

SUTHERLAND SHIRE COUNCIL ASSESSMENT REPORT

Panel Reference	2018SSH036
DA Number	DA18/0884
LGA	Sutherland Shire
Proposed Development	Demolition of existing structures, construction of 2 residential flat buildings containing 114 units under the Affordable Rental Housing SEPP and 2 lot stratum subdivision
Street Address	678, 680, 682 Kingsway, Miranda, 11, 13 Pinnacle Street, Miranda
Applicant/Owner	Altis Bulky Retail Pty Ltd As Trustee For Altis Aret Sub Trust 8
Date of DA lodgement	24 July 2018
Number of Submissions	10
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Affordable Rental Housing component exceeding \$5 million
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (State and Regional Development) 2011</i> • <i>State Environmental Planning Policy No. 55 – Remediation of Land.</i> • <i>Draft State Environmental Planning Policy (Remediation of Land) (draft Remediation of Land SEPP)</i> • <i>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</i> • <i>State Environmental Planning Policy (Infrastructure) 2007.</i> • <i>Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.</i> • <i>Draft State Environmental Planning Policy (Environment) (draft Environment SEPP)</i> • <i>Biodiversity Conservation Act 2016</i> • <i>State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP)</i> • <i>State Environmental Planning Policy No. 65 (Design Quality of Residential Flat Development).</i> • <i>Apartment Design Guide (ADG).</i> • <i>Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015).</i> • <i>Sutherland Shire Development Control Plan 2015 (SSDCP 2015).</i> • <i>Sutherland Shire Section 94 Contribution Plans</i>
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Applicant's plans and supporting documentation including Clause 4.6 • Draft conditions of consent • Summary of public submissions • Comments NSW Police Force • Comment Design Review Forum • Compliance Tables – SEPP65, ADG and SSDCP2015 • Architectural Plans
Report prepared by	Manager – Major Development Assessment
Report date	13 May 2019

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 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 (S7.24)? **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? **Conditions made available prior to determination**



Proposal: Demolition of existing structures, construction of 2 residential flat buildings containing 114 units (Amended to 107 units) under the Affordable Rental Housing SEPP and 2 lot stratum subdivision

Property: Lot 1 DP 23978, Lot 2 DP 23978, Lot 3 DP 23978, Lot 4 DP 23978, S/P 30837, 680 Kingsway, Miranda, 682 Kingsway, Miranda, 13 Pinnacle Street, Miranda, 11 Pinnacle Street, Miranda, 678 Kingsway, Miranda

Applicant: Altis Bulky Retail Pty Ltd As Trustee For Altis Aret Sub Trust 8

File Number: DA18/0884

To be determined by: Sydney South Planning Panel (SSPP)

Report from: Shire Planning (EPH)

REASON FOR THE REPORT

The application is referred to the SSPP as the development is for affordable housing under the State Environmental Planning Policy (Affordable Rental Housing) 2009 and is nominated under Schedule 4A (6)(b) of the Environmental Planning and Assessment Act 1979. The applicant's submission and cost estimate of the Affordable Rental Housing component exceeds \$5 million (\$20,700,000.00).

PROPOSAL

The application is for the demolition of existing structures and the construction of 2 residential apartment buildings containing 114 apartments (Amended to 107 apartments) over a unified basement and 2 lot stratum subdivision under the Affordable Rental Housing SEPP.

THE SITE

The land comprises five allotments (known as Nos. 678-682 Kingsway and 9-13 Pinnacle Street, Miranda) and is located within Miranda Pinnacle Street Precinct, bounded by the Kingsway, railway line, F6 road corridor and Miranda Public School. The site is rectangular in shape and has a total area of 3,959m².

ASSESSMENT OFFICER'S RECOMMENDATION

THAT:

1. 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 25m maximum Building Height

development standard with respect to Building A (30.1m) satisfies the relevant provisions of Clause 4.6 and is therefore supported. However a better outcome more suited to the character of the site / locality is recommended. Whilst following the same thread of logic as the applicant's Clause 4.6, an outcome which exhausts all opportunity to reduce the height breach resulting in a slightly improved development scheme is pursued. It is recommended that the provisions of Clause 4.6 be invoked and that the Building Height development standard be varied to 28.9m, in respect to Building A for the reasons outlined in this report and recommended in the conditions of consent.

The applicant's written request in accordance with the requirements of Clause 4.6 of SSLEP 2015 with respect to the non-compliance associated with Building B (28.02m) however is not considered to be well founded. The application has not shown sufficient environmental planning grounds to justify variation of the development standard in the circumstances of the case. This is discussed in detail within the assessment component of this report and a condition of development consent is recommended to reduce the height of the building (primarily deletion of residential level / 7th storey) rendering the development compliant with the development standard.

2. That Development Application No. DA18/0884 for Demolition of existing structures, construction of 2 residential flat buildings containing 107 units under the Affordable Rental Housing SEPP and 2 lot stratum subdivision at Lot 1 DP 23978, Lot 2 DP 23978, Lot 3 DP 23978, Lot 4 DP 23978, S/P 30837 680 Kingsway, Miranda, 682 Kingsway, Miranda, 13 Pinnacle Street, Miranda, 11 Pinnacle Street, Miranda, 678 Kingsway, Miranda be approved, subject to the conditions contained in **Appendix "A"** of the report.

ASSESSMENT OFFICER'S COMMENTARY

1.0 DESCRIPTION OF PROPOSAL

The proposal as submitted is for the demolition of existing structures and the construction of 2 residential flat buildings containing under the Affordable Rental Housing SEPP.

As originally proposed, Building A comprised 8 storeys with a ninth level Communal Open Space, has a frontage to the Kingsway and contained 22 x 1 bedroom, 13 x 2 bedroom and 16 x 3 bedroom apartments (51 in total). Of the 51 apartments, 7 were designed to adaptable (20%) and 8 designed to Liveable standards. Building B comprised 8 – 9 storeys, has a frontage to Pinnacle Street and contains 8 x Studio apartments, 24 x 1 bedroom, 25 x 2 bedroom and 6 x 3 bedroom apartments (63 in total). Of the 63 apartments, 16 are designed as adaptable (20%) and 15 are designed to liveable standards. All units in Building B are to be dedicated for affordable rental housing for a 10 year period.

The buildings are located over three levels of basement which provide 169 parking spaces, bin storage, residential storage and lift access to the units above. Vehicular access is provided from Pinnacle Street and waste servicing is provided on-site and adjacent to building B. Communal open spaces are provided at ground level centrally within the site between buildings and on the roof-top (ninth level) of both buildings. The Stratum Subdivision of Buildings A and B is proposed and an option to upgrade the existing through-site link to the west of the site is proposed.

The application was amended during the course of assessment and a summary of the changes are as follows:

- Building B has been reduced to 7 storeys with an 8th level communal open space
- Total yield has been reduced to 107 apartments.
- Building A - apartment mix to accommodate 22 x 1 bedroom, 13 x 2 bedroom and 16 x 3 bedroom apartments (51 in total).
- Building B - apartment mix to accommodate 7 x Studio, 22 x 1 bedroom, 21 x 2 bedroom and 6 x 3 bedroom apartments (56 in total) all dedicated for affordable rental housing for a 10 year period.
- Of the 107 apartments, 22 are designated as adaptable units and 22 are designated as liveable units;
- Basement parking provision reduced to 160 car spaces (137 residential, 22 visitor and 1 car wash).

A site plan is provided below.



2.0 SITE DESCRIPTION AND LOCALITY

The subject site is located between the Kingsway and Pinnacle Street and is known as Nos. 678-682 Kingsway and 9-13 Pinnacle Street, Miranda.

The land comprises five allotments and is located within Miranda Pinnacle Street Precinct, bounded by the Kingsway, railway line, F6 road corridor and Miranda Public School. The consolidated site is rectangular in shape and has a total area of 3,959m². The frontage to the Kingsway is 53.145m, frontage to Pinnacle Street is 53.131m, and the eastern and western side boundary lengths are 75.55m and 73.59m respectively. There is a moderate fall of approximately 3.5m from Pinnacle Street (south) to the Kingsway (north). The land is currently occupied by 4 single detached dwellings, a multi dwelling housing development, numerous outbuildings, trees and shrubs.

A pedestrian pathway connecting Pinnacle Street to the Kingsway immediately adjoins the site to the west. Single detached dwellings are located on the opposite side of this laneway. Adjoining immediately to the east is a single storey dwelling (fronting Kingsway) and a Strata Titled dual occupancy development accessed via Pinnacle Street. Immediately opposite the site, on the southern side of Pinnacle Street is a 6 storey residential flat buildings under construction and nearing completion. Opposite the Kingsway to the north is open space and land dedicated for the future F6 roadway.

A locality plan and an aerial photo are provided below.





3.0 BACKGROUND

A history of the development site and subject proposal is as follows:

- Council refused a development proposal DA16/1411 on part of this site (Sites at No. 11 and 13 Pinnacle Street excluded). The Land & Environment Court (LEC) subsequently approved the development which entailed an 8 storey building on the lots fronting the Kingsway and a 3 storey building form extending to Pinnacle Street (over 9 Pinnacle Street).
- A pre-application discussion (PAD) for the proposed scheme was not held.
- The current application was submitted on 24 July 2018.
- The application was placed on exhibition, with the last date for public submissions being 13 September 2018.
- An information session between Council Officers and interested residents was held during the exhibition period on session 5 September 2018.
- Council officers requested that the following additional information on 16 November 2019 in relation to the following:
 - Response to the Design Review Forum (DRF) comments.
 - Height, bulk and scale, particularly height of Building B exceeding 4 storeys (DCP).
 - Setback to Pinnacle Street.
 - Side setbacks and compliance with ADG.
 - Internal building separation.
 - Gross Floor Area calculation.
 - Pedestrian laneway dedication.
 - Pinnacle Street Entry.
 - Balcony sizes (ADG) and communal open space.
 - Integration of services, driveway design and waste servicing.

- Stormwater design.
- General documentation and plan details.
- Public Submissions.
- A meeting was held with the applicant on 5 December 2018. Follow up advice was sent to the applicant on 13 December 2018 advising of Council's position, primarily in relation to the height of Building B which should be limited to 6 storeys.
- Amended plans and additional information were lodged on 14, 15 and 27 February 2019.

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 Council to enable an assessment of this application, including a written request 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 and publicly exhibited until 13 September 2018 in accordance with the provisions of Chapter 42 of Sutherland Shire Development Control Plan 2015 (SSDCP 2015) and administrative requirements of the Sydney South Planning Panel.

Council notified 170 adjoining or affected owners of the proposal and an information session between Council Officers and interested residents was held during the exhibition period on 5 September 2018. The meeting was attended by 1 party.

Council has received 10 submissions and a summary of the main issues is provided below. A full list of the locations of those who made submissions, the date/s of their letter/s and the issue/s raised is contained within **Appendix "B"** of this report.

- i) **Compliance** – inconsistencies with relevant Policies and Standards including building height, Precinct Strategy for building massing, floor space, setbacks / separation, parking provision.
- ii) **Urban Design** - Building height, bulk and scale of development inconsistent with character of precinct. Visual intrusion to neighbours from reduced setbacks. Impact of development to the public domain. Retention of pedestrian through link.
- iii) **Traffic, Parking and Waste** - Adequacy of parking provision within site and surrounding road network to accommodate increase in population and traffic movements from affordable. Waste management and bin collection.
- iv) **Residential Amenity** - Over shadowing of adjoining properties. Privacy and overlooking into adjoining private spaces.
- v) **Safety** - Nature of future occupants and opportunities for crime, antisocial behaviour and increased risks to residents resulting from 'affordable' housing occupants.
- vi) **Construction** - Impacts on surrounding development/lands from construction and excavation work. Retention of pedestrian through link during construction.

Comment: These above issues have largely been addressed below within the assessment report (e.g. compliance with standards / controls, building height, setbacks and Precinct character, impacts on adjacent sites, traffic impact, waste management etc.) or where appropriate Conditions of Consent are recommended to be imposed to address concerns. This would include conditions with respect to construction, noise and required approvals under the Roads Act for works within the public way so as to appropriately minimise external impacts. Further operational measures to the use of communal open space areas is recommended to adequately protect neighbourhood amenity.

The existing public laneway is not proposed to be utilised during construction or identified in the Construction Management documentation for such purpose and public access is anticipated to be maintained. Separate approval would be required from Council if this was intended otherwise.

Impact on property prices as a result of supply of units in a particular locality is not a relevant matter for consideration under 4.15 of the Environmental Planning & Assessment Act 1979.

Revised Plans

The applicant lodged revised plans and in accordance with the requirements of SSDCP2015 these plans were not publicly exhibited as, in the opinion of Council, the changes being sought did not intensify or change the external impact of the development significantly.

However, amenity and design impacts, which are normally understood as impacting on property values, including cumulative impacts associated with the intensity of land uses within a locality have been assessed.

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 for a residential flat building is a permissible land use within the zone with development consent from Council. The Affordable rental housing component is permissible pursuant to State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP).

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

- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy No. 55 – Remediation of Land.*
- *Draft State Environmental Planning Policy (Remediation of Land) (draft Remediation of Land SEPP)*
- *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004*
- *State Environmental Planning Policy (Infrastructure) 2007.*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.*
- *Draft State Environmental Planning Policy (Environment) (draft Environment SEPP)*
- *Biodiversity Conservation Act 2016*

- *State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP).*
- *State Environmental Planning Policy No. 65 (Design Quality of Residential Flat Development).*
- *Apartment Design Guide (ADG).*
- *Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015).*
- *Sutherland Shire Development Control Plan 2015 (SSDCP 2015).*
- *Sutherland Shire Section 94 Contribution Plans*

7.0 COMPLIANCE

State Environmental Planning Policy (State and Regional Development) 2011

State Environmental Planning Policy (State and Regional Development) 2011 identifies State and Regionally Significant development in NSW. Schedule 7 of the SEPP identifies this application as regionally significant development as the development incorporates 'affordable housing', has a capital investment value exceeding \$5,000,000 and as such is nominated under Schedule 4A (6)(b) of the Environmental Planning and Assessment Act 1979.

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

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55) requires Council to consider whether the land subject to the development proposal is contaminated; and if the site is contaminated, Council must be satisfied that the site is suitable or can be made suitable (i.e. following remediation) for the proposed land use.

A site inspection identified that the site is currently occupied by dwelling houses. A site inspection and search of Council records (including Council's contaminated land register) indicates that the site is not potentially contaminated. In conclusion, the site is suitable for the proposed residential use in accordance with requirements of SEPP 55. Suitable conditions are recommended in relation to demolition and asbestos removal.

Draft State Environmental Planning Policy (Remediation of Land) (draft Remediation of Land SEPP)

The draft Remediation of Land SEPP seeks to repeal and replace SEPP55 in relation to the management and approval pathways of contaminated land. The draft SEPP was exhibited between January and April 2018. New provisions will be added which will:

- require all remediation work carried out without the need for development consent to be reviewed and certified by a certified contaminated land consultant,
- categorise remediation work based on the scale, risk and complexity of the work, and
- require environmental management plans relating to post remediation, maintenance and management of on-site remediation measures to be provided to Council.

The site and proposal has been assessed against the provisions of SEPP 55 and likelihood of contamination is low. The proposal is satisfactory with regard for the provisions of draft *Remediation of Land SEPP*.

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

State Environmental Planning Policy (Building Sustainability Index) 2004 (BASIX) aims to establish a scheme to encourage sustainable residential development across New South Wales. BASIX certificates accompany the development application addressing the requirements for the proposed building. The proposal achieves the minimum performance levels / targets associated with water, energy and thermal efficiency.

State Environmental Planning Policy (Infrastructure) 2007

Development with frontage to a classified road (clause 101)

Division 17, Subdivision 2 of the Infrastructure SEPP relates to land in or adjacent to road corridors or road reserves. The site has a frontage to the Kingsway which is identified as a classified road on Council's road hierarchy maps.

Before granting consent for development on land which has a frontage to a classified road the consent authority must be satisfied that certain factors have been considered. These factors include safety; efficiency of the road network; design, emission of smoke or dust from the development; nature, volume and frequency of vehicles; and the impact of traffic noise and emissions.

The site is accessed from the secondary (lower order) frontage of Pinnacle Street and is not anticipated to affect the safety, efficiency or ongoing operation of the classified road.

Impact of road noise or vibration (Clause 102)

Division 17, Subdivision 2 of the Infrastructure SEPP also relates to development that may be impacted by road noise or vibration. This application is for residential accommodation and the site is adjacent to the Kingsway and is also identified on Council's Road and Rail Noise Buffer Map.

The annual average daily traffic volume of the Kingsway exceeds 20,000 vehicles. The impact of road noise and vibration on the residential accommodation have been considered under clause 102. The application has been accompanied by a noise assessment addressing the relevant acoustic criteria and NSW Department of Planning's Development near Rail Corridors and Busy Roads - Interim Guideline. Subject to conditions, suitable noise attenuation measures are incorporated into the design of the buildings and an acceptable acoustic environment and reasonable amenity will be achieved for future occupants.

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 is likely to be minimal 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.

Draft State Environmental Planning Policy (Environment) (draft Environment SEPP)

The draft Environment SEPP seeks to simplify the NSW planning system and reduce complexity without reducing the rigour of considering matters of State and regional significance. The draft SEPP was exhibited between October 2017 and January 2018. The SEPP effectively consolidates several SEPPs including SEPP19, SEPP (Sydney Drinking Water Catchment), and GMREP2 and remove duplicate considerations across EPI's. Relevant considerations have been taken into account against the in-force EPIs in this report.

Biodiversity Conservation Act 2016

The Biodiversity Conservation Act 2016 and the Biodiversity Conservation Regulation 2017 outlines the framework for assessment and approval of biodiversity impacts for development that requires consent under the Environmental Planning and Assessment Act 1979. The assessment of the development has revealed that the Biodiversity Offset Scheme (BOS) threshold is not triggered and biodiversity matters have been appropriately assessed via Council's LEP and DCP objectives and controls.

State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP)

The ARHSEPP employs a balanced approach of State obligations to retain / mitigate the loss of existing affordable housing, and to facilitate the effective delivery of new affordable rental housing aimed at supporting local centres by providing such housing for workers close to their places of work. The policy also facilitates the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation. Incentives for new affordable housing are provided by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards. The table below details the main provisions and 'cannot refuse' standards:

Part 2 Division 1			
CLAUSE	REQUIRED	PROPOSAL	COMPLIANCE
Cl.10(2) Development must be within an "accessible area".	800m walking distance of a railway station.	N/A	
	400m walking distance of a bus stop	Within 400m	Yes
Cl.13 Floor Space Ratios	Building A = 4882.2m ² Building B = 4555.29m ² Total GFA- 9437.49m ² (Building B - 48.2% of GFA used as affordable)		
	Max FSR = 2.482:1	2.38:1	Yes
Percentage of the gross floor area of the development that is to be used for the purposes of affordable housing is at least 20%. Existing floor space permitted plus:			
<ul style="list-style-type: none"> • 0.5:1 if GFA for affordable housing is min 50%, or • Y:1 if GFA for affordable housing is less than 50% 			

<p>AH is % GFA used for affordable housing $Y=AH/100$</p>			
CI.14 Standards that cannot be used to refuse consent			
CL 14 (1) (c) Landscape	30% of the site to be landscaped	34% (1355m ²)	Yes
CI14 (1)(d) Deep Soil –	15% with a minimum dimension of 3m	22% (875m ²) Min dimension 3m	Yes
CI14 (1)(e) Solar Access	living rooms and private open spaces for a minimum of 70 per cent of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter	80 of 107 apartments 74%	Yes
CI14(2)(a) Parking	0.5 parking spaces for each dwelling containing 1 bedroom 1 parking space for each dwelling containing 2 bedrooms 1.5 parking spaces for each dwelling containing 3 or more bedrooms Minimum 45 parking spaces	Building B 7 x Studio 22 x 1 bedroom 21 x 2 bedroom 6 x 3 bedroom 62 parking spaces	Yes
CI14(2)(b) Dwelling Size	if each dwelling has a gross floor area of at least: (i) 35m ² in the case of a bedsitter or studio, or (ii) 50m ² in the case of a dwelling having 1 bedroom, or (iii) 70m ² in the case of a dwelling having 2 bedrooms, or (iv) 95 m ² in the case of a dwelling having 3 or more bedrooms.	Min 35m ² Min 50m ² Min 70m ² Min 95 m ²	Yes Yes Yes Yes
CI.16A Character of local area	Development to be compatible with the local area	With the exception of the height of Building B, the proposal is compatible.	Refer to assessment

Cl.17	Must be used for affordable housing for 10 years	All apartments in Building B proposed to be used for affordable housing for 10 years	Yes – Condition accordingly
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State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development – Design Quality Principles (SEPP 65)

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (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. The proposal is affected by SEPP 65. Sutherland Shire Council engages its Design Review Forum (DRF) to guide the refinement of development to ensure design quality is achieved in accordance with SEPP 65. DRF comments are included in **Appendix “C”** to this report.

An assessment of the proposal having regard to the design quality principles of SEPP 65 is set out in **Appendix “D”** to this report

7.1 Apartment Design Guide (ADG)

The applicable design guidelines for the proposed development are contained within the ADG, which is based on the 9 design quality principles set out in SEPP 65. The ADG illustrates good practice and these guidelines are largely replicated in Council’s DCP. A table with a compliance checklist of the proposal against the ADG design criteria is contained **Appendix “E”** to this report.

7.2 Sutherland Shire Local Environmental Plan 2015

The proposal has been assessed for compliance against Sutherland Shire Local Environmental Plan 2015. A compliance table with a summary of the applicable development standards is contained below:

Sutherland Shire Local Environmental Plan 2015			
Clause	Standard	Proposed	Complies
4.3	Height of Buildings - 25m	Building A = 30.1m Building B = 28.02m	No (20.4% Variation) No (12% Variation)
4.4	Floor Space Ratio Max – 2:1	2.38:1	Yes (refer ARHSEPP Bonus)
5.10	Heritage Conservation	Low rating of archaeological sensitivity. No apparent evidence of aboriginal artefacts / relics within site. The proposal does not warrant an Aboriginal Archaeological Study being undertaken. The relevant matters have been considered and the application is acceptable.	Yes

6.2	Earthworks	<p>The proposal includes earthworks and clause 6.2 of SSLEP 2015 requires certain matters to be considered in deciding whether to grant consent. These matters include impacts on drainage; future development; quality and source of fill; effect on adjoining properties; destination of excavated material; likely disturbance of relics; impacts on waterways; catchments and sensitive areas and measures to mitigate impacts. Excavation is generally limited to the building footprint. Site peripheries are maintained as deep soil. The proposal is acceptable subject to suitable conditions to minimise potential impacts to adjoining lands (i.e. Geotechnical / dilapidation). The relevant matters have been considered and the application is acceptable.</p>	Yes
6.4	Stormwater Management	<p>Clause 6.4 requires Council to be satisfied of certain matters in relation to stormwater management prior to development consent being granted. These matters include maximising permeable surfaces; on-site stormwater retention minimising the impacts on stormwater runoff.</p> <p>Rainwater storage has been incorporated into the design for irrigation use within the property which is a more sustainable long-term strategy. The design is considered to be appropriate and stormwater is to be directed into the natural catchment. The proposal is not anticipated to adversely impact upon adjoining properties in terms of stormwater run-off. The relevant matters have been considered and the application is acceptable.</p>	Yes
6.15	Energy Efficiency & Sustainable Development	<p>Clause 6.15 of SSLEP 2015 contains matters for consideration relating to ecologically sustainable development and energy efficiency and sustainable building techniques. The proposal incorporates appropriate measures and construction techniques in conjunction with the development. The relevant matters have been considered as a part of the assessment of the application and the proposal is considered to be acceptable.</p>	Yes

6.16 – 6.17	Urban Design	With the exception of Building B height (discussed in assessment) the proposal largely demonstrates an acceptable quality urban design outcome. 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 not considered to be acceptable subject to suitable conditions of consent.	No
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7.3 Sutherland Shire Development Control Plan 2015

The proposal has been assessed for compliance with SSDCP 2015. A compliance table with a summary of the applicable development controls is contained in **Appendix “F”**. The proposal includes variations to the amalgamation, building envelope and side setbacks controls which is discussed in detail in the assessment component of this report.

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:

NSW Police Force

In accordance with the *Crime Risk Assessment – Police & SSC Protocol 2010* the application was referred to the NSW Police Force - Sutherland Shire Police Area Command for a Safer by Design Crime Risk Evaluation. The NSW Police Force has advised that the proposed development may introduce new (potential) victims, crime opportunities and offenders to the development site and its surroundings. It is possible, therefore, that reported crime will increase in the future. Crime Prevention Through Environmental Design (CPTED) treatment options should be considered for the proposed development in order to reduce opportunities for crime. Conditions are recommended to reduce opportunities for crime and to enhance general safety and surveillance of the development site and surrounds.

A copy of this response is contained in **Appendix “G”**

Design Review Forum (DRF)

The application was considered by Council’s DRF on 27 September 2018. The DRF concluded that while an appropriate strategy has been proposed, the proposal is not supported in its current form. A summary of the main comments are as follows. A copy of the DRF report is provided at **Appendix “C”**.

- The proposal fails to achieve the local area character test of the SEPP when considering the Pinnacle Street Precinct master plan.
- The 8 storey massing to Pinnacle Street is not supported. 6 storeys with further modulation / articulation is more appropriate.
- Compliance with ADG building separation requirements at side boundaries and impacts to adjoining properties / streetscape.

- Opportunity to relocate floor space from Pinnacle Street building to other parts of the site.
- Additional details / refinement of studio apartments, communal spaces, driveway / waste servicing areas, landscaping and services.

Architect

A review of the revised development proposal with respect to SEPP 55, the ADG and the applicant's response to the DRF has been undertaken by Council's Architect who advised:

- The revisions do not achieve a reasonable outcome due to the maintained non-compliant Pinnacle Street building height.
- This excessive height is contrary to DRF recommendation of having a maximum building height of 6 (six) stories for the purpose of recognising the established planning strategy for this newly and significantly altered development zone.
- To disregard the fundamental purpose of this building height standard (ie respect and relate to the neighbours) just to achieve the maximum potential FSR provided under the ARHSEPP on the finite and limited site area cannot be supported as it is not possible to provide reasonable living amenity for future residents both within or outside the site.
- The loss of the central thinner 'waistline' of Building B visually increases the bulk and mass of the offending height Pinnacle Street building form further emphasising the impact of the development's size to its compliant neighbours.
- The added height of the structures associated with the rooftop communal in-conjunction with the additional 530mm raised floor levels makes the visual height of the Pinnacle Street building further apparent to the extent that intensifies the development's size to beyond acceptability.
- The removal of a floor level in Building B would not be detrimental to the future residents with their rooftop communal space at 'eye level' to Building A Level 7 due to the abundant landscape buffer to the rooftop being proposed between the buildings.
- There are some failures to meet ADG Design Guidance measures with open plan layout unit depth exceeding 8 metres.

In conclusion, the original DRF commentary that the proposal fails to meet the local character test as a consequence of the excessive overall height plus lift and servicing overrun remains the fundamental issue that prevents allowing the support of the design on its merits.

Strategic Planning / Properties

Council's Strategic Planning and Properties have been consulted in respect to site planning, the public pedestrian pathway link adjacent to the site and the provisions of SSDCP2015. A summary and outcome of discussions / advice is as follows:

1. The application utilises Option 1 in SSDCP2015 whereby the pedestrian pathway is retained in its current location rather than relocating the pathway to the eastern side of the site (Option 2). This is acceptable from a strategic / property perspective and is not considered to hinder the planning imperatives and strategic direction for the Pinnacle Street Precinct.

2. The application has provided amended plans which provides a 1.5m setback and dedicated landscape strip adjacent to the western boundary consistent with SSDCP2015.
3. There is no SSDCP2015 requirement for an adjustment of the site boundaries, for the resulting 1.5m strip of land to be dedicated to Council or for the strip to formally form part of the laneway (via easement for pedestrian pathway).
4. With respect to works within the public laneway, it is new public domain works that are needed by the precinct not the development. The applicants design option to upgrade the lane referencing the Section 94 Development Contribution Plan 2016 as a mechanism / offset of developer contributions could be considered.

Comment: Council may accept an offer by the applicant to satisfy the contribution, or a portion of the contribution, by carrying out works in kind, in accordance with the applicable Section 7.11 Development Contribution Plan 2016. Council will only accept such an offer where the works are constructed by the developer to the Council's standards and then transferred to Council. Works-in-kind should facilitate items which are included in the works schedule.

Resolution of the applicants offer had not been reached at the time of preparing this assessment report. A suitable condition is recommended to be placed on the development consent to enable flexibility should the applicant wish to pursue this option. Should Council accept works in kind in lieu of a contribution, the consent must be modified in accordance with section 4.55 of the EP&A Act.

Landscape Architect

Council's Landscape Architect has undertaken an assessment of the application (including revised design) with respect to landscaping, tree removal and retention, and general site planning and communal open space provision. The proposal is considered to be acceptable subject to the imposition of conditions of development consent including landscape treatment of the sites frontages, boundaries and communal open space areas.

Engineering (Assessment Team)

Council's Engineer has undertaken an assessment of the application with respect to stormwater disposal, car parking design / provision, access arrangement and site servicing, manoeuvrability, site management (including excavation) and waste management (including method of bin collection). Generally, no objections have been raised in the revised development scheme subject to the imposition of conditions of development consent.

Stormwater Engineer

The site is located at the top of the Gwawley Bay catchment and the applicant's submission, including proposal to incorporate freeboard levels under the DCP have been referred to Council's Stormwater Engineer for comment. The site is not mapped as flood prone and therefore flood related development controls outlined under Chapter 40 of SSDCP 2015 do not apply to the proposed development. The advice has enabled the applicant to amend the development scheme to remove the ramping up and down within the Pinnacle Street frontage which previously presented design / streetscape concerns.

Policy & Strategy Officer - Waste

Council's Waste Officer has reviewed the proposed on-site waste storage and method / strategy for collection. Initial concerns were raised in relation to the following

- Bin collection arrangements, as transfer of bins to and from the bin holding room to loading bay as they are serviced is unacceptable
- Bin transfer arrangements from Basement 2 to Basement 1 as the vehicle access route is too steep to safely transfer laden bins.
- Adequacy of bulky waste storage area/s is provided.

The applicant has submitted revised plans and additional information and no further objection to the proposal has been raised subject to the imposition of a suitable condition of development consent in relation to design and ongoing management.

Building Surveyor

Council's Building Surveyor has reviewed the proposed development with respect to compliance with relevant construction codes and access standards. There are some 'deemed to satisfy' BCA non-compliances, and performance solutions are required to address the design. The applicant's statement confirms that the Certifier is confident that the design is capable of BCA compliance including performance solutions without significant changes being required at Construction Certificate stage that would necessitate a section 4.55 application.

Of concern is the location of the hydrant booster in the north east corner of the site addressing the Kingsway in terms of streetscape presentation as this is located within 10m of the building and may require a radiant heat shield wall in the booster design.

Comment: Suitable conditions of development consent are recommended to address the above.

Environmental Health

The application was referred to Council's Environmental Health Unit who provided comments in relation to building design and resident / neighbourhood amenity (including road noise). No objections to the development proposal have been raised subject to suitable conditions of development consent.

9.0 ASSESSMENT

A detailed assessment of the application has been carried out having regard to the Heads of Consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979. 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 intensification from single dwelling land uses and the provision of additional housing stock, particularly in close proximity to major public transport is consistent with Sydney's broader planning agenda and the core aims of the ARHSEPP. The development is in an 'accessible area' and within a Precinct within proximity to the Miranda Commercial Core earmarked for a substantial uplift in permitted height and densities. With the exception of building height (discussed below and recommended to be resolved via conditions of development consent), the building typology with respect to the desired future residential form, its relationship to adjoining lands (including future to be realised) and the anticipated environmental impact is, by and large, acceptable and consistent with the objectives of the zone and Council's LEP and DCP.

9.1 Height of Buildings

The proposed development fails to comply with the development standard for height. Clause 4.3 of SSLEP 2015 stipulates a maximum height of 25m for this site.

Building A - The roof slab exceeds the maximum height limit by a maximum of 500mm at the north eastern corner of the building form. The lift cores, plant rooms, AC condensers, fire stairs, toilet, communal open space and associated balustrades (i.e. the ninth level) exceeds the maximum height limit by a maximum of 5.1m.

Building B - The lift cores, plant rooms, AC condensers, fire stairs and toilet (i.e. the eighth level) exceed the maximum height limit by 3.02m.

The applicant's eastern elevation plan and perspectives depicting the breach above the height plane of both buildings is provided below, along with the applicant's depiction of approved building heights within the precinct and where variations have been granted.



Figure 1 Eastern Elevation showing Building Height Exceedance (25m height line shown red)



PROPOSED OPTION - VIEW FROM NORTH EAST CORNER



PROPOSED OPTION - VIEW FROM SOUTH EAST CORNER



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

- (a) to ensure that the scale of buildings:
 - (i) is compatible with adjoining development, and

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

The proposed development is located within *Zone R4 High Density Residential* and the objectives of this zone are outlined at the beginning of the assessment discussion above:

The applicant has submitted written justification of the variation in accordance with the requirements of clause 4.6 of SSLEP2015 and is attached as **Appendix “H”**.

Building A

A 25m / 8 storey building form fronting the Kingsway is consistent with SSLEP2015 and the desired character of building form established in Council’s DCP. The Pinnacle Street Precinct / Potential Built Form Plan (depicted below) basically seeks for a transitioning of building height / mass within the site from 8 storeys (fronting the Kingsway) to 4 storeys (fronting Pinnacle Street).



The height non-compliance (to a max 5.1m for lift over-run) is primarily a consequence of providing access to a roof top area and ninth level / storey for communal open space (COS). The non-compliance is limited to a portion of roof slab (north eastern corner), the lift cores, plant rooms, AC condensers, fire stairs, toilet and communal open space area (associated planter / balustrades).

Providing access and amenities at the roof level will significantly enhance resident amenity within the development and provide for an alternate area from the ground level provisions. The use of the COS is not anticipated to adversely impact upon the amenity of adjoining properties subject to the provision of perimeter plantings to avoid overlooking, and with limitations to the use of the area (i.e. hours of use condition). The removal of the roof top COS would closer align the development to the development standard (albeit would still result in minor projections above the roof plan for the portion of roof slab and lift over-run), however would erode the total quantum of COS for resident use within the site and is not considered necessary.

Similarly, the removal of the 8th storey residential level (i.e. to bring the roof COS to the level below) would likely still result in minor portion of roof slab and lift over-run and limit the ability for the development to achieve the desired 8 storey building character and building height as envisaged under the Council's Control's. Further, the loss of residential accommodation / floor space would hinder the strategic planning imperatives of the ARHSEPP and be contrary to the policy intent to allow additional building density above that prescribed in the local standard.

The floor to floor dimension of the residential levels above the ground floor vary between 3.1m and 3.4m. The floor to roof height at the ninth level / COS access level and the associated screen enclosure around the lobby and plant is 3.4m. These heights are considered to be excessive given the breach and could be reduced to 3.1m to the residential levels (i.e. maintaining a 2.7m internal height) and 2.4m to the ninth / COS access level. The lift over-run would be reduced equally which result in a reduction in total height by 1.2m and subsequent maximum height non-compliance of 3.9m. These changes are recommended to be imposed via conditions of development consent (Appendix A) and would not adversely detract from the aesthetic and architectural composition of the development (i.e. lobby volume and banding of roof).

The non-compliant parts of the building are largely centralised and set to the back of the roof / floor plan which do not add significantly to the overall perceived bulk and scale of the building. These building elements are appropriate in design and are not highly visible at a human scale immediately adjacent to the site from street level along the Kingsway. The development presents as 8 storeys to the Kingsway and due to the topography of the site, the rear of the Building and ninth level structures will be perceived as 8 storeys when viewed from Pinnacle Street and the broader catchment to the south of the site. Shadows from the portion of the development are primarily cast over the development / communal open space itself and no detrimental impact is presented to the adjoining properties to any unacceptable level.

The roof top COS areas provide access to sun in winter, yet fails to provide adequate shade in summer and an appropriate amenity outcome for future occupants. To adequately address *Objective 3D-2 of the ADG* shelter within the COS areas is recommended to be provided via design change condition. Such structures to Building A will result in further building form exceeding the height standard however does not exceed the lift overrun and is anticipated to be acceptable as they will be open form / light weight in nature and inset from the edges of the building form.

The applicant's submission with respect to Building A demonstrates that compliance with the building height development standard is 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 (i.e. removing a residential level) in the circumstances of this case. In conclusion the variation to the height development standard with respect to Building A satisfies all relevant parts of clause 4.6 and therefore the variation can be supported.

Building B

Whilst subject to a 25m maximum building height, the Pinnacle Street Precinct / Potential Built Form Plan DCP seeks to limit height to 4 storeys on a reduced 6m street setback to Pinnacle Street. The applicant has submitted amended plans during the course of assessment whereby Building B has been reduced in height from 8 storeys (with roof top - ninth level COS) to 7 storeys (with roof top - 8th level COS) in response preliminary assessment concerns. The resulting height non-compliance is limited to the lift cores, plant rooms, AC condensers, fire stairs and toilet (to max 3.02m). A perspective of the proposed building is provided below.



It is noted that the DRF and Council staff concluded a 6 storey form (accommodating a roof top - 7th level) with modulation / articulation of building form (particularly the upper levels) as the appropriate maximum when considering the building height objectives, the Pinnacle Street Precinct master plan and desired local area character, along with the character test of the ARHSEPP. Whilst a significant and commendable reduction in the mass, bulk and scale compared to the originally submitted scheme, (particularly the expression of the 4 storey base form which reflects the desired building height on Pinnacle Street), and inseting of the upper floor plan from the 4 storey base (including compliant setbacks and separation), concerns remain regarding the appropriateness of the full 3 levels above this base.

Due to the site topography, there is no transition of building height from the Kingsway to Pinnacle Street. Both buildings exceed the building height development standard. Notwithstanding the permissible FSR, the transitioning height and scaling down of building form southward from the Kingsway in the fashion as expressed in the DCP is appropriate and has been a consistently applied outcome within the Precinct as evidenced by approvals east of the site. It is also anticipated that the adjoining site to the west will provide a 4 storey form fronting Pinnacle Street as per the DCP. The height of Building B fails to achieve consistency with this desired character of building form within the precinct and streetscape. An 8 storey (Building A), 6 - 4 storey (Building B) site design approach from the Kingsway to Pinnacle Street (noting the site topography) provides the appropriate transition of building mass within the site when both the balancing of public / social benefits associated with distributing additional GFA under the ARHSEPP (for the purpose of providing housing opportunity) and the character of the Pinnacle St Precinct and streetscape (including buildings directly opposite which are of a similar height).

At 7 storeys (with roof top - eighth level COS), Building B fails the objectives of the development standard with respect to the desired and scale and character of the street and locality in which the building is located. The perception of openness within the streetscape is compromised and the building will be visually intrusive to be nearby properties in this regard. Approval of the proposed building height will be incompatible with future development on the adjoining lots and will set an undesirable precedent. A reduction in height to a 6 storey form (accommodating a roof top - 7th level) would result in more reasonable daylight access to the public domain and would better make recessive the upper DCP non-compliant building form (i.e. above the base) and will evidently lessen bulk and scale when viewed in the surrounds and at the human scale. Consistent with the discussion in relation to Building A above, there is opportunity to also reduce floor dimension between Level 4 to 5 floor to 3.1m and the floor to roof height at the eighth level / COS access level to 2.4m (and equally by 1m to the lift over-run) which will further minimise the height, bulk and scale of the development and desired character of the development (total 1.1m).

As part of the applicant's submission, reference is made to a prior development approval by the Land & Environment Court (LEC) of a Council refused development scheme on part of this site (DA16/1411). The approval entails an 8 storey building on the lots fronting the Kingsway and a 3 storey building form extending to Pinnacle Street (over 9 Pinnacle Street). Sites at No. 11 and 13 Pinnacle Street were excluded from this scheme. In support of this proposed 7 storey building B form, the applicant indicates that the LEC considered building heights on excluded lots based on the LEP height of 25m and the DCP with its envelopes over part of the site and determined that development was feasible and relied on plans in evidence showing 7-8 storey buildings on the Pinnacle Street fronting sites. It is Council's view that the Court accepted that it was only necessary for the applicant to demonstrate that there are feasible options for the development of these adjoining sites and that it need not provide a more detailed hypothetical development proposal akin to what one would expect with a development application. The considered height should not be an automatic precursory approval / or an acceptable outcome in support for building height under this Development Application. The information relied upon is considerably merely an exercise in demonstrating feasible opportunity so as to not unduly inhibit development on excluded lots, rather not being a detailed assessment of the merits of such building forms in the context of the locality and having

regard to the character of the streetscape. Further, the LEC considered plans would also present a different form and character outcome, including relationship to adjacent development(s) if realised, in contrast to this proposal being a broad building form on a larger consolidation of allotments.

The applicant also indicates that a reduction in the height of Building B below 7 storeys would create an unviable scenario to achieving the 0.5 ARHSEPP FSR bonus, a critical component to achieving 50% affordable housing (another public benefit for the proposal -providing greater access in Miranda to more affordable housing in proximity to public transport). Whilst the public benefit is undeniable, this as a consideration alone to justify the breach in LEP building height and the scale and nature of Building B having regard to the character of the Pinnacle Streetscape is not accepted.

The applicant's submission with respect to Building B fails to demonstrate that compliance with the building height development standard is unreasonable or unnecessary in the circumstances of the case and does not demonstrate sufficient environmental planning grounds to justify varying this development standard. In terms of scale, Building B is not in the public interest as the proposal fails to achieve compliance with the objectives for both height and the R4 – High Density Residential zone. There is a public benefit associated with reducing the height of the development to comply with the development standard (in the circumstances of this case). In conclusion the variation to the height development standard with respect to Building B fails to satisfy the relevant parts of clause 4.6, therefore the variation cannot be supported.

Rather than refusal of the application on this specific basis, Council however recommends the Panel to consider removal of the 7th residential level and adjustment of the floor to floor / roof levels to address these concerns. A condition of consent is provided in **Appendix "A"** of this report to reflect this recommendation. This will render Building B fully compliant with SSLEP2015 and Clause 4.6 justification is not necessary. With respect to COS and appropriate amenity as discussed in the Building A discussion above, the reduction in height of Building B will enable a single structure to be provided wholly below the maximum permitted height plane and centrally within the roof / COS plan which will not add detrimental bulk and scale to the reduced building form and will provide for enhanced amenity.

General Urban Design & Residential Amenity

SSLEP2015 and SSDCP2015 contain certain matters of consideration relating to urban design and residential amenity. Clause 16A of the ARHSEPP specifies that a consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area. The diagrams below depict Site 2 in Option 1 of the Miranda Pinnacle Street Amalgamation / Building Envelope Plan SSDCP2015. The proposed development incorporates Site 2 and an additional site to the east (noted with dot notation). It is appropriate to consider application of the Potential Built Form Plan to the larger amalgamated site given the broader Precinct Strategy / desired character along, existing development approvals and to establish a desirable precedent for future development on the adjacent lots.



Amalgamation of 'Site 2' with an eastern adjoining site (as proposed) was not envisaged under SSDCP1015. Whilst omitted from the Precinct strategy, the remaining sites to the east (denoted in 'grey' in the diagrams above) are located within the same Zone, permitted to the same maximum height and density under SSLEP2015 and would be capable of amalgamation to a larger development site. Development is not anticipated to be unduly isolated or inhibited by the proposed development incorporating the additional site.

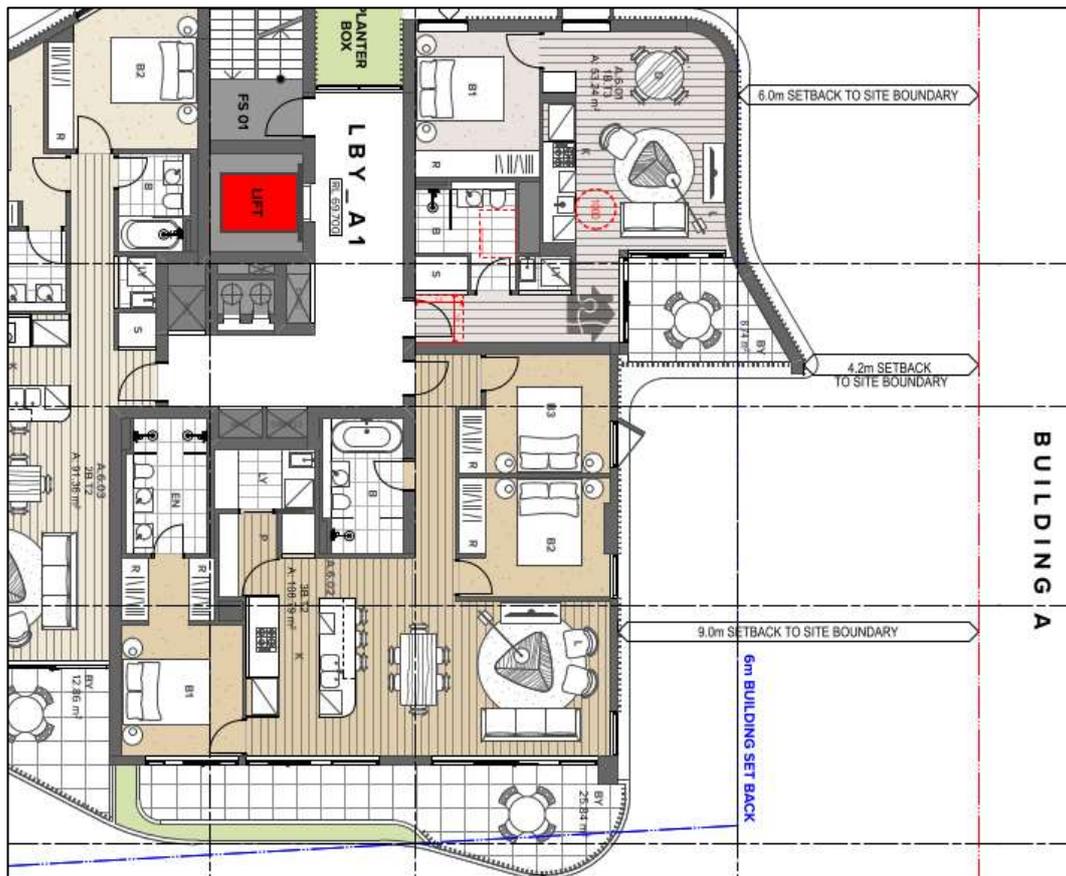
As previously discussed, the proposal does not respond in full to the desired character of this locality which is the main test to overcome when developing pursuant to the ARHSEPP. The issue primarily lies with the Pinnacle Street Building B where the ARHSEPP floor space bonus sought above SSLEP2015 results in a building significantly exceeding 4 storeys as envisaged under the Potential Built Form. It is noted that the desired future character for high density residential development in this Precinct is 2:1 which is evidenced by recent approved / constructed developments. Realising the full permitted floor space bonus under the ARHSEPP is proven difficult and not likely to be possible in this instance. The recommended reduction in height would enable the development to better relate to the scale of development on the existing eastern adjoining properties and set suitable cues for four storey building forms to be constructed as envisaged along the northern side of Pinnacle Street.

The proposal utilises Option 1 in SSDCP2015 whereby the pedestrian pathway is retained in its current location rather than relocating the pathway to the eastern side of the site (Option 2). This is acceptable and is not considered to hinder the planning imperatives and strategic direction for the Pinnacle Street Precinct. A 1.5m setback and dedicated landscape strip adjacent to the western boundary consistent with SSDCP2015 is provided and the proposal reinforces the intent of the DCP which is to deploy a setback which would be landscaped and so visually add to the width of the space. The Potential Built Form Plan diagram below also indicates the following building setbacks to the side boundaries (below).



Compliant side setbacks are provided to Building B up to 4 storeys (i.e. 6m). There are no setbacks indicated for a building exceeding 4 storeys, however it is noted that setbacks to the upper storeys are provided in accordance with the ADG (i.e. minimum 9m). The suitability of the building form above 4 storeys is discussed previously in the assessment report.

Compliant side setbacks are provided to Building A up to 4 storeys (i.e. 6m). Where above 4 storeys, Building A does not provide the full 8m setback to the western boundary or 12m to the eastern boundary. A depiction of the setbacks sought to the western boundary to Building A is provided below noting that the setbacks are also replicated to the eastern boundary.



Where above 4 storeys Building A is predominantly setback 6m - 9m to the boundaries with the exception of a point encroachment to 4.2m where the balcony edge and building form splays. Whilst strictly not in accord with the DCP, the proposal has largely adopted the minimum non-habitable and habitable setback requirements of the ADG. Whilst it would be possible to remove the splayed balcony / point encroachments to achieve the ADG, this would be of detriment to the aesthetic and architectural merit of the development. The development maximises internal solar access to apartments and the proposal is generally consistent with the objectives contained within SSDCP2015 along with the consideration criteria where variations are proposed. Suitable neighbourhood / resident amenity on the adjoining lots is maintained and suitable privacy treatment is provided along with the suitable orientation of balconies internally within the site or towards the sites frontage. The reduced setbacks do not inhibit the ability for suitable peripheral landscaping to be provided, to visually soften the built form within the site and to provide for landscape amenity. Adequate separation from existing and future adjoining development is provided and the proposal is not anticipated to prevent the neighbouring sites from achieving suitable development potential. Further, the DRF was largely supportive of the approach to Building A with respect to SEPP65, the ADG and Council's relevant controls.

Overshadowing

The site is earmarked within a 'high density' area undergoing renewal from its lower density state. Consideration is generally given to reduced solar access where proposals are generally compliant with development standards / controls, and the extent of impact is the result of orientation, site constraints, and or existing built forms. It is also anticipated that in high density urban environments, there will be reduced solar access. The orientation of the allotment and its relationship to adjoining lands makes it difficult to

realise development of a scale and density as envisaged within Council's Controls and avoid overshadowing and associated visual impacts of larger built forms entirely. There is an expectation that upon redevelopment the issue of overshadowing is given careful consideration, however in many circumstances impacts from compliant buildings is often unavoidable. The orientation of the allotment enables reasonable solar access to be maintained on the adjoining lots. Coupled with the recommended reduction in the height of Building B, the proposal is acceptable in terms of its overshadowing impact upon the surrounds.

Communal Open Space

The application relies on approximately 267m² of the sites frontage to the Kingsway for Communal Open Space to achieve the minimum 25% requirement under Part 3D-1 of the ADG. The frontage is not a particularly appealing or appropriate location for communal use that offers a high level of amenity as the area is collocated with individual dwelling entries, is within proximity to the major arterial road with its associated poorer air quality and noise generation, and does not provide amenities such as seating which would typically be provided. Whilst included in the calculation, it is noteworthy that should this area be excluded from the calculation, then the development would achieve 745m² (18.8%). Notwithstanding the above, the development provides suitable communal open spaces with generally well-appointed amenities (e.g. seating, BBQ, landscape, toilets) at ground level centrally within the site between buildings and on the roof-top of both buildings. The area of roof tops could be enlarged, and individual entry paths in the frontage deleted to increase the provisions and closer align with the ADG, this however is not considered to be necessary. Additional shade structures are recommended to further enhance the quality of the spaces (refer also to building height discussion). In order to enhance the amenity of occupants internally and neighbouring residents, a conditions is recommended limiting the timing and use of the roof top COS areas.

Mix of 'Affordable' Apartments in Development

Whilst each building provides a mix of apartment types (e.g. studio, 1, 2, and 3 bedroom) along with adaptable and livable design options, the application proposes to provide the affordable and non-affordable apartments in separate buildings rather than mix and integrate the affordable units throughout the development as a whole. Specific concern has been raised regarding potential social issues associated with separating the two apartment tenure typologies. In response the applicant has submitted a social sustainability report addressing this concern and explores specific case studies which support the proposed scheme and demonstrate that a separated approach is acceptable. There is often a misconception and socio-economic stigma as to future occupants of affordable housing developments. The residents in Building B will be key/essential workers meeting the ARHSEPP eligibility and income criteria. An example currently exists with the Sutherland Centre of a purpose built apartment building for affordable housing, set within a high density environment and surrounding by non-affordable developments, which would be a similar scenario to that as proposed. The development is considered to be acceptable and not anticipated to give rise to adverse social impacts.

Traffic Impact, Car Parking and Waste Management

Specific concerns have been raised regarding the potential traffic impacts and parking / pedestrian conflicts within the surrounding road network associated with the high density nature of the development, in addition to recently constructed buildings within the Pinnacle Street Precinct.

Parking compliance is particularly critical given the constraints and known parking strain within the street and immediate locality, as well as the anticipated dependence on motor vehicle use / ownership within the development. The proposal provides sufficient on-site car parking, noting the affordable housing component is provided with reduced rates compared to Council's DCP under the ARHSEPP. The immediate locality is undergoing upgrade, and whilst public parking will be limited, the surrounding road network is generally considered capable to accommodate the proposed land use and increase in residential population and anticipated vehicular movements. No significant traffic generation, parking stress or increased risk to the public is anticipated.

Specific concerns have also been raised regarding the method of waste disposal. The proposal has incorporated on-site waste storage and collection facilities for a Heavy Rigid Vehicle (HRV) In accordance with Council's current waste specification. This is an acceptable outcome given the nature / constraints associated with Pinnacle Street. Council's Engineers have reviewed the proposal and raise no objections No significant risk to the public or external traffic impact is anticipated.

10.0 DEVELOPMENT CONTRIBUTIONS

The proposed development will introduce additional residents to the area and as such will generate Section 7.11 Contributions in accordance with Council's adopted Section 94 Development Contribution Plan. These contributions include:

Regional Contribution:	\$548,170.30
Local Contribution:	\$1,491,829.70
Total:	\$2,040,000.00

These contributions are based upon the likelihood that this development will require or increase the demand for regional and local recreational space and infrastructure facilities within the area. It has been calculated on the basis of the development as proposed 107 new residential units with a concession of 5 existing allotments.

Should the Local Planning Panel be of a view to adopt the recommendation of Council staff, the above contributions would need to be adjusted to reflect the removal of 5 apartments from Building B.

11.0 DECLARATIONS OF AFFILIATION, GIFTS AND POLITICAL DONATIONS

Section 10.4 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.

12.0 CONCLUSION

The subject land is located within Zone R4 – High Density Residential pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015 and the proposed development is a within this zone. State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP) is a permissible form of development in the zone under Clause 10 of the Policy.

In response to public exhibition, 10 submissions were received. The matters raised in these submissions have been dealt with by design changes or conditions of consent where appropriate.

The provision of housing choice within the Miranda locality, including integrating 'affordable housing' apartments within a larger development scheme is generally supported in light of the social benefits. The form of Building B fronting Pinnacle Street is however of significant concern given the desired character of this locality which is the main test to overcome when developing pursuant to the ARHSEPP. The issue primarily lies where the floor space bonus sought under the ARHSEPP results in a building significantly exceeding the height specified within SSLEP2015 and that envisaged under the Potential Built Form Plan of SSDCP2015 (i.e. above 4 storeys). This fails to reinforce the character of the streetscape and overall Precinct and will set an undesirable precedent for development on adjoining sites yet to be proposed or realised.

The application has been assessed having regard to the Heads of Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979. Following assessment, Development Application No. 18/0884 may be supported subject to design changes, primarily being the deletion of residential level 7 from Building B (Pinnacle St) for the reasons outlined in this report. Council anticipates that with suitable design amendments the proposal is capable of integrating appropriately with the scale and form of adjoining buildings and the desired character for development within the Miranda locality / Precinct.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager, Major Development Assessment (EP), who can be contacted on 9710 0333.