

SYDNEY SOUTH PLANNING PANEL

Panel Reference	2016SYE122
DA Number	DA16/1411
LGA	Sutherland Shire
Proposed Development:	Demolition of existing structures, consolidation of 3 lots into 1 lot and construction of residential flat building containing 70 units and 2 basement car parking levels
Street Address:	Lot 1 DP 23978, Lot 2 DP 23978, S/P 30837 – 678, 680 & 682 Kingsway, Miranda
Applicant/Owner:	680-682 Kingsway Caringbah Pty Ltd
Number of Submissions:	Eight
Regional Development Criteria (Schedule 4A of the Act)	The development has a capital investment value of more than \$20 million and as such is nominated under Schedule 4A (3) of the <i>Environmental Planning and Assessment Act 1979</i> .
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment • Apartment Design Guide (ADG) • Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015) • Draft Sutherland Shire Development Control Plan 2015 (Draft SSDCP 2015) • Section 94 Developer Contributions Plans: <ul style="list-style-type: none"> - Shire-Wide Open Space and Recreation Facilities 2005 - Section 94 Community Facilities Plan
Is a Clause 4.6 variation request required?	Yes <ul style="list-style-type: none"> • Building Height
Does the DA require Special Infrastructure Contributions conditions (S94EF)?	No
Have draft conditions been provided to the applicant for comment? Have any comments been considered by council in the assessment report?	No
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Draft Conditions of Development Refusal • Architectural Review Advisory Panel (ARAP) comments • Applicant's Statement of Environmental Effects: Annexure C - Clause 4.6 Variation to Building Height (p36-45)
Recommendation:	Refusal
Report prepared by:	Sinclair Croft, Development Assessment Officer Sutherland Shire Council
Report date	27 February 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? **No**

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

Pursuant to the requirements of State Environmental Planning Policy (Major Development) 2005, this application is referred to the Sydney South Planning Panel (SSPP) as the development has a capital investment of more than \$10,000,000. The application submitted to Council nominates the value of the project as \$20,600,000.00.

PROPOSAL

The application is for the demolition of existing structures, consolidation of 3 lots into 1 lot and construction of residential flat building containing 70 units and 2 basement car parking levels for 81 spaces at the above property.

THE SITE

The subject site is located on the southern side of Kingsway, Miranda, with Pinnacle Street immediately to the south of the site.

ASSESSMENT OFFICER'S RECOMMENDATION

THAT:

Development Application No. 16/1411 for the demolition of existing structures, consolidation of 3 lots into 1 lot and construction of residential flat building containing 70 units and 2 basement car parking levels for 81 spaces at Lot 1 DP 23978, Lot 2 DP 23978, S/P 30837- 678, 680 & 682 Kingsway, Miranda, be refused for the following reasons:

1. The application is considered unacceptable pursuant to *Part 1 of the Environmental Planning & Assessment Act 1979*, as the proposal does not promote the orderly and economic development of the land.
2. The application is considered unacceptable pursuant to the State Environmental Planning Policy 65 and the guidelines of the Apartment Design Guide as it does not meet the building separation requirements which places undue constraints on the future development 11 to 13 Pinnacle Street and the impact on the dwellings at 7 Pinnacle Street and 1/7 & 2/7 Kingsway.
3. The application is considered unacceptable pursuant to the guidelines of the Draft Sutherland Shire Development Control Plan 2015 in that the proposed development:
 - (a) Varies the amalgamation pattern resulting in the isolation of 7, 11 and 13 Pinnacle Street and 676 Kingsway
 - (b) Has not demonstrated that the isolated sites can achieve their full development potential
 - (c) Does not comply with the front setback with 100% of the area of the façade being located within the articulation zone

- (d) Does not achieve the minimum street frontage to Pinnacle Street
- (e) Does not comply with the building envelope heights along Kingsway
- (f) Does not meet car parking requirements
- (g) Has not demonstrated that garbage collection can be achieved from the basement

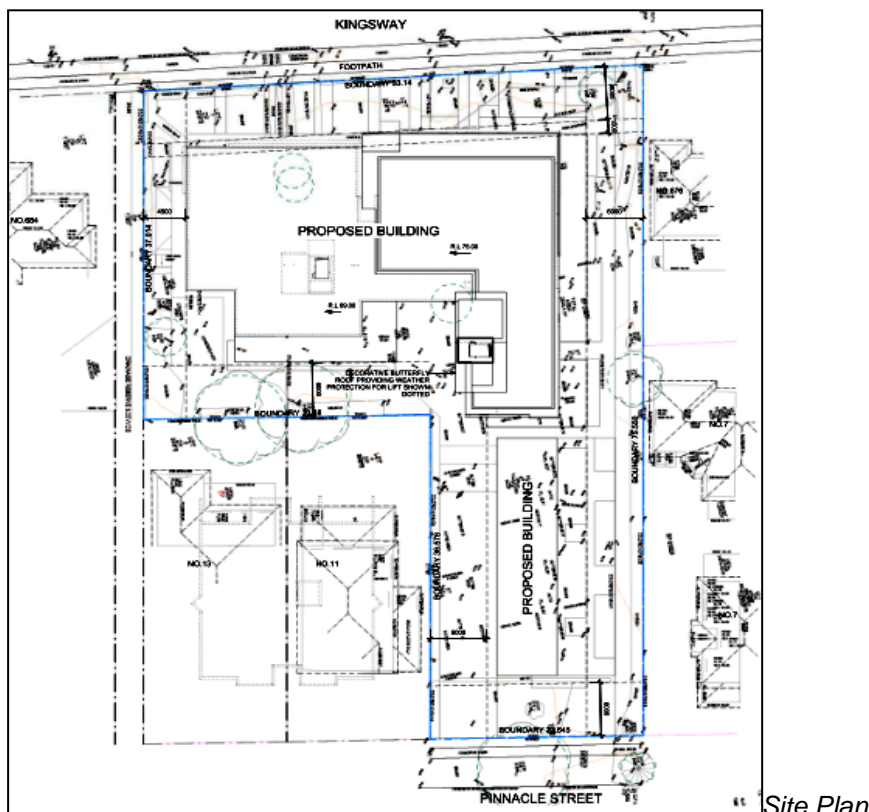
ASSESSMENT OFFICER'S COMMENTARY

1.0 DESCRIPTION OF PROPOSAL

The application is for the demolition of the existing structures, the removal of 2 trees, consolidation of 3 lots into 1 lot and construction of residential flat building (RFB) containing 70 units and 2 basement car parking levels with 81 spaces, including 14 visitor spaces and 3 carwash bays. Vehicular access is from Pinnacle Street.

The main building form of the RFB is 8 storeys to the north, facing Kingsway, including 13 x 1 bedroom and 52 x 2 bedroom apartments. The development steps down to 3 storey townhouses to the south of the site, fronting Pinnacle Street with 5 x 3 bedroom apartments.

The proposal includes associated landscaping, with communal open space located on Levels 6 and 8. A 1.5m public pedestrian pathway is proposed on the eastern boundary from Kingsway to Pinnacle Street and for access to the townhouses to the south.



2.0 SITE DESCRIPTION

The site comprises 3 parcels of land, including an existing Strata Plan all identified as follows:

- 678 Kingsway and 9 Pinnacle Street (Strata Plan 30837);
- 680 Kingsway (Lot 1 DP 23978);
- 682 Kingsway (Lot 2 DP 23978).

All 3 lots currently have access from Kingsway, a 6 lane arterial road. The site at 678 Kingsway and 9 Pinnacle Street also has access from Pinnacle Street. Established vegetation on site is limited, with mature trees located along the south western boundary adjoining 11 and 13 Pinnacle Street. Adjoining the western boundary is a 3.055m combined council drainage reserve and pedestrian pathway (13R Pinnacle Street linking Kingsway to Pinnacle Street).

The proposed amalgamation of lots will result in an L shaped site with a frontage of 53.17m to Kingsway, 22.66m to Pinnacle Street and a depth of approximately 75.48m. The site has a total area of 2,846.3 m². The site falls approximately 3.5m from Pinnacle Street to Kingsway.

The sites and streetscape is currently characterised by single to two storey free standing dwellings along Kingsway with a cluster of multi dwelling housing along Pinnacle Street including multi dwelling housing owned by NSW Land & Housing. However, the precinct is currently subject to significant uplift and the emerging character is one of residential flat buildings. At this point in time, 7 development applications for residential flat buildings, including one JRPP approval, have been issued since the gazettal of the SSLEP 2015.

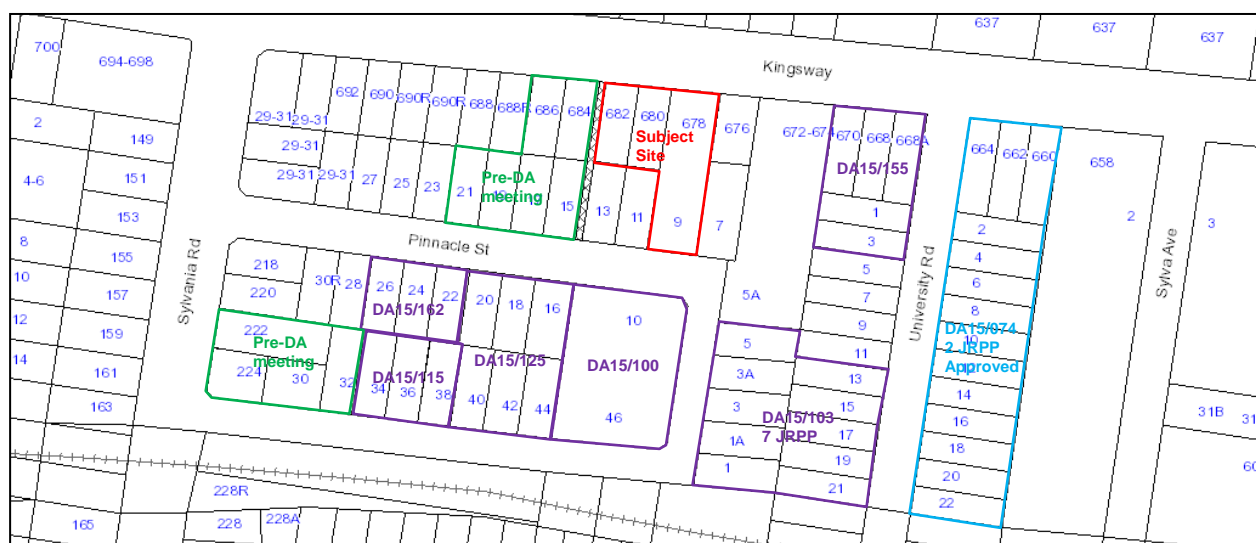


Aerial Plan

The site forms a part of the Miranda Pinnacle Street Precinct as identified in the Draft Sutherland Shire Development Control Plan 2015 (Draft SSDCP 2015). The precinct is located west of the Miranda Centre and is bounded by Kingsway to the north, the railway line to the south, the F6 corridor to the west and Miranda Public School is to the east.



Miranda Pinnacle Street Precinct Amalgamation Plan Option 1 identified in the Draft SSDCP 2015. The site is outlined in red.



Approved developments in the Miranda Pinnacle Street Precinct.

The construction of a RFB has commenced to the south of the site on Pinnacle Street, where a number of RFBs have already been approved. Directly adjoining the site to the east is 676 Kingsway, a single storey dwelling, and 7 Pinnacle Street, two 2 storey dwellings. A single storey dwelling is located to the west of the site, across Council's reserve, at 684 Kingsway. To the south of the site, 11 and 13 Pinnacle Street contain single dwellings.

3.0 BACKGROUND

The site has been the subject of a pre-application Architectural Advisory Panel (ARAP) (ARAP16/0009) meeting on 31 March 2016 and a pre-application discussion (PAD16/0025) on 5 April 2016. A full copy of the advice provided to the Applicant is at Appendix "A" of this report. As part of the assessment process of this DA, the proposal was referred to ARAP on 23 November 2016 for further consideration. An Information Session was held on 15 November 2016 and 4 people attended.

Council requested additional information on 15 and 16 November 2016, 16 December 2016 and 11 January 2017. Amended plans and additional information were lodged between 7 December 2016 to 23 January 2017.

The SSPP were briefed on 20 December 2016 where similar issues to those contained within this report were raised and discussed, partly in relation to the issues associated with the amalgamation plan.

4.0 ADEQUACY OF APPLICANT'S SUBMISSION

At this point in time, the applicant has not provided adequate information to enable a thorough assessment of this application. The application includes Clause 4.6 Variation to the development standards for height, however, the following information is missing from the application or is inadequate:

- Valuation Reports requested for 676 Kingsway and 7 Pinnacle Street have not been provided for assessment.
- The proposal does not demonstrate 7, 11 and 13 Pinnacle Street and 676 Kingsway can achieve their full development potential.
- Possible future development shown on the plans for 11 and 13 Pinnacle Street does not comply with the Draft DCP 2015 height limitations for Pinnacle Street and does not allow a proper assessment of whether these sites can achieve their full development potential.

5.0 PUBLIC PARTICIPATION

The application was advertised in accordance with the provisions of Chapter 41 of the Draft Sutherland Shire Development Control Plan 2015 (Draft SSDCP 2015).

Twenty seven adjoining or affected owners were notified of the proposal on 27 October 2016 and renotified (revised plans) on 21 January 2017 and 8 submissions were received each time.

A full list of those who made submissions, the dates of their letters and the issues raised is contained within Appendix "B" of this report.

The relevant issues identified in these submissions are below. Other issues raised in the submissions included design/aesthetics/streetscape, traffic/car parking, inaccurate property valuations, privacy,

height/ bulk/scale, non-compliance with the SSLEP 2015 and Draft SSDCP 2015 and development potential of the isolated lots. These are discussed in detail in the assessment section of this report.

Issue 1: Views

Comment: Views from this precinct are not iconic views at present. Views may be obtained to the north throughout the precinct as it develops in the future.

Issue 2: Overshadowing & Solar Access

Comment: The proposal meets the requirements of Section 13.2 of Chapter 7 of the Draft SSDCP 2015.

Issue 3: Reduce Property Value

Comment: Property value is not a consideration under the *Environmental Planning and Assessment Act 1979*. However, Council has considered the impacts on orderly development which is partially relevant in this circumstance.

Issue 4: Laneway at 13R Pinnacle Street

Comment: The laneway is discussed in detail in the assessment section of this report.

Issue 5: Amenity of Adjoining Properties

Comment: The proposal in general, reflects the future character of development permissible under SSLEP 2015. However, building separation and setbacks are discussed in detail in the assessment section of this report.

Issue 6: Safety

Comment: The DA was referred to the Miranda Local Area Command Crime Prevention Officer and comments made by the Crime Prevention Officer have been taken into account in the assessment of the DA.

Revised Plans

The applicant lodged revised plans and additional information on 7 December 2016, 9 December 2016, 23 January 2017 and 24 January 2017. In accordance with the requirements of Draft SSDCP 2015 the revised plans were publicly exhibited in the same way as the original application.

Submission Review Panel (SRP)

As a result of the submissions received and the issues raised, the proposal was referred to Council's SRP on 28 February 2017. The SRP decided that the impact on the development potential on adjoining lots at 7, 11 and 13 Pinnacle Street and 678 Kingsway, the non-compliance with the Draft SSDCP 2015 by not providing valuation reports for 13 Pinnacle Street and 678 Kingsway and not demonstrating that the isolated lots can achieve their full development potential in accordance with the DCP guidelines, are substantive. The impacts regarding height, bulk and scale, traffic and car parking

were decided to be relevant and privacy and setback impacts were considered to be reasonable. Other issues raised were decided to be non-substantive, irrelevant or unreasonable.

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 from Council.

The following Environmental Planning Instruments (EPI's), Development Control Plan (DCP), Codes or Policies are relevant in the assessment of 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
- Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015)
- Draft Sutherland Shire Local Environmental Plan 2015 (Draft SSLEP 2015)

7.0 COMPLIANCE

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

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

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

Design Quality Principles	Assessment
Principle 1: Context and neighbourhood character	The proposal does not respond well to the context and neighbourhood character as it breaks from the amalgamation pattern, resulting in a building that does not respond as well to the intended character of the area and that does not adequately address Pinnacle Street. There are non-compliances with building separation to the west, with 11 Pinnacle Street and the front boundary setback which will impact on the future development potential of these lots.
Principle 2: Built Form and	The proposed scale and built form of the building will impact on the

Scale	isolated lots, particularly 11 and 13 Pinnacle Street to the south of the site. This will result from the non-compliant building separation distances to the west and the height of the southern component of the building.
Principle 3: Density	Full development potential may not be realised with the departure from the amalgamation plan, as this proposal has done. The proposal attempts to maximise the density for the development within the confines of the subject site. This has impacted on the proposal being able to comply with building separation requirements and setbacks, which in turn will affect the neighbouring lots achieving their full development potential.
Principle 4: Sustainability	The development incorporates BASIX requirements and sustainability measures into its overall design. The proposal will receive adequate solar access and cross ventilation, though it will impact on the ability for adjoining sites to achieve adequate sustainability levels.
Principle 5: Landscape	The proposal 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, though the proposal.
Principle 6: Amenity	The proposal will potentially reduce the level of amenity that could be achieved if the amalgamation pattern was retained.
Principle 7: Safety	The proposed development considers Crime Prevention Through Environmental Design (CPTED) Principles in the design.
Principle 8: Housing Diversity and Social Interaction	The proposal provides a mix of apartment types and sizes, which encourages diversity including adaptable and garden apartments. A better outcome would be possible if the proposal retained the north – south amalgamation pattern.
Principle 9: Aesthetics	Though an appropriate composition of building elements, textures, materials and colours this has been generally achieved with the development. The Pinnacle Street façade could better address the streetscape with the full width of the amalgamation pattern, which would comply with minimum lot widths intended, address Pinnacle Street better and relate more appropriately with the built form along the Precinct.

7.2 Apartment Design Guide (ADG)

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

Apartment Design Guide (ADG) – Key Controls			
Standard/ Control	Required	Proposed	Complies? (% variation)
Building separation	<i>Up to 12m:</i> 4.5m non habitable	4.5m	Yes
	6m habitable	6m	Yes
	<i>12 – 25m:</i> 6m non habitable	9m	Yes
	9m habitable	3.7m (Levels 4 – 7, western elevation adjacent to 11 Pinnacle, living rooms) (habitable)	No (58.88%)
	<i>Over 25m:</i> 24m habitable	Roof top COS (Level 6) 9.4m to eastern boundary 4.8m adjacent to 11 Pinnacle	No (60%) No (40%)
Street setbacks	Consistent with existing setback patterns	Kingsway: Propose 6m to balconies & 7.5m to northern façade. Approval for DA15/1552 is set back 7.5m to balconies. Pinnacle St: 6m setback to basement stairs. No. 7 set back is 2.5m. No. 11 is set back 5.5m.	No (20%) Yes
Solar access	Living rooms and private open space, 2 hours direct sunlight between 9am and 3pm, mid winter to 70% of apartments	54 of the 70 units or 70% are naturally cross ventilated	Yes
	Solar access to living rooms, balconies and private open spaces of neighbours	Min. 3 hrs sunlight between 9am and 3pm on winter solstice	Yes
	Overshadowing should be minimised to the south by increased upper level setbacks	Upper levels generally step back from 11 & 13 Pinnacle St	Yes
Maximum depth of open plan layout apartments	8m	8m max.	Yes
Natural ventilation	60% of apartments to be naturally cross ventilated. Max. Depth 18m	49 of the 70 units or 70% are naturally cross ventilated < 18m	Yes Yes
Apartment size	1br: 50m ² 2br: 70m ² 3br: 90m ²	1br: Min. 50m ² 2br: Min. 75m ² 3br: Min. 98m ²	Yes Yes Yes
Ceiling heights	2.7m	2.7m	Yes
Apartment Layout - min. internal area	1BR: 50m ² 2BR: 70m ² 3BR: 90m ²	1BR: 50m ² 2BR: 72.3m ² 3BR: 98.1m ²	Yes Yes Yes
Private open space:	<i>Primary balconies:</i>		
– 1 br apartment	8m ² , min. 2m depth	8m ² min, 2m depth	Yes
– 2 br apartment	10m ² , min. 2m depth	11.5m ² min, 2m depth	Yes
– 3 br apartment	12m ² , min 2.4m depth	15m ² min, 3m depth	Yes

- Ground level apartments	Min. 15m ² with min 3m depth	15m ² min, 3m depth	Yes
Communal open space (COS):			
- Size:	25% of site area (713.6m ²)	703m ² = 24.6% of the site	No (1.5%)
- Solar Access:	Direct sunlight to at least 50% of COS for 2 hours, 9am – 3pm	>50%	Yes
3J-1(1) Car Parking	Sites: <ul style="list-style-type: none"> • Within 800m to railway in metropolitan area or • Within 400m of zone B3 or B4 in nominated regional centre • 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 – DCP rates apply
Residential storage	6m ³ per 1br apartment 8m ³ per 2br apartment 10m ³ per 3br apartment At least 50% of storage to be located within the apartments	Between 3.2m ² and 13.2m ² in basement as well as additional within apartments At least 50% of storage is located within apartments	Yes Yes
Acoustic Privacy	Double or acoustic glazing, acoustic seals, use of materials with low noise penetration properties	Acoustic Report recommends materials facing the Kingsway	Yes

7.3 Local Controls – SSLEP 2015 and Draft SSDCP 2015

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

Standard/Control	Required	Proposed	Complies? (% variation)
Sutherland Shire Local Environmental Plan 2015			
Building Height	25m	27.84m (east elevation to top of lift overrun)	No (11.4% or 2.84m)
FSR	2:1 (5,709.06m ²)	1.84:1 (5,255.3m ²)	Yes
Landscaped Area	30% (856.36m ²)	30% (868.3m ²)	Yes
Draft Sutherland Shire Development Control Plan 2015			
Amalgamation pattern	To be in accordance with the Miranda St Precinct Amalgamation Plan Option 1 or Option 2	Not in accordance with either Site contains multi development (not included in amalgamation plan) Contains part of Site 2 & 1 additional lot	No
Carry out development in an orderly manner	Where proposal does not comply with amalgamation plan, demonstrate all sites can achieve their full development potential Schematic design must	Does not demonstrate 11 & 13 Pinnacle St can achieve their full development potential DA doesn't comply with	No

Standard/Control	Required	Proposed	Complies? (% variation)
	show development complies with ADG & allows for building forms of varied height across the precinct	ADG	
Minimum street frontage	26m	Kingsway: 53.7m Pinnacle St: 22.9m	Yes No
Building envelopes	Consistent with Miranda Pinnacle Street Precinct Building Envelope Plan – 1 building, 4 to 8 storeys in height	Consistent – 3-8 storeys in height	Yes
	Development should produce varying building heights across the precinct to produce preferred streetscape outcomes	4 storeys to north eastern corner and 3 storeys to Pinnacle St	Yes
Streetscape & Built Form	Development must be designed and sited so it addresses the street and have a clearly identifiable entry	Proposal addresses Kingsway & Pinnacle St	Yes
Articulation / Streetscape Integration	Built form articulated to avoid large expanses of broken wall	Articulation through varying building setbacks, use of balconies and materials	Yes
Landscape Strip	1m between driveway and neighbouring property	1m	Yes
Street setbacks	Min setback of 7.5m from the Kingsway	7.5m to building facade 6m to balconies	Yes Yes
	Min. 6m setback from Pinnacle St	6.m	Yes
Private courtyards in front setback	3m from front boundary	5m to GF courtyard	Yes
	Building elements may encroach 1.5m into front setback for 1/3 of area of the façade	Balconies along the whole length of the northern façade encroach between 0.6m and 1.5m into the articulation zone	No (100%)
Basement street setbacks	6m to both streets	6m from Kingsway	Yes
	Deep soil setback of 6m from side boundaries	6m from Pinnacle St	Yes
Basement side setbacks	3m	East: 3m West: 2.6m South west: 1m	Yes No (20%) No (33%)
Landscaping	Min. of 6m deep soil landscape area in front setback from Pinnacle St Min. 3m side setbacks	10m East: 5.6m West: 5.6m	Yes Yes
Adaptable apartments	20% (14 apartments)	20% (14 apartments)	Yes
Liveable Housing	10% (7 apartments)	10% (7 apartments)	

Standard/Control	Required	Proposed	Complies? (% variation)
Open space:- – Common	Min 100m ² Min 10m wide	> 1,400m ² 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 ² , min. 2m depth 10m ² , min. 2m depth 12m ² , min 2.4m depth 15m ² with min 3m depth	10m ² min, 2m depth 10m ² min, 2m depth 14m ² min, 2.4m depth 25m ² min, 4.3m depth	Yes Yes Yes Yes
Solar access: Apartments	70% (49) of apartments receive 2hrs mid winter	73% (51) apartments	Yes
Open space	Direct sun between March and September	Achieved	Yes
Car parking	Min. 101 residential spaces	67 residential spaces (+ 4 shared zones)	No (30%)
	Min. 18 visitor spaces	14 visitor spaces	No (33%)
	Min. 2.3 carwash bays	3 carwash bays	Yes
	Waste area to be provided	Bin storage room in upper basement	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 (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. A copy of the full NSW Police comments is held at Appendix "C".

8.2 Architectural Review Advisory Panel

The application with the original design was referred to ARAP on 23 November 2016. ARAP raised concerns with the proposal and made recommendations including demonstrating that acceptable design quality can be achieved in order to realise the available FSR, capacity for feasible and compliant development on 11 to 13 Pinnacle Street, compliance with the ADG and Draft SSDCP 2015 setbacks, deletion of the two south facing units stack and the two west facing units (Units 663 and 767) to improve solar access to the neighbouring site, redesign of the southern townhouse to address the street and relocation of on-site detention basins from the Kingsway frontage. These issues have either not been addressed or revised plans were not satisfactory and remain as significant concerns.

Other concerns raised by ARAP that have been addressed or improved include 24 hour public use of the pathway, increased LSA and deep soil areas, the relocation of garbage collection to the basement and redesign adaptable units so that fewer alterations are required.

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

8.3 Architect (Assessment Team)

The application was referred to Council's Architect who provided feedback in response to amended plans and the issues previously raised by ARAP. Concerns that have not been satisfactorily resolved include the proposal continuing to break the precinct amalgamation pattern in the Draft SSDCP 2015 isolating 11 and 13 Pinnacle Street, the lack of detail treatment to the Pinnacle Street elevation, the viability of the isolated sites and their FSR has not been demonstrated, with the building envelope height exceeding that in the Draft SSDCP 2015 and compliance with the ADG controls. A proper study of development potential on 11 and 13 Pinnacle Street should guide development on the subject site and to ensure equitable development outcome can be achieved on both sites.

8.4 Landscape Architect

The application was referred to council's Landscape Architect for comment. Issues raised that have been addressed include deep soil landscaping needed to support large trees and substantial vegetation. Alternate locations for the rainwater tank were recommended, such as under the driveway. The location of the On Site Detention (OSD) basins within the front setback are in conflict with the provision of substantial sized canopy trees and the extent of vegetation proposed within the front setback.

8.5 Engineering (Assessment Team)

The application was referred to council's Assessment Team Engineer who has undertaken an assessment of the proposal. The Engineer recommended that the stormwater drainage design be redesigned and the rainwater retention be increased to a capacity of 30m³. No OSD was proposed and it is recommended a maximum 29m³ be provided. It was suggested the OSD pond be located between the western elevation of the building and the western boundary, between the front and rear boundaries in a landscaped depression.

Car parking is to be increased to include 119 car parking spaces and two car wash bays in accordance with AS2890.1:2004, AS2890.6:2009, AS4299 and the Draft SSDCP 2015. The Engineer recommended an additional basement level be provided to enable the provision of the required parking bays. This could be achieved by providing stackers to be parked within the footprint of proposed car parking bay Nos. 68 to 79 and 81 to 84.

The development must be able to accommodate a garbage truck with associated working area to the rear of the truck. A Waste Management Report should be provided detailing pickup frequency, location, the truck access way and associated loading area not within the basement of the building.

The basement ramp section has a 25.5m length at 20%, given that this ramp is also the garbage truck access way, the maximum grade should be 15.4%. To comply with the maximum permit able grade of AS2890.2:2002 the building will need to be lifted by approximately 1.3m. Given that the building is already over the height control, lifting the building is highly undesirable. If an alternate garbage pickup arrangement can be put in place where access to the basement is not required by a garbage truck, some of the head height could be removed and the building height could be lowered.

8.6 Building (Assessment Team)

The application was referred to council's Building Inspector who advised that the application can be supported subject to the implementation of relevant standard conditions.

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 plan, codes and policies, the following matters are considered important to this application.

9.1 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, well researched and defined amalgamation patterns have been adopted 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. As this development will depart from the amalgamation pattern, it impacts on the development potential of the site and the adjoining sites and is not as an efficient use of the land as it could be if the amalgamation pattern was followed.

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 and streetscape and vehicle access strategy for this precinct. Whilst the proposal does not propose the maximum FSR for the site, it pushes the limits of the broken amalgamation pattern, while impacting on the development potential of lots that it will isolate.

The proposal includes 3 existing lots, including 2 lots located within 1 amalgamation site (Site 2), as identified in the Pinnacle Street Precinct DCP. However, 11 and 13 Pinnacle Street are not part of this application, effectively breaking the amalgamation pattern. The proposed site also includes 676 Kingsway and 9 Pinnacle Street which are not included in an amalgamation site.

The direct implications of this are that the potential development potential for 7, 11 and 13 Pinnacle Street and 678 Kingsway will be severely compromised because of their isolation including reduced building separation with the subject site, overshadowing, solar access and privacy. The proposal has not adequately demonstrated that the full development potential of these lots can be met. The proposal should demonstrate what the development potential on the adjoining sites will be. The design of the RFB on the subject site needs to respect the development potential by appropriate building separation, setbacks, stepping of the different levels and building height.

9.2 Existing Pedestrian Laneway at 13R Pinnacle Street

No. 13R Pinnacle Street currently provides a pedestrian link between Pinnacle Street and Kingsway. Council's resolution of March 2014, (DAP099-14) proposed to reclassify the land. The purpose of reclassification is to allow Council to have more flexibility in providing a pedestrian pathway between Pinnacle Street and Kingsway, not for the purpose of removing the path or excluding properties from the amalgamations plan. Reclassification would give Council the option to relocate the pathway, if it can produce better redevelopment and public access outcomes.

Clause 5.2.2 of the Miranda Pinnacle Street Precinct DCP requires that the pedestrian link between Pinnacle Street and Kingsway is maintained with the redevelopment of any part of amalgamated sites 1 and 2. The intent of the pedestrian path is to improve and directly provide pedestrian and visual permeability through the precinct and through to the Miranda Centre. This development excludes the laneway, however it proposes a 1.5m public pathway within a 4.5m strip adjacent to the eastern boundary which provides a physical connection between the precinct and Kingsway.

The DCP requirement has been addressed by providing a public pathway providing public access from Pinnacle Street through to Kingsway. The reclassification process for 13R Pinnacle Street will continue independently of this application. The laneway included as part of this proposal will be 4.5m wide with a 1.5m pathway providing connection between Pinnacle Street and Kingsway.

9.3 Building Envelope

Whilst 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 the development on adjoining sites as a result. Changes to the Building Envelope Plan are consequently inevitable and include variations to building footprints. The site amalgamation plan allows for an arrangement of buildings which encourages a variation of building heights across the precinct to maximise solar access to all buildings and allow compliance with the ADG for building separation at different heights between sites.

The proposal seeks to increase the building envelope to the north, facing Kingsway, with 6 storeys at a setback of 4.5m from the western boundary and 4 storeys stepping up to 8 storeys to the east. This is driven by trying to achieve the maximum allowable floor space ratio on an “L shaped” lot.

In principle, the treatment of the eastern portion may be reasonable considering the development includes a 4.5m strip along the eastern boundary including a 1.5m public pathway. This reduces some of the potential impact on privacy and overshadowing to the adjoining development at 678 Kingsway and 7 Pinnacle Street.

The western elevation includes a 6 storey component where the Building Envelope identifies 4 storeys. The applicant argues that the site adjoins a public pathway. There is no certainty this pathway will remain in this location given the current reclassification of the land. As it is not part of the site, its width cannot be included in the setback calculations between the site and 684 Kingsway.

9.4 Isolation of Residual Sites

The proposal will isolate 676 Kingsway and 7, 11 and 13 Pinnacle Street. The application states that 676 Kingsway and 7 Pinnacle Street will be developed with the large adjoining development by NSW Government Family & Community Services at 672-674 Kingsway and that as a result, valuation reports for 676 Kingsway and 7 Pinnacle Street were not considered necessary as the full development potential of these sites was demonstrated in the plans. Development is unlikely by NSW Government Family & Community Services as they have advised Council there are no plans to redevelop the site, which was redeveloped in the 1980s.

Despite 676 Kingsway and 7 Pinnacle Street not being included in the amalgamation pattern, Council encouraged that they be strongly considered as part of the proposal as they are located within the Miranda Pinnacle Street Precinct and become isolated between a high density and medium density development that is unlikely to be redeveloped in the near future. Three valuation reports were required to be submitted for 676 Kingsway and 7 Pinnacle Street, in accordance with the DSSDCP 2015 requirements as Council considered these properties will be isolated as a result of the development. None were provided for 676 Kingsway and 7 Pinnacle Street.

The exclusion of all of these properties will severely impact on the realisation of their full development potential, which will reduce the likelihood of them being developed in the future and therefore remain as low scale residential amongst a precinct of high density. Resulting from the outcome of this investigation, the built form for the revised site should be appropriately set back from adjoining and potential development, stepping down in height to reduce the potential impact of the proposal.

As referred to in the Planning Principles, Part 2 of SEPP 65 contains Design Quality Principles that provide a guide to achieving good design where redevelopment results in the isolation of a site. These are in addition to the SSLEP 2015 and Draft SSDCP 2015 requirements and guidelines and are considered below.

Principle 1: Context states *"good design responds and contributes to its context. Context can be defined as the two natural and Built features of an area"*.

Comment: The proposal does not respond well to its context, particularly with the isolated properties at 7, 11 and 13 Pinnacle Street and 676 Kingsway. With a reduced building separation, this will limit these properties from reaching their full development potential and cause a reduced development potential and overall design for these isolated lots.

Principle 2: Scale states *"good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings"*.

Comment: The western side of the northern façade is taller than the identified building envelope in the Pinnacle Street Precinct DCP. This will impact on future development potential of the adjoining public pathway and 684 Kingsway which is constrained by the F6 corridor to the west.

Principle 3: Built form states *"good design provides an appropriate built form for a site and the buildings purpose, in terms of building alignments, proportions, building type and manipulation of building elements"*.

Comment: The overall design, articulation and building materials will result in an appropriate building form within the Miranda Pinnacle Street Precinct, however causes issues with the development potential for adjoining sites and quality design outcomes will not be compromised.

Principle 4: Density states *"good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents)"*.

Comment: The proposed FSR is under the allowable for the site. Given the departure from the amalgamation pattern, the proposal struggles to relate well within the site and to adjoining properties as it will force the building mass to the north of the site and does not adhere to building separation requirements. A proposal with a lesser number of units would result in a more appropriate development for the site.

Principle 6: Landscape states *"good design recognises that together landscaping and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain"*.

Comment: The proposal meets the LSA requirements for the site. The Landscape Plan generally demonstrates the proposal will result in an integrated system that will improve the aesthetic quality and amenity of the occupants of the proposal.

9.5 Valuation of Residual Sites

As required by Section 5: Amalgamation Requirements in Draft SSDCP 2015, applications seeking to vary the amalgamation plan must include copies of correspondence between the proponent and the owners of any sites not incorporated in the designated amalgamation pattern or the owner of any site that would be isolated by the proposed development.

The submission included 1 valuation report for each of the properties at 11 and 13 Pinnacle Street, which are included in the designated amalgamation pattern. Two more valuation reports for each of these properties were requested by Council, in accordance with the Draft SSDCP 2015 but were not submitted.

The proposal will also isolate 7 Pinnacle Street and 676 Kingsway from future development opportunities. Three valuation reports were required for each of these properties, but were not provided as the application argued that these two sites can be developed on their own.

Though copies of letters of offer are included as appendices to the SEE, the owners of 11 and 13 Pinnacle Street have stated they were contacted by the real estate and received a verbal offer to the value identified in the valuation reports. No written offers were received. Owners of 1 & 2/7 Pinnacle Street and 676 Kingsway also did not receive a written offer. This is contradictory to the DCP requirements as it does not demonstrate a fair opportunity was given to the owners of the subject lots.

Another concern raised by the property owners were the values in the valuation reports and the methods used. A review of the valuation reports in comparison with recent sales in Pinnacle Street shows that they are fair. Concern was also raised regarding the valuation reports considering individual properties, as opposed to being valued as a potential amalgamation pattern. There is no requirement of Council that they be considered for their development potential as part of a larger holding.

9.6 Development Potential of Residual Sites

The schematic drawings do not properly consider the development potential for 676 Kingsway and 7 and 11 and 13 Pinnacle Street. The applicant was requested to provide drawings that consider the development potential of the two sites. The applicant provided drawings for 11 and 13 Pinnacle Street comprising a 5 storey building. No schematic drawings were provided for 676 Kingsway and 7 Pinnacle Street. Based on the information provided for 11 and 13 Pinnacle Street, the built form would require appropriate setbacks from adjoining properties, with building separation shared between neighbouring properties, and stepping down in height to reduce the impact of the proposal. The full development potential of the isolated lots cannot be understood with the information provided.

9.7 Height

Clause 4.3 of the SSLEP 2015 stipulates a maximum height for the development as stipulated in the height and density controls maps contained within SSLEP 2015. The Draft SSDCP 2015 stipulates a maximum height of 4 storeys adjacent to Pinnacle Street and 8 storeys adjacent to Kingsway. A relevant extract from the height and density map is below:



Miranda Pinnacle Street Precinct Building Envelope Plan. The site is outlined in black.

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 development proposes 8 storeys to Kingsway and 3 storeys to Pinnacle Street. The maximum building height under the SSLEP 2015 is 25m. The maximum height of the building is 27.84m which exceeds the height by 2.84 due to the lift and lift overrun accessing the roof terrace. The applicant has lodged a Clause 4.6 Variation to the building height which is at Appendix "D" of this report and the most relevant section is reproduced below:

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

On "planning grounds" and in order to satisfy that the proposal meets objective 1(b) of clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve "a better outcome for and from development", the extent of the height non-compliance largely relates to lift/stair core required for accessibility to the rooftop communal open space. By introducing the lift and stair core, the rooftop communal open space becomes highly accessible to future occupants and amenity of the building becomes greatly improved. The lift/stair core is located centrally in the building and will not be visible from the public domain (streets and proposed pedestrian path). The proposal presents appropriate massing of the allowable building density given the site topography, no impacts to neighbouring properties are likely as a result of the height breach. The additional proposed height will not impede on solar access, views and outlooks, and streetscape bulk in any way. As indicated, the proposal provides for a floor space ratio which complies with the maximum permitted and accordingly, the height breach is not associated with additional density beyond what is expected by the controls.

In the written request to vary 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 result in loss of equitable access to the rooftop common open space. There would be little to no gain to perceived bulk and scale or solar access to neighbouring properties with the reduction of height to the lift overrun and the part of the parapet on the northern facade.

The two areas which breach the height limit represent 17.3% of the footprint of the development footprint. Located toward the centre of the building which fronts Kingsway, the shadow cast by the lift overrun will be narrow and have minimal additional impact to the neighbouring dwellings at 11 and 13 Pinnacle Street. The portion of the parapet located towards the northern portion of the building, will overshadow the rooftop of the building itself and not any adjoining properties. Any additional bulk or perceived scale will be minimal from adjoining dwellings.

The building has been designed to generally comply through the provision of communal open space on the rooftop. The lift core that services the rooftop is in a logical location in relation to service each

level of units and to maximize the northern aspect of units. Compliance with the height limit at this location would remove equitable access to the communal open space on the rooftop which is not a desirable outcome.

On balance, while the minor breach of the height limit benefits the development in terms of equitable access to the communal open space on the rooftop, 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 loss of equitable access to the communal open space on the rooftop.

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. 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 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.

9.8 Building Separation

The ADG requires an 18m separation between buildings for buildings between 12 and 25m high, of which 9m is required to be on the subject site. The western elevation of the southern portion of the proposal does not comply as levels 4, 5, 6 and 7 are 3.7m from the western boundary with 11 Pinnacle Street. The ADG requires a 24m separation for buildings over 25m of which 12m is to be provided on the subject site. The rooftop COS on Level 6 is 9.4m from the eastern boundary and 4.8m from the common boundary with 11 Pinnacle Street. Variations to building separation can be considered depending on the design of any existing developments or the adequacy of window treatments.

The building separation to the western elevation of the southern portion of the proposal (Unit 009 and directly above) must comply with the ADG 12m building separation as a reduced building separation on the subject site burdens the potential future development at 11 to 13 Pinnacle Street which is extremely limited in size and more difficult to achieve a floor plan which provided acceptable amenity given the setbacks required.

As the Amalgamation Pattern Plan and the Building Envelope Plan as envisaged by the Pinnacle Street Precinct DCP have not been implemented, the western setback as anticipated by these plans cannot be applied. The remnant portion of Site 2 (11 and 13 Pinnacle Street) to the west is to be given the same opportunity to develop. 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 western boundary. This may be achieved by reducing the size of each proposed unit or amalgamating units.

9.9 Front Setbacks

The Draft SSDCP 2015 provides concise setback standards for the precinct which have been designed for development in Pinnacle Street. These controls have been consistently applied to achieve council's vision for the precinct. Setbacks for the northern façade comply as they sit 7.5m from the front boundary. The Draft SSDCP 2015 allows building elements to encroach up to 1.5m for one third of the area of the facade. Balconies on the northern façade encroach into the articulation zone for 100% of the area of the façade. The proposal needs to be revised as it should ensure required setbacks are met and consistent with approved setbacks within the precinct.

The DCP requires a 3m side setback for basements. The proposed setback from the western boundary with the adjoining pathway is 2.6m and 1m from 11 Pinnacle Street. The reduced setback is acceptable as the proposal demonstrates compliance with the required 30% LSA.

9.10 Car Parking

Specific concerns have been raised regarding the potential traffic impacts and parking / pedestrian conflicts Pinnacle Street associated with the high density nature of the development. The proposal relies on the car parking rates specified in Part 3J of the ADG and RMS Guide to Traffic Generating Developments (GTTGD). The Sutherland Shire however does not have any Metropolitan Regional Centres or Metropolitan Sub-Regional Centres specified within the RMS Guidelines and the Draft SSDCP 2015 parking rates apply. It is Council's adopted position that the provisions of Draft SSDCP 2015 must be applied and satisfied with any development scheme. Parking compliance is particularly critical given the anticipated dependence on motor vehicle use / ownership within the development.

In response to Council's concerns and advice to comply with its Draft DCP 2015 car parking rates, the proposal continues to rely on the car parking rates specified in Part 3J of the ADG and RMS GTTGD. The proposal fails to comply with the parking generation rates outlined in Draft SSDCP 2015 by 38 spaces (i.e. 34 car spaces and 4 visitor spaces). The development is capable of achieving compliance with the required car parking spaces subject to a reduction in unit numbers, the inclusion of an extra parking level or by including 11 and 13 Pinnacle Street into the scheme.

9.11 Garbage Collection

As required by the Pinnacle Street Precinct DCP, garbage cannot be collected from the street along Kingsway and the Pinnacle Street frontage is too narrow to accommodate the required garbage bins. Therefore, the development must be able to accommodate a garbage truck with the associated working area to the rear of the truck. The basement ramp section has a 23m length at 22%, given that this ramp is also the garbage truck access-way, the maximum grade should be 15.4%. To comply with the maximum permit able grade of AS2890.2:2002 the upper basement floor will need to be lifted 1.5m which will significantly impact on already non-complying height levels causing a streetscape issue

which needs resolving. An acceptable solution to garbage collection has not been provided nor can it be easily conditioned without causing other unacceptable outcomes. The design needs to be modified to address this issue.

9.12 Minimum Street Frontage

The Pinnacle Street Precinct DCP requires a minimum 26m street frontage. The proposal seeks a variation to this as it has a street frontage to Pinnacle Street of just over 22m. The proposal has demonstrated safe vehicular access to the basement parking via Pinnacle Street and safe pedestrian access from both Pinnacle Street and Kingsway. It is proposed that garbage be collected from within the basement, however the proposed driveway levels are too steep for access for an SUV, as discussed above.

Though a high standard of resident amenity will be achieved in respect of privacy, solar access, ventilation, and the provision of outlooks and COS within the development, the proposal struggles with non-compliant front building setbacks and building separation to the west, with 11 Pinnacle Street. The proposal realises that with the reduced street frontage to Pinnacle Street and the proposed lot amalgamation that the full FSR cannot be realised, proposing 1.84:1. Based on the above, the proposal does not demonstrate that it meets the objectives of the Pinnacle Street Precinct DCP which is aggravated with the reduced minimum street frontages.

9.13 Privacy

Concern was raised for the privacy of properties to the south and west of the site as a result of overlooking from units in the building and the rooftop communal open spaces on Levels 6 and 8. The focus of the majority of living areas, large glazing and terraces have been located to the north and east to take advantage of solar access.

Windows in the western elevation from the ground floor up to Level 5 adjacent to the public walkway include kitchen windows and bedroom high sill windows. This elevation is setback 4.5m from the western boundary. This is proposed to be planted as a linking corridor with mixed trees, shrubs and ground covers and a 1.8m high boundary fence. A 3m public walkway with a 1.5m pathway is located between the site and 684 Kingsway.

The western elevation of the southern portion of the building adjacent to 11 Pinnacle Street includes kitchen windows on the ground floor and bedroom windows on Levels 1 and 2. Decorative screens are proposed in front of the kitchen windows to reduce noise and air pollution from the adjoining 5.5m driveway to the basement, which sits between the building and the western boundary with 11 Pinnacle Street. Bedroom windows on Level 2 are proposed to be high level windows. A 1.5m landscape strip is located between the driveway and the boundary with 11 Pinnacle Street, which is proposed to be planted with a Lilli Pilli hedge for privacy.

The northern component of the eastern façade includes living and bedroom windows and terraces on the ground floor up to Level 7. Setbacks from the eastern boundary with 676 Kingsway range from 6m for the ground floor and Levels 1, 2 and 3 and 9m for Levels 4, 5, 6 and 7.

The eastern façade of the 5 terraces towards the south of the site include main entries and living room windows, bedroom windows on Levels 1 and 2 and balconies to Level 2. These are set back 6m from the eastern boundary with 7 Pinnacle Street. The 3m public walkway with a 1.5m pathway is proposed to the east of the townhouses, located between the site and 684 Kingsway. A 3m landscape strip is proposed to be planted as a linking corridor with mixed trees, shrubs and ground covers and a 1.8m high boundary fence.

The southern portion of the building includes living and bedroom windows and terraces on the ground floor up to Level 3, 6m from the boundary with 11 and 13 Pinnacle Street. Levels 4 and 5 include living and bedroom windows and balconies 9m from the southern boundary. A linking corridor with mixed trees, shrubs and ground covers and a 1.8m high boundary fence is proposed along the southern boundary.

The communal open spaces on Levels 6 and 8 propose landscaped podium gardens to the south and west of the building edges. The Level 6 COS will be 4.5m from the western boundary and 9m from the southern boundary. The Level 8 COS will be 25m from the western boundary and 4.6m at its closest point to the boundary with 11 Pinnacle Street.

The above design features and proposed landscaping will assist in reducing privacy issues for the neighbouring properties from ground level, from the southern and western facades of the proposed building and the rooftop terrace. The proposal demonstrates that it meets the objectives of the Pinnacle Street Precinct DCP regarding visual privacy.

10.0 SECTION 94 CONTRIBUTIONS

The following Section 94 contributions apply to development on the subject site.

- Shire-Wide Open Space and Recreation Facilities 2005
- Section 94 Community Facilities Plan 2003

11.0 DECLARATION OF AFFILIATION

Section 147 of the *Environmental Planning and Assessment Act, 1979* requires the declaration of donations/gifts in excess of \$1,000. In addition Council's development application form requires a general declaration of affiliation. In relation to this development application a declaration has been made that there is no affiliation.

12.0 CONCLUSION

The proposed development is for the demolition of the existing residential dwellings and villas and construction of a residential flat building at 678, 680 & 682 Kingsway, Miranda.

The subject land is located within *Zone R4 High Density Residential* pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015 and the State Environmental Planning Policy No. 70 - Design Quality of Residential Apartment Development. The proposed development, being a residential flat building, is a permissible land use within the zone with development consent.

The proposal includes variations to height. This variation has been discussed and overall, is considered acceptable as it provides equitable access to the roof terrace.

In response to public exhibition 8 submissions were received. The matters raised in these submissions have been discussed in this report and include the break in the amalgamation pattern, concern with the valuation reports and the process followed, privacy and overshadowing.

The proposal does not meet building separation requirements of the Apartment Design Guide and guidelines of the Draft Sutherland Shire Development Control Plan 2015, including varying the amalgamation pattern. The applicant has not demonstrated that the isolated sites can achieve their full development potential. There still remains a non-compliance with the front setback with 100% of the area of the balconies to Kingsway located within the articulation zone. The proposal does not comply with the building envelope heights along Kingsway, it does not meet car parking requirements and has not demonstrated that garbage collection can be achieved from the basement. Supporting the proposal will result in the isolation of 4 lots, including 7, 11 and 13 Pinnacle Street and 676 Kingsway.

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 relevant Council Draft DCP, Codes and Policies. Following detailed assessment it is considered that Development Application No. 16/1411 should be refused for the reasons outlined in this report.

RESPONSIBLE OFFICER

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