout, a variety of built form options are possible on each amalgamated site and alternate building layouts may be considered provided they achieve better amenity for future and existing residents and better outcomes for the public domain.

The amalgamation pattern for this development has been altered which has changed the shape of the development site and prompted the inclusion of a central thoroughfare. Variations to the Building Envelope Plan are consequently inevitable and include minor variations to building footprints. It is the proposed variation to building heights which are the most noteworthy in this development.

The site amalgamation plan allows for an arrangement of buildings (as shown on the Building Envelope Plan) which encourages a variation of building heights across the precinct to maximise solar access to all buildings, allow compliance with the ADG for building separation at different heights between sites, and for this development, provide a transition to the existing two storey townhouse development through the provision of a four storey element within the north western portion of the site.

Both proposed towers vary between 6, 7 and 8 storeys with the western section of the northern tower consisting of 6 storeys as opposed to the desired 4 storeys. This is driven by the quest to achieve the maximum allowable floor space ratio, which, due to the broken amalgamation pattern, cannot be achieved within the envisaged envelopes.

In principle, the addition of two storeys to the north western corner of the development may be reasonable considering the development has minimal additional impact on the townhouses to the north in regards to privacy and overshadowing.

The loss of the visual transition to the two storey development has, however, not been adequately addressed as from both Pinnacle Street and the townhouse development, the building proposes no variation up to level 6. The building separation requirements of the ADG have also not been addressed in this area in that the balconies of the top floor units adjacent to the townhouses are not set back the required 9m from the side boundary above 12m.

Internal overshadowing of the southern building is also impacted by this variation to building heights. The requirement for an alternate building layout to achieve better amenity for future and existing residents has therefore not been achieved. This aspect is further addressed in the assessment of 'Building Separation' and 'Solar Access' below.

### 10.3 Built Form

The aim of the Pinnacle Street Precinct Draft DCP is to provide high quality developments which make a positive contribution to the streetscape in a high density environment. The Architectural Review Advisory Panel considered this development to be generally well-resolved, with positive landscaped space between the buildings and concluded that the aesthetic is strong and well conceived. The two north facing buildings are generally as envisaged in the Draft DCP. This built form allows for a high number of north facing units and for building elements to be spaced between landscaped spaces.

The highly articulated towers further broken into two cores, offer opportunities for a high number of naturally ventilated apartments as well as natural light to lobbies. The southern facade of Block B is appropriately defensive to the railway line also protecting the visual and acoustic privacy of the low density residential developments south of the rail. The small number of single aspect south facing units are provided with a high quality outlook over the central open space. The height of both buildings has been stepped by a storey providing some visual interest to the upper levels.

The buildings have been appropriately designed to address road frontages as well as the central space which is the main access point to the residential lobbies. The balconies and living areas facing these spaces promote casual surveillance and activate the public areas around the buildings for improved security.

To further encourage street activation, the DCP encourages ground floor units facing the street to be provided with street access where possible. Offering garden units through the extension of the private open space into the front setback or to side boundaries increases housing choice, encourages activity around the building and reduces maintenance costs for the overall development. Appropriate conditions of consent have been recommended.

The amalgamation of two amalgamation sites significantly broadens the area of University Road available for public open space as vehicle access is only proposed at the northern most corner of the site. A cross over and hard stand are provided for the collection of waste as well as access to services such as the substation and fire pump room which have all been provided within the built form and behind a landscaped setback. Consequently, all units fronting University Road will be facing the park proposed by the Draft DCP.

Likewise, access to all parking is provided from the south eastern most corner of Pinnacle Street. This leaves the remainder of the western boundary free of driveways for a pedestrian friendly frontage and ensures the streetscape is not dominated or segregated by vehicle movements. Due to the topography of the site, this first level of parking extends for only half of the site to the east and allows for east facing ground floor units. While largely below natural ground to the north, this level of parking is above ground to the south. The southern elevation has therefore been provided with ventilation louvres which aesthetically follows the

pattern of windows directly above thus integrating the external car park wall into the overall building design.

The first level of parking provides access to all visitor parking at grade with the ground level units to the east. Secure residential parking within the basement is then accessed from this level. All parking levels are accessed from via a lift ensuring accessibility to all levels of each building.

The provision of an accessible built environment is both a design and a legislative requirement and is central to all new developments within the Sutherland Shire to provide everyone with the opportunity to have equitable and barrier free movement. The incorporation of level entrances, lift access to all areas including roof top terraces, and the provision of adaptable units ensures a barrier free environment to all residents, visitors and pedestrians through the precinct.

#### 10.4 Building Separation

The ADG design criteria require a minimum separation between balconies and window of 18m between 5 storeys (12m) and 8 storeys (25m). To achieve this equitably between sites, a 9m setback from side boundaries is required for buildings above 4 storeys. Variations to this can be considered depending on the design of any existing developments or the adequacy of window treatments.

Revised plans to relocate floor space from level 7 and 8 of Block B to Block A has resulted in an additional two levels on top of the western section of Block A as well as modification to other parts of the development, particularly to the eastern section of Block A to accommodate the additional floor space across the two cores.

These modifications have resulted in the outer units of Block A at levels 5 and 6 to be set 6m back from the northern boundary whereas at these levels, the required setback to habitable rooms is 9m. Revised floor plans purposely set internal habitable rooms 9m from the boundary for levels 5 and above. The balconies of Units 519, 520, 619 and 620 to the west and Units 511, 512, 611 and 612 to the east are all, however, set 6m from the sites northern boundary.

The ADG clearly specifies balconies as a habitable space that must comply with the building separation requirements. In this instance, the reduced setback is of particular concern as the full length of the balcony as well as the unit is orientated directly towards the side boundary. This restricts measures such as screening to be implemented while still retaining suitable amenity for future residents.

As the Amalgamation Pattern Plan and the Building Envelope Plan as envisaged by the Pinnacle Street Precinct DCP have not been implemented, the northern setbacks as anticipate by these plans cannot be applied. Amalgamation Site 9 to the east has been altered by this amalgamation proposal and this site is to be given the same opportunity to develop.

Likewise, the two storey townhouse developments to the west, while not included in the Precinct Plan, enjoy the same zoning and development standards as the surrounding land and are to be presented with the same opportunity for future development. While not predicted by the Precinct Plan, one of these town house developments has been secured for the development of a residential flat building as is possible for the development directly west of this site.

Side setbacks must comply with ADG requirements so as to not disadvantage adjacent future development and as such, the full extent of each of the non-complying units is to be

pulled back to 9m from the northern side boundary. This may be achieved through various methods including reducing the size of each proposed unit, reorientating units to the street and / or amalgamating units. A deferred commencement condition has therefore been recommended to enable the applicant to redesign these elements of the proposal.

The building separation provided between levels 5 and 6 of Block A and Block B also do not comply with ADG requirements to the east and the west. These non-compliances have been successfully addressed by offsetting windows / balconies and the use of screening to minimise any potential privacy issues and this variation is supported.

#### 10.5 Solar access

The ADG design criteria requires at least 70% of apartments to receive at least 2 hours direct sunlight between 9am and 3pm in mid winter.

A solar access and cross ventilation report prepared by Steve King has been submitted to address concerns regarding compliance with this requirement. This report concludes that just 60.8% (79) of apartments are capable of meeting the minimum criteria, but goes on to conclude that if the calculation is taken between 8am and 4pm, 70% of apartments receive 2 hours direct sunlight in mid winter. The report also notes that a high proportion of complying apartments receive solar access for more than 3 hours direct sunlight.

The ADG design criteria specifically notes solar access is to be achieved between 9am and 3pm. As such, the minimum level of direct solar access required by the ADG has not been achieved.

On reviewing the solar access studies provided, it is concluded that 76 units (58.5%) will currently receive a minimum of 2 hours solar access in mid winter between 9am and 3pm. This is based on both living areas and private open space receiving the minimum solar access as is required by the ADG.

Further investigation of the solar studies show that 14 units have potential to be refined to achieve the minimum 2 hours required. This can readily be achieved by providing solar access to private open space currently deprived of this as a result of facade treatment. As was noted by the Architectural Review Advisory Panel, the aesthetic should not compromise the amenity.

Units G02, 107, 208, 308, 408, 508 and 608 have blade walls on the northern face of their balconies. This blocks winter solar access to living rooms and significantly limits solar access to their private open space. While the blade walls to G02, 107 and 408 are 1.0m shorter than the others to those of Units 208, 308, 508 and 608, analysis of the plans indicate that these are to be reduced in length by at least an additional 300mm to allow for meaningful solar access between 9am and 11am and comply with the ADG requirements.

With regards to the units with the full length blade wall, the northern blade wall of these are to be either reduced in length to match that of Units G02, 107 and 408 or voids are to be created with a minimum area of 1m<sup>2</sup> to increase solar access to living rooms and balconies.

To provide solar access to the west facing units on the south western corner of Block A, revised floor plans have relocated the living areas to the western side of the unit and provided a window on this elevation. While these units now receive adequate winter solar access to the living areas, solar access to balconies are restricted by blade walls extending to their southern edge and therefore cannot be counted as complying with the ADG requirements. To address this, a condition of consent requires a void with a minimum area of 1m<sup>2</sup> is to be formed on the western corner of each balcony of Units 317, 417, 517 and 617.

As Units 116 and 217 have been shown to be overshadowed by the proposed building on the western side of Pinnacle Street, the same requirement is not imposed on these units.

Unit 616, 714 and 609 have been included as receiving appropriate solar access due to the provision of a sky light over the living area. As noted, the ADG requires solar access to both the living areas and private open space, the inclusion of sky lights to both living areas and balconies of these units is therefore required and has been appropriately conditioned.

This will take the number of units complying with the ADG minimum solar access requirement to 90 units (69.2%) and is considered acceptable for this development.

#### 10.6 Height of Buildings

A maximum building height of 25m applies to the site pursuant to Clause 4.3 and the Height of Buildings Map of SSLEP 2015. The proposal has a maximum height of 27.8m. This is attributable to the lift overrun and a small section of level 7 of Block B as well as the lift and stair access to the eastern roof top terrace of Block B. The proposal therefore involves a variation of up to 11.2% and fails to comply with the height of buildings development standard of SSLEP 2015.

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

- (a) *to ensure that the scale of buildings:*
  - (i) *is compatible with adjoining development, and*
  - (ii) *is consistent with the desired scale and character of the street and locality in which the buildings are located or the desired future scale and character, and*
  - (iii) *complements any natural landscape setting of the buildings,*
- (b) *to allow reasonable daylight access to all buildings and the public domain,*
- (c) *to minimise the impacts of new buildings on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion,*
- (d) *to ensure that the visual impact of buildings is minimised when viewed from adjoining properties, the street, waterways and public reserves.*

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

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage the supply of housing that meets the needs of the Sutherland Shire's population, particularly housing for older people and people with a disability.*
- *To promote a high standard of urban design and residential amenity in a high quality landscape setting that is compatible with natural features.*
- *To minimise the fragmentation of land that would prevent the achievement of high density residential development.*

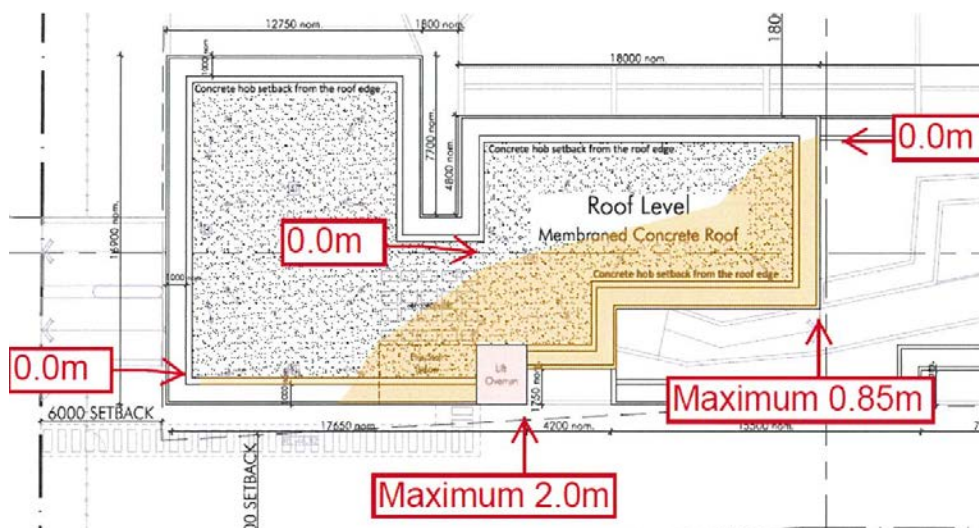
The applicant has lodged a written request in accordance with the requirements of Clause 4.6 of SSLEP 2015. A full copy of this request is attached at **Appendix E** and the most relevant points are summarised below:



- The parapets of the residential levels on the eastern side of Block B are consistent with the LEP height controls. The lift overrun and a portion of the eastern elevation of level 7 of Block B to the west and the lift and stair access which provide disabled access to the roof top communal open space to the east which form the breach to the height control.
- The total area breaching the height limit is 135m<sup>2</sup> which is 2.4% of the site and is due to the fall of the land.
- While it would be possible to provide an open stair access to the roof top open space and a stair climber or platform lift to give access to the roof top without breaching the height control, it is considered that it is a better planning outcome and more desirable equitable access to continue the lift to the roof top.
- The proposal does not give rise to any significant amenity impacts in terms of solar access, privacy, views or bulk and scale with regard to the breach and on balance this is considered to be an appropriate approach and it is considered that this is the type of situation for which Clause 4.6 expressly provides.

In the written request to contravene the development standard, the applicant has demonstrated that compliance with the standard is unreasonable and unnecessary in the circumstances of the case as the strict compliance would require the loss of two large apartments as well as the provision of disabled access to a large common open space with little gain to perceived bulk and scale or solar access to neighbouring properties.

The two areas which breach the height limit represent 13.8% of the footprint of Block B and just 5.8% of the development footprint. While they are located on the southern side of the southern building, the shadow cast by the lift and stair will be narrow and have minimal additional impact considering the rear of neighbouring dwellings will not be overshadowed by this development for the majority of the day in midwinter. The maximum breach of the building is 850mm and is located in the centre of the site as shown below. This section overshadows the buildings itself. Likewise, any additional bulk or perceived scale will be minimal from adjoining dwellings.



The building itself has been designed to generally comply through the provision of just two dwellings at the upper level including setting one of these to the north to adjust for the fall of the site to the south. The lift core is in a rational location in relation to the remainder of the levels to maximize northern and dual aspect units. Compliance with the height limit at this location would remove access to this level and result in the loss of two 3 bedroom units.

Residential flat buildings generally consist of a limited number of 3 bedroom units. The provision of these larger penthouse units adds to the variety of housing types within a high density residential environment. While this floor space could be relocated as a northern extension of the building this would greatly reduce both the physical and visual permeability of the site and potentially the access to the new park for the remainder of the precinct as envisaged by the Precinct DCP.

Equally, the southern roof top common open space could be provided at ground level between the two buildings in lieu of the public thoroughfare. This would remove the need for the additional height at this location but also result in the loss of this public benefit. Alternatively, the applicant notes that this common space could be accessed via an open stair and stair lift. This is not considered an appropriate entrance for the number of people using the space nor for a large new development. It would also provide poor quality access for a variety of groups including the disabled, elderly or parents with prams.

The applicant has demonstrated that the non-compliant proposal is in the public interest and that there are sufficient environmental planning grounds to justify varying this development.

On balance, while the minor breach of the height limit benefits the development in terms of penthouse floor space and roof top garden, this has negligible impact on surrounding development. Strict compliance would present little change in terms of visual intrusion or solar access to neighboring properties or the public domain yet would see the loss of a public benefit unique to this site being the pedestrian path through the new precinct and providing access to future residents of this high density area to the proposed park.

Compliance with the variation to the development standard for height is unreasonable and unnecessary in the context of the proposal, and achieves better outcomes for and from development by allowing flexibility in particular circumstances.

As the proposed variation also does not raise any matters of State or regional environmental planning significance, the variation to the height development standard satisfy all relevant parts of clause 4.6 and therefore the variation is supported.

#### 10.7 Adaptable Dwellings

Adaptable and livable (universally designed) dwellings are conventional dwellings that incorporate construction and design elements to meet people's changing mobility requirements over their lifetime such as wider doorways and corridors and reinforced bathroom walls to enable future installation of grab rails. The provision of adaptable housing units within a development can assist people to continue to live in a dwelling which is suited to their mobility and level of ability. Adaptable housing is an important part of the housing mix in the Shire as the number of people over the age of 55 years is above the Sydney average. It is also increasing as a proportion of the total population.

At the time of lodgement, Council's Draft DCP 2015 required that 30% of dwellings of any development consisting of 6 or more dwellings must be designed as adaptable housing. As this development now proposes 130 dwellings, the requirement for adaptable housing is 39 units. At present, the proposal includes 37 adaptable units. The proposal has however, provided 40 adaptable parking spaces within the basement.

As the previous scheme (consisting of 132 units) complied with the adaptable housing requirement of 40 adaptable units, it is understood that 3 adaptable units have been accidentally deleted in amending the plans and can be readily replaced as the parking is already provided. In this regard, a condition of consent requires the development to provide a minimum of 39 adaptable dwellings.

## 10.8 Privacy

An objection has been received concerned with loss of privacy from a property to the south of the railway. The concern is in relation to overlooking of their private open space from the multiple levels of dwellings within the development.

Being the southern elevation, the majority of the windows facing properties to the south are bedroom windows and windows to the lobbies. Two units per level (not including the ground floor or level 7) comprise of a dining room window of those units. On all levels except ground, level 1, level 4 and level 7, all windows on the southern facade are covered with vertical louvers except for a slim secondary bedroom window to the east and the lobby windows.

The rear boundaries of the properties to the south of the railway are approximately 40m away from the southern facade of the building. This is well above controls for building separation for apartment buildings. Also, high activity areas including large balconies, full glazing and living areas are directed to the north.

While the windows as shown on the elevation drawing appear to extend from the floor to the ceiling, this is unlikely to be the case as the Building Code of Australia (BCA) will require fire proofing between the windows. Nonetheless, a condition of consent is recommended to ensure that the lower panel is not transparent. This measure effectively raises the sill level in order to reduce sight lines to the southern properties and reduce the area of the window. The development is considered acceptable in terms of privacy impacts subject to the recommended condition of consent.

## 10.9 Parking and Traffic

To comply with Council's draft DCP 2015, this development requires 180 residential car parking spaces and 33 visitor's car parking spaces. The proposal includes 181 residential spaces at basement level and 32 visitor's spaces within the building at ground level. The development is therefore compliant with overall numbers but short 1 visitor's space.

Also within the ground level car park are 3 'waiting bays' adjacent to the second waste store. These spaces are proposed for people who wish to dispose of their waste 'on the way out'. These 3 spaces are additional to any requirement of Council. However, it is noted that no disabled visitor's spaces have been provided for the development.

To address this, a condition of consent requires that the 3 waiting bays be converted to 2 disabled spaces. This will bring the number of designated visitor's spaces to 34. The loss of the waiting bays is not considered to be detrimental to the development. If no visitor's space is available in close proximity to the garbage room, the required stopping time would be minimal and can occur outside of the main thoroughfare to visitor's spaces and to the remaining basement levels.

## 10.10 Stormwater Management

Clause 6.4 requires Council to be satisfied of certain matters in relation to stormwater management prior to development consent being granted. These matters include maximising permeable surfaces and on-site stormwater retention to minimise the impacts on stormwater runoff.

The stormwater drainage design relies on rainwater tanks as well as on-site detention (OSD). Discharge from the site is to the south eastern corner to the existing pit at the end of the existing cul de sac. However, this drainage network is currently under pressure and as it

discharges under the railway corridor, this system cannot be augmented at this location. It is therefore imperative that the post development discharges do not exceed those of predevelopment. A hydraulic grade line analysis is to be undertaken to determine if the system is in fact able to cater for the receiving waters. Suitable conditions of consent have been recommended to ensure the stormwater from the development is adequately managed.

A 30,000 rainwater tank has also been provided. This should ideally have some capacity to be utilised to irrigate the landscaped areas proposed for level 7 of the development as well as the plantings over the basement. Potted plants have a much greater water requirement than deep soil plantings and without adequate watering will wither and reduce the quality of the common open space.

Water provided close to the receiving area will significantly reduce the need for and cost of pumping it 25m vertically. It is therefore recommended that 5m<sup>3</sup> of rainwater storage be provided on level 7 of each tower for this purpose and that the main rainwater tank be reduced in volume to 20m<sup>3</sup> and be used for irrigation of the ground level landscaping. A suitable condition of consent has been recommended.

#### 10.11 Greenweb

The subject site is identified within Council's Greenweb strategy. The Greenweb is a strategy to conserve and enhance Sutherland Shire's bushland and biodiversity by identifying and appropriately managing key areas of bushland habitat and establishing and maintaining interconnecting linkages and corridors.

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. Appropriate conditions have been included to substitute plantings with suitable species to address the Greenweb area requirements.

### 11.0 SECTION 94 CONTRIBUTIONS

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

Open Space:	\$981,261.50
Community Facilities:	\$166,551.20
Miranda Centre:	\$344,373.70

These contributions are based upon the likelihood that this development will require or increase the demand for local and district facilities within the area. It has been calculated on the basis of 130 new residential units with a concession of 10 existing allotments.

### 12.0 DECLARATION OF AFFILIATION

Section 147 of the Environmental Planning and Assessment Act, 1979 requires the declaration of donations/gifts in excess of \$1000. In addition Council's development application form requires a general declaration of affiliation. In relation to this development application no declaration has been made.

### 13.0 CONCLUSION

The proposed development is for two residential flat buildings at 1 - 5 Pinnacle Street and 13 - 21 University Road, Miranda.

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

In response to public exhibition, three (3) submissions were received. The matters raised in these submissions have been discussed in this report and include overshadowing, privacy and traffic impact.

The proposal includes a variation to the height limit. This variation has been discussed and is considered acceptable in the circumstances of this development. The proposal does not comply with the ADG for solar access or building separation and suitable conditions of consent have been included to ensure compliance.

The application has been assessed having regard to the Heads of Consideration under Section 79C (1) of the Environmental Planning and Assessment Act 1979 and the provisions of Sutherland Shire Local Environmental Plan and all relevant Council DCPs, Codes and Policies. Following detailed assessment it is considered that Development Application No. DA15/1037 may be supported for the reasons outlined in this report.

## **14.0 RECOMMENDATION**

- 1.1 Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submission in relation to the requested variation to the height limit satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and this development standard be varied to 28.8m.
- 14.1 That Development Application No. DA15/1037 for two residential flat buildings at Lots 10 - 14 DP 7580 and Lots 1- 23 DP 31129, 1 - 5 Pinnacle Street and 13 – 21 University Road, Miranda be approved, subject to the draft conditions of consent detailed in Appendix “A” of the Report.