

## SYDNEY SOUTH PLANNING PANEL

Panel Reference	SSPP2016SYE109
DA Number	DA16/1239
LGA	Sutherland Shire
Proposed Development:	Demolition of existing structures and construction of a new residential flat building
Street Address:	Lot 1 DP 122354, Lot 2 DP 210456, Lot B DP 356417, Lot X DP 388636, Lot Y DP 388636 – 17 – 23 Mitchell Avenue and 78 Sutherland Road, Jannali
Applicant/Owner:	Winim Funds Management Pty Ltd
Date of DA lodgement	21 September 2016
Number of Submissions:	Seventeen (17)
Recommendation:	Approval
Regional Development Criteria (Schedule 4A of the Act)	General Development over \$20 million
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> <li>• Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015)</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy No. 55- Remediation of Land (SEPP 55)</li> <li>• Greater Metropolitan Regional Environmental Plan No. 2- Georges River Catchment</li> <li>• State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)</li> <li>• Department of Planning and Environment - Apartment Design Guide (ADG)</li> <li>• Draft Sutherland Shire Development Control Plan 2015 (SSDCP 2015). Sutherland Shire Section 94 Contribution Plans</li> </ul>
List all documents submitted with this report for the Panel's consideration	<p>Draft Conditions of Consent</p> <p>Pre-application discussion (PAD)</p> <p>Table: Public Submissions</p> <p>Report from the Architectural Review Advisory Panel</p> <p>Clause 4.6 request (building height)</p>
Report prepared by:	Evan Phillips - Environmental Assessment Officer (Planner) Sutherland Shire Council
Report date	24 January 2017

### Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? Yes

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? Yes

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? Yes

**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

**Not Applicable**

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

---

**Conditions**

Have draft conditions been provided to the applicant for comment?

**Yes**

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## EXECUTIVE SUMMARY

### REASON FOR THE REPORT

The application is referred to the Sydney South Planning Panel as the development has a capital investment value of more than \$20 million and is nominated under Schedule 4A(3) of the Environmental Planning and Assessment Act 1979. The application submitted to Council nominates the value of the project as \$22,489,998.00.

### PROPOSAL

The proposal is for the demolition of 5 dwellings and the construction of a 5 - 6 storey residential flat building containing 64 units over 2 levels of basement car parking. Pedestrian and vehicular access is proposed via Mitchell Avenue (primary frontage). The ground and basement level parking areas accommodate 97 car spaces, waste, plant and store rooms. Communal open space areas are concentrated on the north western and central portions of the site.

### THE SITE

The site is located on the northern side of Mitchell Avenue and eastern side Sutherland Road. The site has a combined area of approximately 4144m<sup>2</sup> and slopes from west to east. The site is approximately 210m west of the Jannali Local Centre and 120m walking distance to the entry of Jannali Train Station. The site is located on a zone interface with low density residential land uses occupying the land to the north and west along Sutherland Road.

### ASSESSMENT OFFICER'S RECOMMENDATION

THAT:

Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submission in relation to the variation to the building height development standard satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked for part of the development and that the 16m maximum building height development standard be varied to 17.02m, in respect to this application.

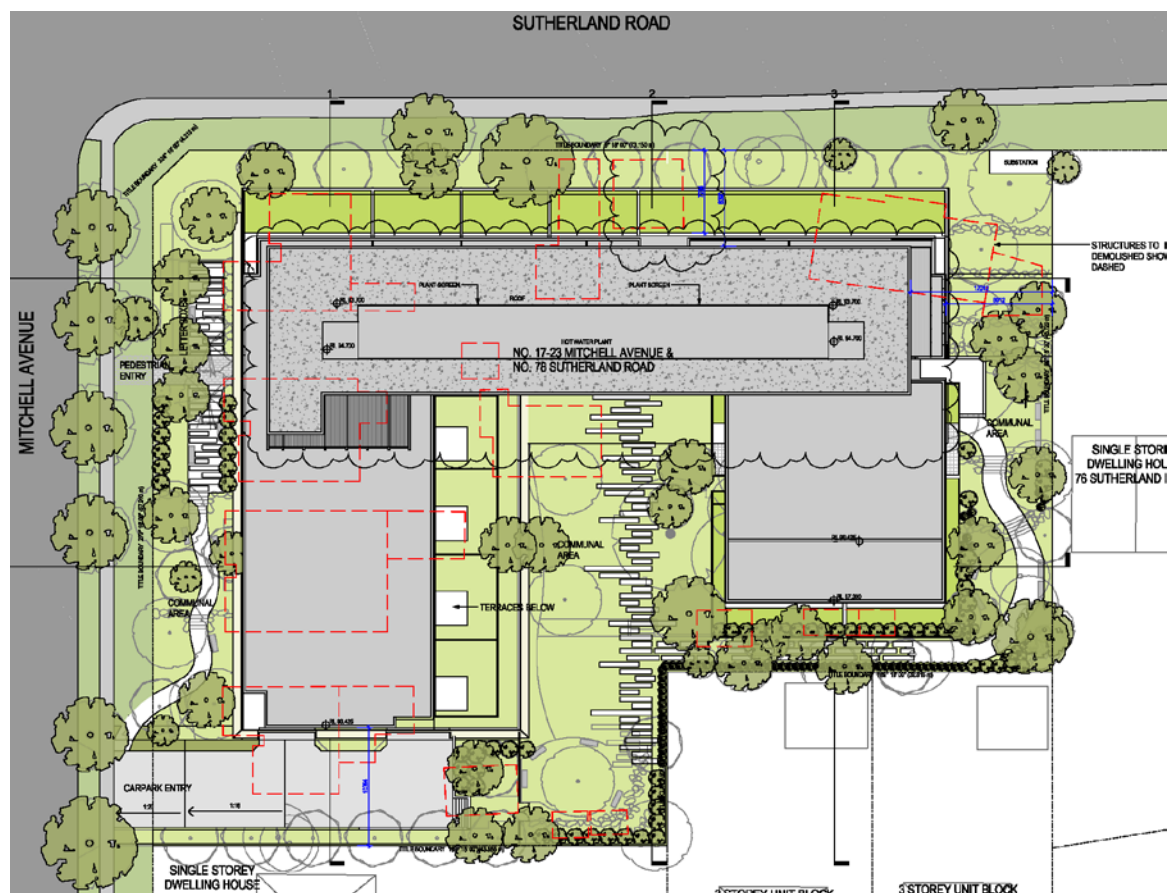
That Development Application No. 16/1239 for the demolition of existing structures and the construction of a new residential flat building at Lot 1 DP 122354, Lot 2 DP 210456, Lot B DP 356417, Lot X DP 388636, Lot Y DP 388636 17, 19, 21 & 23 Mitchell Avenue and 78 Sutherland Road, Jannali, be approved, subject to the draft conditions of consent detailed in Appendix "A" of the Report.

## 1.0 DESCRIPTION OF PROPOSAL

The proposal is for the demolition of 5 dwellings and the construction of a 5 - 6 storey residential flat building containing 64 units over 2 levels of basement car parking. The building is in a "C" shaped configuration with built form running parallel to both street frontages and along the rear northern boundary

The development proposes a mix of 21 x 1 bedroom, 38 x 2 bedroom and 5 x 3 bedroom apartments (64 in total). Of the 64 apartments, 6 are liveable dwellings and 13 have been provided as adaptable dwellings. Pedestrian access to the development is proposed via the southern Mitchell Avenue primary frontage. Vehicular access to the ground and basement level parking areas is proposed via the south eastern corner of the site. The parking area accommodates 97 car spaces (including 84 residential and 13 visitors), waste, plant and store rooms. A dedicated loading bay to accommodate a Medium Rigid Vehicle (MRV) is proposed to service the development.

There are 2 main areas of Communal Open Space (COS) within the site concentrated on the north western (primarily covered) and central portions of the site. The proposal includes tree removal, retention and substantial peripheral landscape works in conjunction with the development.



Site Plan

## 2.0 SITE DESCRIPTION AND LOCALITY

The subject land is located at No.17, 19, 21 & 23 Mitchell Avenue and 78 Sutherland Road, Jannali.

The site comprises five (5) separate residential allotments bound by Mitchell Avenue to the south and Sutherland Road to the west. The site has a combined area of approximately 4144m<sup>2</sup> and frontage widths of 57.9m and 73.1m to Mitchell Avenue and Sutherland Road respectively. There is a significant slope of approximately 9m from west to east within the site, with a cutting at the Sutherland Road edge. There are currently single detached residential dwellings occupying the individual allotments and numerous established canopy trees and rocky outcrops.

The site is approximately 210m west of the Jannali Local Centre and 120m walking distance to the entry of Jannali Train Station. The site is located on a zone interface with low density residential land uses occupying the land to the north and west along Sutherland Road. 3 storey residential flat buildings are located eastward along Oxley Avenue and Mitchell Avenue to the east within the high density zone residential land. There are native Brush Box street trees fronting the site within Mitchell Avenue identified as items of Environmental Heritage as cultural plantings.



Site Location Plan





*Aerial Photograph*

### **3.0 BACKGROUND**

A history of the development proposal is as follows:

- A pre-application discussion (PAD) was held on 22 June 2016 regarding the proposed development (PAD16/0063). A formal letter of response was issued by Council dated 12 July 2016. A full copy of the advice provided to the Applicant is contained within "Appendix B" of this report.
- The current application was submitted on 21 September 2016.
- The application was placed on exhibition with the last date for public submissions being 3 November 2016.
- An Information Session was held on 25 October 2016 and 20 neighbouring residents attended.
- The application was considered by the Architectural Review Advisory Panel on 10 November 2016
- Council requested amendments and additional information on 7 December 2016.
- Amended plans and additional information was lodged 5 January 2017.

### **4.0 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 written requests to vary the Building Height development standard under clause 4.6 of Sutherland Shire Local Environmental Plan 2015.

### **5.0 PUBLIC PARTICIPATION**

The application was advertised in accordance with the provisions of Draft Sutherland Shire Development Control Plan 2015 (SSDCP 2015) and administrative requirements of the Sydney South Planning Panel.

Council notified seventy eight (78) adjoining or affected owners of the proposal and an information session between Council Officers and interested residents was held during the exhibition period on 25 October 2016. The information session was attended by 20 parties.

Council received 17 written submissions at the end of the notification period. A summary of the main issues raised is provided below and a full list of who made the submissions is provided as "Appendix C".

A summary of the main issues raised in these submissions are as follows:

**Issue 1: Urban Design and Site / Locality Suitability**

Building height, bulk and scale of development not in keeping with existing character of locality, streetscape and adjoining built form. Inappropriate zoning and transition to lower density lands. Suitability of green space for resident use.

**Issue 2: Non Compliances**

SSLEP 2015, DCP & ADG (including building height and parking)

**Issue 3: Traffic impacts and Parking and Provision**

Adequacy of access location and parking provision (including visitor) within site and surrounding road network to accommodate increase in population and traffic movements. Waste management and bin collection from the street. Bushfire emergency evacuation and increase in residential population in area of environmental risk.

**Issue 4: Residential Amenity**

Overshadowing and overlooking of adjoining properties. Loss of views and noise arising from the intensity of development.

**Issue 5: Construction Impacts, Stormwater and Infrastructure**

Impacts on surrounding development/lands from construction and excavation works. Adequacy of stormwater design. Stain and suitability of locality infrastructure.

**Issue 6: Adequacy of DA exhibition and applicant submission (traffic report / shadow diagrams)**

Comment: These matters are generally discussed in the report.

**Issue 7: Environmental / heritage impacts including tree removal**

Comment: These matters are generally discussed in the "Assessment" components of this report and have been dealt with by design changes or conditions of development consent where appropriate.

## 6.0 STATUTORY CONSIDERATIONS

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

The following Environmental Planning Instruments (EPI's), Development Control Plans (DCP's), Codes or Policies are relevant to this application:

- *Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015)*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy No. 55- Remediation of Land (SEPP 55)*
- *Greater Metropolitan Regional Environmental Plan No. 2- Georges River Catchment*
- *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)*
- *Department of Planning and Environment - Apartment Design Guide (ADG)*
- *Draft Sutherland Shire Development Control Plan 2015 (SSDCP 2015)*
- *Sutherland Shire Section 94 Contribution Plans*

## 7.0 COMPLIANCE

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

### **State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX)**

BASIX aims to establish a scheme to encourage sustainable residential development across New South Wales. A BASIX certificate accompanies the development application and the proposal achieves the minimum performance levels / targets associated with water, energy and thermal efficiency.

### **State Environmental Planning Policy No. 55- Remediation of Land (SEPP 55)**

SEPP 55 requires a consent authority to consider whether the land is contaminated and, if so, whether the land will be remediated before the land is used for the intended purpose. A site inspection and search of Council records has revealed that the subject site is unlikely to be contaminated and is therefore fit for its intended use. Suitable conditions are recommended in relation to demolition and asbestos removal.

### **Greater Metropolitan Regional Environmental Plan No. 2- Georges River Catchment**

Greater Metropolitan Regional Environmental Plan No. 2 (GMREP2) includes a number of aims and objectives for the environment and water quality within the catchment. Appropriate stormwater management and water quality measures are proposed and there will be minimal likely adverse impacts on water quality. Council is of the view that with the implementation of the recommended conditions of consent the proposal would be consistent with the aims and objectives of GMREP2.



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

SEPP 65 and the accompanying Apartment Design Guide (ADG) seeks to improve the design quality of residential flat development through the application of a series of 9 design principles. Sutherland Shire Council engages its Architectural Review Advisory Panel (ARAP) to guide the refinement of development to ensure design quality is achieved. A brief assessment of the amended development proposal in response to ARAP and Council's concerns having regard to the design quality principles is set out below:

Design Quality Principles	Assessment
Principle 1: Context and neighbourhood character	<p>The development is located within an established low density residential area typified by single occupancy cottages set in undulating topography of sandstone ridgelines and a strong, established landscape character that includes significant mature street trees. The existing residential areas comprised of mid-20<sup>th</sup>-century dwellings will remain on the opposite sides of the sites two frontages to Sutherland Road and Mitchell Avenue. To the north and east, the site adjoins an existing area of older residential flat buildings near the railway line.</p> <p>The proposal, whilst in contrast with this established character (in terms of height, density and general aesthetic), is in keeping with the changing and desired future character established for the high density residential environment. The development is capable of responding to the development on the adjoining lands including the interface with low density residential land uses to the north.</p>
Principle 2: Built form and scale	<p>The proposed built form and scale is generally in keeping with the future character envisaged under SSLEP2015 (note: height non-compliance) but is recommended to be amended in order and to respond to the zone interface and transition in building height along Sutherland Road. The proposal has been skilfully handled, with the built form articulated into smaller parts and arranged to minimise bulk on the sloping site.</p>
Principle 3: Density	<p>The site is earmarked as a 'high density' urban area undergoing renewal from its lower density state (i.e. a maximum floor space ratio of 1.2:1). The density is considered to be appropriate to the size of the site and acceptable even when building bulk has been increased by the use of open gallery spaces for circulation.</p>
Principle 4: Sustainability	<p>Ecologically Sustainable Development principles are incorporated into the development and the proposed development satisfies the minimum BASIX requirements.</p>

Principle 5: Landscape	Landscaping along the sites peripheries, frontages and communal space areas will be provided. Subject to conditions, the landscape design is appropriate and provides for practical and usable spaces, as well as enhancing amenity and the relationship between adjoining properties.
Principle 6: Amenity	The proposal generally satisfies the design criteria of the ADG to enable reasonable residential amenity. This is discussed further below in this report.
Principle 7: Safety	Crime Prevention Through Environmental Design (CPTED) principles are considered in the design of the project. The common areas are well activated and residential areas (including parking / lobby areas) are secured. Additional conditions are recommended to enhance safety and security around the site.
Principle 8: Housing diversity and social interaction	The proposal provides a mix of 1, 2 and 3 bedroom unit types encouraging diversity and social mix. Adaptable and livable housing options are also required. The development includes facilities to encourage social interaction including communal open space areas.
Principle 9: Aesthetics	Whilst the development incorporates a notably more modern aesthetic than surrounding buildings, in general terms the building form, proportions and compositional strategies are of a good contemporary standard for buildings of this type.

### Apartment Design Guide (ADG) – Detailed Guidelines

The applicable design guidelines are contained within the ADG, which respects the 9 design quality principles set out in SEPP 65. The ADG illustrates good practice and the ADG controls are also largely replicated in Council's DCP. The following table provides a compliance checklist with the 'Design Criteria' which indicates that the development performs generally well to afford reasonable amenity to future occupants. Departures from the guidelines are discussed in the assessment component of this report.

Apartment Design Guide (ADG) –Building Key Design Criteria			
Objective	Design Criteria	Proposal	Complies
3D-1 (1)(2) Communal Open Space (COS)	A minimum 25% area of site.	35% proposed	Yes
	A minimum of 50% direct sunlight to the principal usable part of the COS for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid winter).	Minimum 50% direct sunlight to COS for 2 hours between 9 am and 3 pm on 21 June (mid winter).	Yes

3E-1(1) Deep Soil Zones	Sites > 1500m <sup>2</sup> = Minimum dimension 6m  7% of site area	Minimum Dimension 6m  >7% of site area	Yes  Yes
2F - 3F-1(1) Building Separation & Visual Privacy	<u>Internal Separation</u> <u>Up to 4 storeys(approx 12m)</u> 12m between habitable rooms/balconies 9m between habitable and non-habitable rooms 6m between non-habitable rooms  <u>Up to 25m (5-8 Storeys)</u> 18m between habitable rooms/balconies 12m between habitable and non-habitable rooms 9m between non-habitable rooms  <u>Boundary Setbacks</u> <u>Up to 4 storeys(approx 12m)</u> 6m habitable rooms/balconies 3m non-habitable rooms (+3m at zone interface)  <u>Up to 25m (5-8 Storeys)</u> 9m habitable rooms/balconies 4.5m non-habitable rooms (+3m at zone interface)	24.812m central separation between habitable rooms/balconies  U303 – U304, U313 – U308 (and units below) separated 4- 8m  North) 9.1m zone interface East) 4m ground level habitable  East) 6m - 10.3m habitable  North) 10.3m (U403 balcony) – habitable zone interface North) 9.1m (U309) habitable zone interface East) 10.3m & 11.5m habitable	Yes          No – refer to assessment          Yes No – acceptable          Yes          No – refer to assessment No – refer to assessment Yes
3J-1(1) Car Parking	Sites: <ul style="list-style-type: none"> <li>• Within 800m to railway in metropolitan area or</li> <li>• Within 400m of zone B3 or B4 in nominated regional centre</li> </ul> Apply RMS GtTGD rates	Sutherland Shire does not have any Metropolitan Regional (CBD) Centres or Metropolitan Sub-Regional Centres  Parking is to comply with SSDCP 2015 rates	N/A – SSDCP 2015 rates apply

4A-1(1)(3) Solar and Daylight Access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter	52/64 = 81.25%	Yes
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter	4/64 = 6.25%	Yes
4B-3(1) (2) Natural ventilation	At least 60% of apartments are naturally cross ventilated. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line	48/64 = 75%  < 18m	Yes  Yes
4C-1(1) Ceiling heights	Habitable rooms 2.7m	Habitable rooms min 2.7m	Yes
4D-1(1)(2) Apartment Size & Layout	1br bedroom – 50m <sup>2</sup> 2br Bedroom – 70m <sup>2</sup> 3br Bedroom – 90m <sup>2</sup> (+5m <sup>2</sup> for 2 bath)  Habitable rooms to have window with area not less than 10% of floor area	Min 50.4m <sup>2</sup> - 54.6m <sup>2</sup> Min 70.7m <sup>2</sup> - 79.3m <sup>2</sup> Min 102.2m <sup>2</sup>  Minimum glass area of 10%	Yes Yes Yes  Yes
4D-2 (1)(2) Room Depth	Habitable room depths are limited to maximum 2.5 x the ceiling height In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window	maximum 2.5 x the ceiling height  Generally 8m	Yes  Yes

4D-3(1)(2)(3)(4) Living Room Depth	Master bedrooms - min area of 10m <sup>2</sup> other bedrooms 9m <sup>2</sup> (excluding wardrobe space) Bedrooms to have min dimension of 3m.  Living rooms or combined living/dining rooms have a min width of: <ul style="list-style-type: none"> <li>3.6m for 1 bedroom</li> <li>4m for 2 and 3 bedroom</li> </ul>	Generally >10m <sup>2</sup>  Min 9m <sup>2</sup>  Min 3m  Min 3.6m for 1 bedroom Min 4m for 2 and 3 bedroom	Yes  Yes  Yes  Yes Yes
4E-1(1)(2) Private Open Spaces / Balconies	1br = 8m <sup>2</sup> / depth 2m 2br = 10m <sup>2</sup> / depth 2m 3br = 12m <sup>2</sup> / depth 2.4m Ground Level apartments = 15m <sup>2</sup> / depth 3m	Min 9m <sup>2</sup> / depth 2m Min 10m <sup>2</sup> / depth 2m Min 14.2m <sup>2</sup> / depth 2.4m  >15m <sup>2</sup> / depth 3m	Yes Yes Yes  Yes
4F-1(1)(2) Common Circulation and Spaces	Maximum apartments of single circulation core = 8 Buildings 10 or more storeys – max apartments sharing a single lift = 40	Maximum 7 apartments  N/A	Yes
4G-1(1) Storage	1br apartment = 6m <sup>3</sup> 2br apartment = 8m <sup>3</sup> 3br apartment = 10m <sup>3</sup> At least 50% of storage to be located within the apartments	Storage provided for all apartments primarily within individual units and secondary storage areas within basement.	Yes – acceptable

#### Local Controls – SSLEP 2015 and SSDCP 2015

The table below details the main standards / controls within SSLEP2015 & SSDCP2015 relevant to this application.

Sutherland Shire Local Environmental Plan 2015			
Clause	Standard	Proposed	Complies
4.3	Height of Buildings - 16m	Max 17.02m	No – refer to assessment
4.4	Floor Space Ratio Max - 1.2:1	1.205:1	No - Complies subject to condition. Refer to assessment

5.9	Preservation of trees or vegetation	The proposal results in the removal of existing site vegetation. Several established trees are retained and incorporated into the landscape design. Appropriate distance is maintained to adjoining trees and substantial re-vegetation works are proposed.	Yes – Acceptable subject to Conditions
5.10	Heritage Conservation	<p>Medium rating of archaeological sensitivity. No apparent evidence of aboriginal artefacts / relics within site. The proposal does not warrant an Aboriginal Archaeological Study being undertaken.</p> <p>Schedule 5 of SSLEP2015 indentifies the cultural plantings, comprising <i>Lophostemon confertus</i> (Brush Box) within Mitchell Avenue as items of Environmental Heritage (Item No 2102). The proposal does not require the removal of the street trees. The relationship of the development to the plantings and overall streetscape (including the final built form, landscape design, design of driveway / paths etc) is considered to be acceptable and is not anticipated to adversely impact upon the heritage significance of the items and their setting.</p>	<p>Yes</p> <p>Yes – Acceptable subject to tree protection conditions</p>
6.2	Earthworks	Excavation is generally limited to the building footprint. Minor excavation and terracing is proposed along the western side of the site adjoining Sutherland Road. The proposal is acceptable subject to suitable conditions to minimise potential impacts to adjoining lands (i.e. Geotechnical / dilapidation).	Yes
6.4	Stormwater Management	<p>The applicant's design is reliant on obtaining a private easement over the adjoining property (No. 43 Oxley Avenue) and into the natural catchment. Substantial upgrading of Council's infrastructure within Oxley Avenue is required to facilitate the proposal. As agreement has not been obtained and a suitable condition is recommended requiring agreement prior to the issue of any Construction Certificate.</p> <p>Rainwater storage has been incorporated into the revised design for irrigation use within the property which is a more sustainable long-term strategy. The design is considered to be appropriate. The proposal is not anticipated to adversely impact upon adjoining properties in terms of stormwater run-off.</p>	Yes – Acceptable subject to conditions



6.14	Landscaped Area 30%	>30% landscaped area	Yes - Acceptable subject to conditions
6.15	Energy Efficiency & Sustainable Development	The proposal incorporates appropriate measures and construction techniques in conjunction with the development.	Yes
6.16 – 6.18	Urban Design	Proposal demonstrates an acceptable quality urban design outcome. See discussion under SEPP 65 / ADG and assessment component. Subject to suitable conditions the relevant matters in relation to urban design (including resident amenity) have been considered as a part of the assessment of the application and the proposal is considered to be acceptable.	Yes

Sutherland Shire Development Control Plan 2015			
Clause	Standard	Proposed	Complies
Chapter 5 – R4 Residential Flat Buildings			
1.2.1	Minimum frontage width 26m	57.9m Mitchell Avenue 73.1m Sutherland Road	Yes Yes
1.2.5	1m landscaped setback to driveway to basement	1.4m eastern setback to driveway (not a basement entry driveway)	Yes
2.2.1	Street Setback - 7.5m (permitted to encroach 1.5m for 1/3 of façade)	7.6m Mitchell Avenue (6.77m) podium  7.9m Sutherland Road	Yes  Yes
2.2.4	3m landscape strip along frontage where courtyards located in setback	Min 3.2m landscaped area forward of courtyards / Sutherland Road	Yes
3.2.1	Side & Rear Setbacks DCP is generally consistent with ADG	Refer to above ADG and assessment discussions	-
3.2.4	Basement setback – 3m	Min 3.34m (north)	Yes
4.2.1 – 4.2.4	Landscape design and tree planting.	Landscape architect to consider suitability / condition accordingly.	Yes
5.2.4	Primary Balcony / patio DCP is consistent with ADG	Refer to above ADG discussion	-
6.2.2	70% units to receive 2 hours sunlight between 9am – 3pm mid winter	Min 81.25%	Yes

6.2.5	Sunlight to 10m <sup>2</sup> of usable POS of adjoining dwellings must not be reduced less than 2 hours between 9am – 3pm mid winter	Usable POS of adjoining properties maintain solar access	Yes
8.2.1	20% adaptable dwellings =13	20% proposed (13)	Yes
8.3.1	10% Livable dwellings = 6	10% proposed (6)	Yes
11.2.1	Car Parking Rates 1 space per 1 bed (21 = 21) 1.5 space per 2 bed (38 = 57) 2 space per 3 bed (5 = 10) Total: 88 spaces  1 visitor space per 4 units (= 16)  Total = 104	84 residential  13 Visitors  Total 97 spaces	No – refer to assessment
11.2.6	Car wash bay 1 for 10 units 1 per 20 where > 30 units = 3	3 (1 shared with visitor bay)	Yes - acceptable
11.2.8	Minimum crossing / driveway width for combined (entry/exit) 5.5m	Combined crossing width 7m	Yes
12.2.8	On site MRV waste collection required units exceeding 50.	>50, on site provided	Yes
<b>Chapter 35 – Roads, Access, Traffic, Parking and Bicycles</b>			
1.2.7	Motorcycle Parking 1 space per 25 car spaces. (4)	None provided	Yes – condition accordingly
5.2.1	Bicycle Parking – 1 space per 10 car spaces (10)	12 provided	Yes

## 8.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

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

### 8.1 NSW Police

The application was referred to the NSW Police Service on 12 December 2016 for a Crime Risk Assessment in accordance with the protocol established between Council and NSW Police. In accordance with the protocol, if no response is received within 21 days, Council will assume NSW Police do not have any objections to the proposal. A response from the NSW Police has not been

received at the time of writing this report. Notwithstanding the above, consideration to Crime Prevention through Environmental Design (CPTED) and 'Safer by Design' aspects of the proposal have been given and suitable conditions are to be placed on the development consent to reduce opportunities for crime and to enhance general safety and surveillance of the development / surrounds.

## **8.2 Architectural Review Advisory Panel**

The Panel strongly supports the development proposal and recommends minor design refinement be undertaken to enable the development to result in a "very fine" piece of architecture. The proposal is a fine, layered building design and its high quality approach will hopefully translate to the building's materiality, uncompromised by cost cutting measures. The Applicant has been requested to respond to the suggestions of the ARAP report as part of the resolution of design quality issues.

A copy of this report is included as Appendix "D".

## **8.3 Architect**

Comment: A review of the revised development proposal with respect to SEPP 55, the ADG and the applicant's response to the comment of ARAP has been undertaken by Council's Architect. The modifications that have rearranged the pedestrian entries from the public way rationalise way finding with the single gateway into the development providing the benefit of removing privacy impacts to the lower units facing Sutherland Road. This also provides better connection to the Covered Communal Area for future residents and although slightly contorted to the Communal Open Space at the Ground Floor level. In this respect these are better resolutions to the disjointed connection and privacy impact issues incorporated within the design of the original proposal.

The substitution of the paved enclosed forecourt / entry areas of the ground floor southern units facing Mitchell Avenue with landscaped spaces and void spaces over provide better unit identity and benefit the Levels 1, 2 & 3 units over with improved solar access which relieves the previous claustrophobic sense of enclosure. These could be further improved through the incorporation of openings in the roof over.

The adjustments to the northern Level 3 unit (U309) have aggravated the building form dominance upon the adjoining properties and do not comply with the ADG setback measures for this height as the ground level falls significantly and in reality this is the 5<sup>th</sup> storey. As such the setback does not account for the zone interface of that boundary and should be set an additional 3.0m, not added to by the additional bedroom now shown.

Similarly, the separation distance of the balcony for the northern Level 4 unit (U403) is not compliant with ADG measures and as such its configuration cannot achieve the purpose of visual privacy that the measure seeks. In fact the impact upon the adjoining property is heightened.

In regard to these setbacks revisions to the offending units must be undertaken to ensure external amenity impacts are minimised to an acceptable standard.

#### **8.4 Landscape Architect**

Comment: Council's Landscape Architect has undertaken an assessment of the application with respect to landscaping, tree removal and retention (including the heritage listed street trees) and general site planning. Several recommendations have been incorporated into the revised development scheme which have improved the functionality / amenity of communal open space areas. No objections have been raised subject to suitable conditions of development consent, including the control of site access from Mitchell Avenue and the relocation of the OSD tank.

#### **8.5 Traffic Engineering**

Council's Traffic Engineer has undertaken an assessment of the proposed development with respects to traffic impacts, parking provision, waste management and emergency evacuation. Based on the information provided by applicant, the development is generally supported. A summary of this response is provided below:

- The applicant's methodology to estimate the development trip generation, distribution and impact analysis is considered acceptable for this development.
- The proximity of the Jannali railway station within 150 metres of the proposed development also results in the site having exceptional access to public transport.
- The supply of parking is generally in the region of the 104 spaces required under Council's DCP.
- The applicant's methodology to address the parking requirement is considered acceptable for the proposed development.
- A concern with a vehicle waiting to turn into the access driveway potentially delaying other traffic on Mitchell Avenue, including buses, was raised. However, given the low vehicular traffic generation of the proposed development, this concern is of minor significance.
- The driveway off Mitchell Avenue, instead of the preferred Sutherland Road is generally acceptable due to the site constraints.
- Turning swept path for passenger vehicles turning into the development from both east and west of Mitchell Avenue, and within the development for service vehicles needs to be confirmed.
- Footpaths and vegetation planting plans need to be controlled and designed in a way so as to ensure that there is safe access for pedestrians, and that pedestrian and vehicle conflicts are reduced.
- The location and type of development does require a bush fire emergency management and evacuation plan to be prepared. Refusal of the development because it leads to more residents in a suburb, especially when the part of the suburb where the proposed development isn't listed as a bush fire prone land is not appropriate. Having an engaged public that takes personal responsibility to think about what they will do in the event of a bush fire event is one of the main reasons the RFS and other emergency services promote the "have you got a plan?" message.

## 8.6 Engineering

Comment: Council's Engineers have undertaken an assessment of the application with respect to stormwater disposal, car parking design / provision, access arrangement, manoeuvrability, site and waste management and excavation. Specific concerns have been raised regarding the shortfall in visitor parking provision from the rates specified within SSDCP2015. Generally no objections to the development proposal have been raised subject to suitable conditions of development consent. This includes obtaining agreement for the easement to drain water over the adjoining land to Oxley Avenue prior to the issue of any Construction Certificate.

## 9.0 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.

### Zoning & Site Suitability

The proposed development is located within Zone R4 – High Density Residential and 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.*

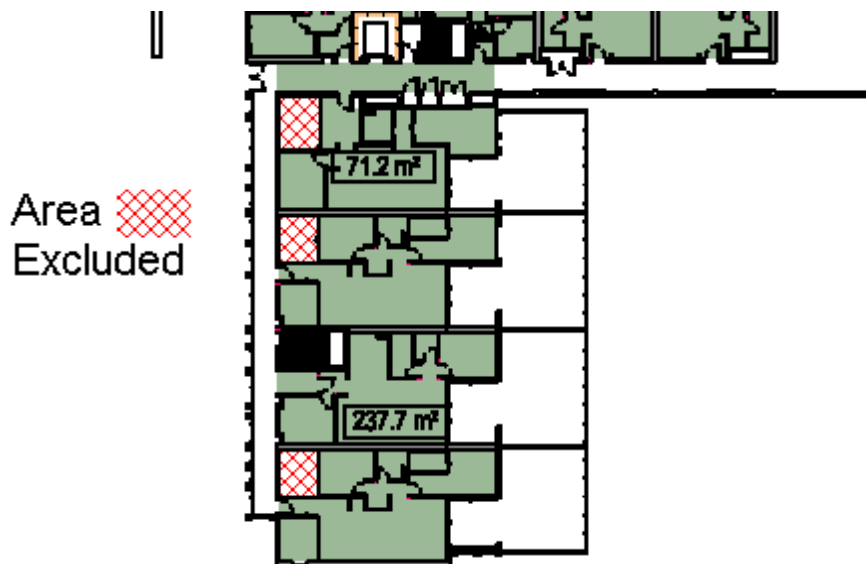
The general site suitability and scale of the development with respect to the desired future residential form, its relationship to adjoining lower density lands and the Jannali Centre, and the anticipated environmental impact is by and large, acceptable and consistent with the objectives of the zone and SSDCP2015. The provision of additional housing stock, particularly in close proximity to major public transport (Jannali Train Station) is consistent with Sydney's broader planning agenda. The design of the development proposes to integrate with the established landscape setting which currently exists on site and the western side of Jannali.

The adjoining lands to the east (No 11, 13 and 15 Mitchell Avenue) are also located in Zone R4 - High Density Residential. There is no amalgamation strategy requiring the block bound by Sutherland Road and Oxley Avenue to be amalgamated into one large parcel. It is anticipated that the remaining

allotments are sufficient in size and dimension to achieve a reasonable development potential as envisaged under SSLEP2015 which will not be isolated or unduly inhibited as a result of the proposed scheme.

### Building Density

The applicant indicates that the proposed development complies and achieves the maximum permitted building density of 1.2:1 or 4972.8m<sup>2</sup> specified under Sutherland Shire Local Environmental Plan 2015 (SSLEP2015). The submitted GFA diagrams have been reviewed and the applicant has excluded the ground floor garden areas adjoining the colonnade and Units UGU04, UGU05 and UGU07 from the calculation (refer to diagram below). Whilst these areas have voids directly above, it is Council's view that these areas comprise floor space as they are largely internalised and enclosed by walls exceeding 1.4m in height and are separated from the external face of the building by a common colonnade and an open form balustrade / safety fence which is 1.8m in height. Council's calculation is that the development marginally exceeds the building density development standard by approximately 25.5m<sup>2</sup>.



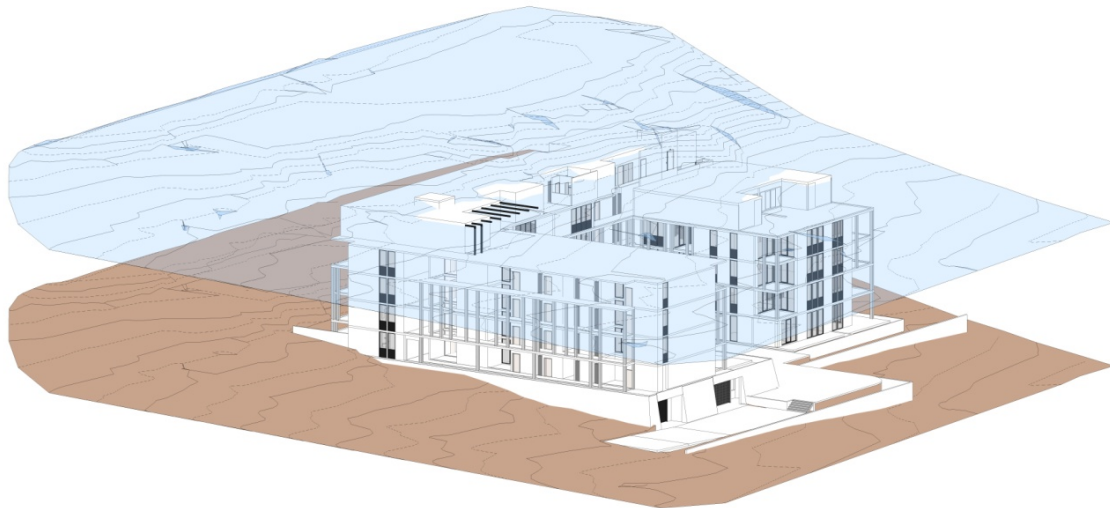
The deficiency in satisfying the development standard has not been addressed by the applicant. There is a significant public benefit to maintain the development standard in the circumstances of this particular case. Council is not supportive of any variation to the development standard, particularly in light of the significant up-lift in permitted densities of the site from Council's previous Local Plan and the abrupt transition of the site from high density land to low density land to the north. As further discussed in this report, suitable design changes are recommended in relation to setbacks from the eastern boundary which will reduce the GFA and building mass at a zone interface, reduce bulk/dominance and visual impacts on neighbours, and subsequently bring the development into conformity with the development standard.

### Building Height

The proposed development fails to comply with the development standard for height. Clause 4.3 of SSLEP 2015 stipulates a maximum height of 16m for this site. The building exceeds the height by a



maximum of approximately 1.02m (7.5% variation). The development exceeds the building height at the eastern projection of Level 3 (Units 308 and 309), the eastern projection of the upper Level 4 floor units and the lift over-runs / plant. The applicants submitted perspective plan depicting the breach above the height plane is provided below.



The applicant written request in accordance with the requirements of clause 4.6 of SSLEP2015 is attached as Appendix “E”.

#### Assessment of Clause 4.6 variation to height standard

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

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

Level 4 and Rooftop - The land falls steeply eastward where in close proximity to the Sutherland Road frontage. The building form attempts to maximise the full permitted 16m height limit and step the building form within the site. This has resulted in areas of non compliances being mainly isolated to the south eastern parts of the upper Level 4 floor units and the lift over-runs / plant areas. The topographical characteristic of the site renders it difficult to realise a building form of a height permitted under SSLEP2015 development standard and avoid breaches in its entirety. This height breaches are mainly located centrally within the roof plan or away from immediately adjoining properties and the sensitive edge of the development where a transition to the adjoining low density residential should be provided. The design of the upper floor appropriately engages and identifies the street corner aspect of the site and provides architectural interest to the building form and does not present a detrimental impact upon adjoining properties, public domain or future occupants of the development in terms of visual intrusion or overshadowing. At this point the variation to the building height standard is acceptable

Level 3 - The northern portion of the Building (in the location of Unit U309) exceeds the height standard. The projection of built form beyond the maximum height control at the sites most sensitive edge is a point where building height should be reduced, not exceeded. As further discussed, Unit U309 also encroaches within the 12m setback required to be provided at the zone interface. It is recommended that a reduction in height, bulk and scale of the Building at the interface with the adjoining low density zoned be provided (consistent with the ADG), particularly the floor space and associated roof form of the master bedroom / bathroom to Unit U309. This in turn removes the majority of roof form which exceeds the maximum permitted height at this point. The resulting projection of built form of Unit 308 is setback further from the property boundaries and stories below and is not anticipated to adversely impact upon the adjoining properties. These design recommendations are anticipated to reinforce and satisfy the objectives of Zone R4 (and the adjacent R2) and the development standard.

Subject to minor design refinement, the development is not anticipated to adversely impact upon adjoining properties or locality in terms of loss of views, loss of privacy, overshadowing or visual intrusion. No detrimental impact is presented in terms of view loss as the loss of any potential views from nearby properties on the western side of Sutherland Road will be of distant views, orientated over a road reserve and a number of properties. The proposal is generally consistent with the desired scale and character of the street and locality including desired future scale and character.

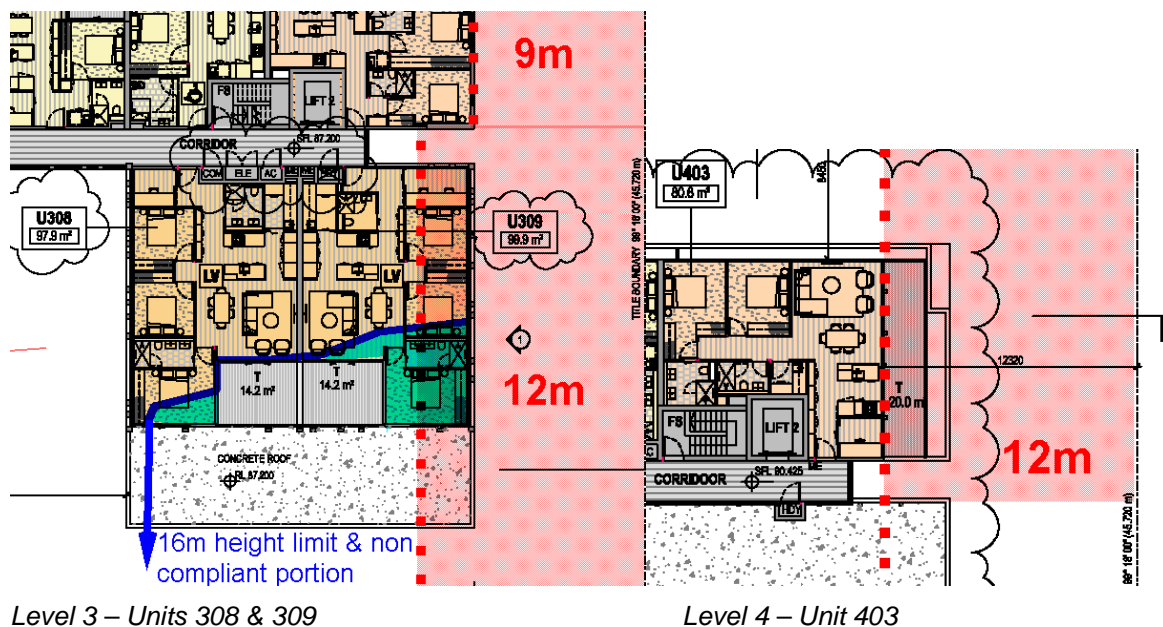
The applicant's submission demonstrates that compliance with the building height development standard is in part unreasonable or unnecessary in the circumstances of the case. It also demonstrates sufficient environmental planning grounds to justify varying this development standard. In terms of scale, the proposed development is in the public interest as the proposal complies with the objectives for both height and the R4 High Density Residential zone. The proposed variation does not raise any matters of State or Regional environmental planning significance. In addition, there is no public benefit associated with arbitrarily reducing the height to the development standard in the

circumstances of this case. In conclusion the variation to the height development standard satisfies all relevant parts of clause 4.6 and therefore the variation can be supported to the extent recommended, subject to a minor design change to Unit 309.

### Zone Interface and Building Setbacks / Separation

The ADG requires a 12m setback at the zone transition to the adjoining lower density area to the north for the habitable portions of the development between 12m to 25m in height (5-8 storeys).

Amendments have been made to the proposal whereby a 12.32m setback is provided to the external wall of upper floor Unit U403 from the northern boundary. The edge of the balcony (habitable interface) does however encroach within the required setback (10.3m). Further, a 9.1m setback is provided to Unit U309 where the ADG requires a 12m setback (i.e. level 5 >12m in height). A portion of this unit also exceeds the building height development standard.



Realising the full development potential particularly at a zone interface is difficult when considering the likely future scale and character of development on neighbouring land. Maintaining compliant setbacks in accordance with the minimum design criteria established in the ADG in this instance enables the building form to articulate and transition appropriately to the lower scale at the sites edge. This is particularly important in this instance when considering the topography of the land and abrupt transitions in zoning (R4 “high density” to R2 “low density”) and associated permitted and anticipated scale of built form. The following design changes are recommended to ensure an appropriate relationship of building form to the adjoining lands along with reasonable levels of external and internal visual privacy (including minimising the visual intrusion of building bulk):

- Delete Unit U403 terrace and relocate internally to the location of the central or western bedroom (reconfigure to 1 bedroom unit).
- Provide a full 12m setback to Unit 309, and delete the floor area in the location of the eastern most bedroom and bathroom (including roof form) where exceeding the height limit (reconfigure to studio unit or consolidate with Unit 308).

The ADG requires a 6m setback to be provided to Units UG02 and UG03 adjoining the eastern boundary (4m proposed to habitable terrace edge). The site adjoins land Zoned R4 – High Density Residential at this boundary and the proposal incorporates privacy screening (to Unit UG03) and landscape treatment along the boundary. The floors above achieve compliance with the design criteria and subject to suitable conditions requiring the erection of screening to Unit UG02, the proposal is considered acceptable and reasonable amenity to the adjoining property is anticipated to be maintained.

### **Privacy & Overlooking**

Specific concerns have been raised regarding the potential overlooking and privacy impacts generated by the proposed development. A large majority of balconies and units are orientated northward and over the side / rear boundaries towards the lower density residential lands.

Consideration is given to reduced amenity where proposals are generally compliant with development standards / controls. It is difficult to realise development of a scale and density as envisaged within Council’s recently gazetted LEP and avoid overlooking entirely. It is also anticipated that in high density urban environments, there will be some level of overlooking. There is an expectation that upon redevelopment the issue of privacy is given careful consideration, however in many circumstances impacts from compliant buildings is often unavoidable.

As previously noted and subject to design change conditions, appropriate setbacks and increased separation is provided to the property boundaries. The submitted landscape plan and perimeter deep soil zones are anticipated to enhance the relationship between properties. Suitable privacy mitigation measures including the placement of highlight windows, screening and planters are also proposed to enhance amenity between properties.

## **Traffic Impact, Parking and Waste Management**

Specific concerns have been raised regarding the potential traffic impacts and parking / pedestrian conflicts within Mitchell Avenue, Sutherland Road and surrounding road network associated with the high density nature of the development, including the evacuation of the locality in the event of a bushfire.

The development fails to satisfy the provisions of SSDCP2015 by 7 spaces (97 provided – 104 required). Part of the applicants justification is that the proposal exceeds the parking rates specified in the RMS Guide to Traffic Generating Developments (GTTGD) as referred to in Part 3J of the ADG (minimum 66 spaces). The Sutherland Shire however does not have any Metropolitan Regional Centres or Metropolitan Sub-Regional Centres specified within the RMS Guidelines and so the local SSDCP2015 parking rates apply. Parking compliance has been a critical matter in the past where sites / localities are constrained including where parking strain is observed within the surrounding streets and immediate locality. This specific part of Jannali experiences streets occupied by train commuters during the week days. Further, it is Council's experience that the anticipated dependence on motor vehicle use / ownership within developments in the Sutherland Local Government Area is greater than inner metropolitan areas.

The recommended modifications to the Unit mix to reduce bulk / scale and achieve appropriate setbacks to the northern boundary results in a reduction in required parking by approximately 3.5 spaces (resulting in a variation to SSDCP2015 of 4 spaces). The undersupply of parking is not considered to be of significant detriment to the proposal. The surrounding road network is generally considered sufficient to accommodate the proposed land use and increase in residential population and anticipated vehicular movements. The site access to Mitchell Avenue and removal of the pedestrian portal to Sutherland Road is appropriate and suitable conditions are recommended to reduce existing and potential future conflicts. The presence of Jannali train station 120m to the east of the site is also anticipated to alleviate the reliance on motor vehicle use from residents within the site somewhat. No detrimental traffic generation, parking stress or increased risk to the public to any unacceptable level is anticipated and the proposed development is considered worthy of support.

## **10.0 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:	\$494,449.77
Community Facilities:	\$83,963.15

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 64 new residential units with a concession of 5 existing allotments.

## **11.0 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 by the applicant.

## **12.0 CONCLUSION**

The proposed development is for the demolition of existing structures and construction of a new residential flat building at 17 - 23 Mitchell Avenue, Jannali, and 78 Sutherland Road, Jannali.

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, Council received 17 written submissions. The matters raised in these submissions have been dealt with by design changes or conditions of consent where appropriate.

The high density development is located on a direct interface with low density zoning and land uses to the north and west. The protrusion of built form beyond the maximum height control and encroachment of the built form within the required boundary setbacks requires a reduction in the mass of the building. The upper levels of the northern part of the Building are recommended to be modified to respond appropriately with and provide a transition to the adjoining low density residential zone. The resulting modification to the apartment mix also results in a parking scheme which closer aligns with the requirements of SSDCP2015. Subject to minor design refinement, the development adequately respects the character and zoning of the area as transitional land and a high density residential area undergoing renewal from its lower density state.

The development is considered worthy of support as it reflects the desired character of development within the Jannali locality as envisaged under SSLEP2015. The development fits appropriately within the context of the existing streetscape and on balance; reasonable amenity is maintained on adjoining lots.

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. 16/1239 may be supported for the reasons outlined in this report.

## **RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Manager, Major Development Assessment (EPh).