

## JOINT REGIONAL PLANNING PANEL (Sydney East Region)

<b>JRPP No:</b>	2015SYE157
<b>DA No:</b>	DA15/1401
<b>Local Government Area:</b>	Sutherland Shire
<b>Proposed Development:</b>	Demolition of existing structures and construction of a mixed use development comprising health services and residential apartments
<b>Street Address:</b>	Lot 7 - 10DP 8147, Lot 34 -37 DP 8147 – 396 to 400 Kingsway and 21 to 27 Flide Street, Caringbah
<b>Applicant/Owner:</b>	Sky Blue Developments Pty Ltd
<b>Number of Submissions:</b>	Six (6)
<b>Regional Development Criteria (Schedule 4A of the Act)</b>	The development has a capital investment value of more than \$20 million and as such is nominated under Schedule 4A (3) of the Environmental Planning and Assessment Act 1979
<b>List of All Relevant s79C(1)(a) Matters</b>	<ul style="list-style-type: none"> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)</li> <li>• State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>• Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment</li> <li>• Apartment Design Guide (ADG)</li> <li>• Sutherland Shire Local Environmental Plan (SSLEP) 2015</li> <li>• Draft Sutherland Shire Development Control Plan (DSSDCP) 2015</li> <li>• Section 94 Developer Contributions Plans: <ul style="list-style-type: none"> <li>• Shire-Wide Open Space and Recreation Facilities 2005</li> <li>• Section 94 Community Facilities Plan</li> </ul> </li> </ul>
<b>Recommendation:</b>	Approval
<b>Report By:</b>	BirchallA, Development Assessment Officer Sutherland Shire Council

## **1.0 EXECUTIVE SUMMARY**

### **1.1 Reason for Report**

Pursuant to the requirements of State Environmental Planning Policy (Major Development) 2005, this application is referred to the Joint Regional Planning Panel (JRPP) 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 \$30,858,768.

### **1.2 Proposal**

The application is for two residential flat buildings comprising of 87 apartments, 2,154m<sup>2</sup> of health services space and three and half levels of basement parking for a total of 216 cars at the above property.

### **1.3 The Site**

The subject site is regular in shape and is located between Kingsway to the north east and Flide Street to the south west. The site has a total area of 4,831m<sup>2</sup> and falls some 5m from the eastern corner to the western corner of the site.

### **1.4 The Issues**

The main issues identified are as follows:

- Side setbacks
- Height
- Solar Access
- Natural ventilation

### **1.5 Conclusion**

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

## **2.0 DESCRIPTION OF PROPOSAL**

The proposal is for the demolition of all existing structures and the construction of 2 residential flat buildings up to 6 storeys in height and accommodating 87 residential units and 2,154m<sup>2</sup> of health services floor space. The development includes a mix of 1, 2 and 3 bedroom apartments. Three and a half levels of basement car parking accommodate 216 parking spaces including 69 spaces for the health services facilities, 121 residential, 22 visitor spaces plus 4 car wash spaces. These are accessed from Flide Street at the western end of the site.

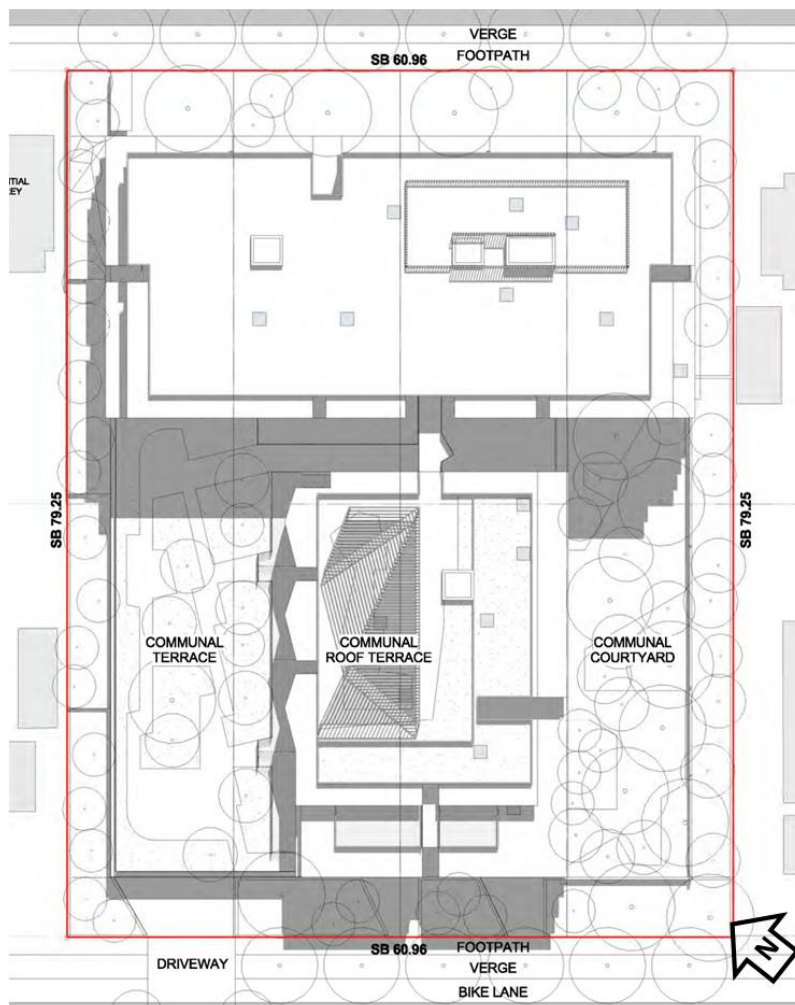
The development is presented in a T shape and connected by a breezeway at each level. The Kingsway building runs the length of the Kingsway frontage and consists of 5 levels of residential units above 2 levels of health service space. The lower of these are located below natural ground level and is split between health service space and parking for the health services. The Flide Street building runs perpendicular to the Kingsway building and consists of 4 levels of residential units above 1 level of health service space. Level 4 of the Flide Street building is setback an additional 4.5m from Flide Street.

The Flide Street building (Building B) consists of a single lift core to access either 6 or 8 units. The two south eastern units of this building are loft style apartments accessed from their ground floor only. A roof top common open space has been provided at level 5 of the Flide Street building. The Kingsway building (Building A) consists of 2 distinct cores and is connected to the Flide Street building via a breezeway at each level accessed from the southern core (Lobby A2). On level 5, the bridge provides access to the roof top common

open space. On this level, Lobby A1 connects to Lobby A2 to provide equitable access to the common open space.

Due to the topography of the site, the ground floor residential lobby (A2) of the Kingsway building provides access via breezeway to the first floor of the Flide Street building. A communal terrace north of the Flide Street building is provided at this level. At ground level to Flide Street (Lower Ground from Kingsway), an informal communal courtyard has been provided to the south of the Flide Street health services. Excavation to form this courtyard also seeks to provide natural light to the Lower Ground health services off Kingsway as does a small open light well between the two buildings.

All existing trees on the site will be removed. Three (3) of the existing street trees along Flide Street are proposed to be retained. A strip of deep soil is maintained along each boundary which will provide opportunity for privacy planting between residential developments. Stormwater is proposed to be discharged to Council's system via an existing pit within Flide Street.



Site plan

### 3.0 SITE DESCRIPTION AND LOCALITY

The subject land is located at 396 - 400 Kingsway and 21 - 27 Flide Street, Caringbah. Currently situated on the site are eight 1 and 2 storey dwellings and detached ancillary structures.

The land is rectangular in shape and is located off the north eastern side of Flide Street and the south western side of Kingsway in Caringbah. The site has frontages to Flide Street and Kingsway of 60.96m and a depth of 79.25m for a total area of 4,831.20m<sup>2</sup>.

The site falls approximately 5m from the east (Kingsway) to the west diagonally across the site resulting in a level difference of 1.5m along the Kingsway frontage and some 2.0m along the Flide Street frontage. The site drains to the south western corner of the site.

The site is located mid way between the Caringbah Centre and Sutherland Hospital and is therefore within close proximity to major public transport nodes, community facilities, employment and public services. The site is within the Caringbah Medical Precinct which has recently been “up zoned” under Sutherland Shire Local Environmental Plan 2015 from low density residential to R4 High Density Residential.

There are several existing trees on and adjacent to the site. Many of these are exotic trees with a small number of small native trees. Thirteen trees are to be removed and replaced with indigenous trees. Fourteen trees are proposed to be retained and protected and are all located off site (refer to Appendix A for aerial photographs of the site and locality).

Single dwellings are currently located to the north west and south east of the site. These residential properties are within the new precinct and several are under various stages of development. The western side of Flide Street is zoned for medium density residential and consists of a mix of single dwellings and multiple dwelling developments.



**Aerial of the site**





Locality Plan

#### 4.0 BACKGROUND

A history of the development proposal is as follows:

- A pre-application discussion (PAD) was held on 30 June 2015 regarding the development. As a result of this a formal letter of response was issued by Council dated 5 August 2015. A full copy of the advice provided to the Applicant is contained within **Appendix "B"** of this report and the main points contained in this letter are as follows:
  - Any application must comply with the height and landscape area development standards.
  - Concern was raised with regards to the proposed nil setback of the Kingsway building.
  - Concern was raised regarding the height to the Flide Street building.
  - It was noted that non-compliance with the amalgamation pattern may reduce the developments potential to achieve the maximum floor space allowance of the site.
- The current application was submitted on 11 November 2015.
- The application was placed on exhibition with the last date for public submissions being 17 December 2015. Six submissions were received.
- An Information Session was held on 9 December 2015 and 6 people attended.
- A letter was sent to the applicant on 5 February 2016 requested that the following concerns be addressed:
  - *Height of the Kingsway building to be reduced.*
  - *Side setbacks to the Kingsway building be increased to comply with ADG.*
  - *Balconies to be increased to comply with ADG.*
  - *Common open space to be provided with BBQ, kitchen facilities and cover.*
  - *Provide evidence that the application complies with solar access and natural ventilation requirements.*
  - *Provide additional waste storage and provide detail of waste collection.*
- The application was considered by Council's Submissions Review Panel on 8 March 2016.
- Amended plans were lodged on 11 March 2016.

## 5.0 ADEQUACY OF APPLICANT'S SUBMISSION

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

## 6.0 PUBLIC PARTICIPATION

The application was advertised in accordance with the provisions of Chapter 12 of DSSDCP 2015. One hundred and ten (110) adjoining or affected owners were notified of the proposal and 6 submissions were received as a result.

Submissions were received from the following properties:

Address	Date of Letter/s	Issues
1/13-15 Flide Street	26 November 2015	1
1/20-22 Flide Street	20 November 2015	1
19 Flide Street	17 December 2015	1, 2, 3, 4
24 Flide Street	17 December 2015	1, 2, 4, 8, 7
28 Flide Street	17 December 2015	1, 4, 5, 6, 7, 8
30 Flide Street	17 December 2015	1, 4, 5, 6, 7, 8

The issues raised in these submissions are as follows:

### 6.1 Issue 1 – Parking and Traffic Impacts

Flide Street is narrow and already parked out by commuters and hospital staff.

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

### 6.2 Issue 2 – Overshadowing

Properties to the south east and off the western side of Flide Street will be significantly overshadowed.

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

### 6.3 Issue 3 – Loss of privacy

Loss of privacy from units facing the adjoining property to the south.

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

### 6.4 Issue 4 – Increased noise and light spill

Increased noise and light spill from the use of the driveway.

Comment: The driveway is located in a reasonable location being the lower part of the Flide Street frontage. It is also located at the edge of the wider section of Flide Street while still providing a landscaped setback to the adjoining site. As the first level of parking will be reserved for the commercial space, any noise from the security gate will be restricted to the first floor basement. The submitted acoustic report concludes that the noise generated from the entry ramp as a result of additional traffic from the site are expected to comply with EPA allowable noise levels during peak periods. On site waste pick up will limit noise from this activity also. Vehicles existing during the night will be relatively minimal.

### 6.5 Issue 5 – Use of medical space for medical services

There is no guarantee that the commercial space will be tenanted with medical services.

Comment: A condition of consent restricts the use of the commercial space to medical or related services. Any modification to this will not only require a separate development application for the use but will also need to modify the current approval.

#### 6.6 Issue 6 – Does not comply with envisaged building envelopes

The development does not comply with the building envelopes as defined in the precinct DCP in terms of the variation in building heights. In particular the 4 storey limit to the Flide Street frontage.

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

#### 6.7 Issue 7 – Breaching height limit

The applicant gives no reasonable argument to breach the height limit.

Comment: The proposal as submitted was over the height limit by up to half a storey to the north and west of the site. The breach of the height limit has been significantly reduced.

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

#### 6.8 Issue 8 – Tree canopy

Several mature trees are being removed from the Flide Street frontage.

Comment: Due the existing powerlines on the eastern side of Flide Street, there are no large trees along the Flide Street frontage. Three large trees are located along the southern boundary. Each of these is proposed to be retained. New canopy trees will be planted within the regraded road reserve, along within the front setback as well as within the southern courtyard. These will be saplings as mature natives are not suitable of translocation and the younger the tree the greater chance of its long term survival.

### 7.0 STATUTORY CONSIDERATIONS

The subject land is located within Zone R4 High Density Residential pursuant to the provisions of Sutherland Shire Local Environmental Plan 2006. 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 Plans (DCP's), Codes or Policies are relevant to this application:

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

### 8.0 STATEMENT OF COMPLIANCE

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

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

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

<b>Design Quality Principles</b>	<b>Assessment</b>
Principle 1: Context and neighbourhood character	The proposal is a reasonable response to the large site and the upzoning of the Caringbah Medical Precinct at the periphery of Miranda Centre. It will contribute positively to the identity of the area. The development is consistent with desired future character of the Precinct as envisaged under SSLEP 2015.
Principle 2: Built Form and Scale	The proposed scale is a positive response to the site. It is generally consistent with the built form envisaged in DSSDCP 2015 and is compatible with the scale of the new development that will occur within the Caringbah Medical Precinct. Adopting a T shaped built form allows for large landscaped setbacks provide an appropriate transition to the medium residential development to the west. The uppermost levels of both buildings are generally recessed from sensitive boundaries and afford some articulation to the scale.
Principle 3: Density	The density of the proposal complies with the new Floor Space Ratio for the site under SSLEP 2015 in an envelope which allows for a generous landscaped setting.
Principle 4: Sustainability	The development incorporates BASIX requirements and sustainability measures into its overall design. Implementation of conditions will ensure dwellings will receive adequate solar access and cross ventilation so as to enhance water and energy efficiency and to provide suitable amenity to the building's future occupants.
Principle 5: Landscape	The proposed development includes compliant deep soil areas for tree planting as well as landscaped areas on the western podium. Modifications to the planting schedule will to reinforce the existing and desired future character of the locality.
Principle 6: Amenity	The proposal has the potential to adequately satisfy the provisions of the ADG with respect to residential amenity, including appropriate building and floor plan layout, solar access, natural ventilation and visual/acoustic privacy.
Principle 7: Safety	The proposed development incorporates Crime Prevention Through Environmental Design (CPTED) Principles in the design. Additional conditions of consent have been imposed.
Principle 8: Housing Diversity and Social Interaction	The proposal provides a mix of apartment types and sizes, which encourages diversity including adaptable and terrace apartments. Several areas of formal and informal meeting spaces will provide a high level of social interaction.
Principle 9: Aesthetics	An appropriate composition of building elements, textures, materials and colours within the development has been generally achieved.

## 8.2 Apartment Design Guide (ADG)

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



Apartment Design Guide (ADG) – Key Controls			
Building separation	Up to 12m: 4.5m non habitable to habitable 6m habitable to habitable  12 – 25m: 6m non habitable to habitable 9m habitable to habitable	4m  4m  -  9m	No  <b>No (33.3%)</b>    Yes
Solar access	Living rooms and private open space, 2 hours direct sunlight between 9am and 3pm, mid winter to 70% of apartments.	46 of the proposed 87 dwellings (53%) receive 2 or more hours of sunlight to living room windows and to private open space areas during mid winter	<b>No (24.6%)</b>
Maximum depth of open plan layout apartments	8m	8.6m max	<b>No (7.5%)</b>
Natural ventilation	60% of apartments to be naturally cross ventilated.  Max. Depth 18m	39 of the 87 or 45% are naturally cross ventilated (61% naturally ventilated)  < 18m	<b>No (25%)</b>  Yes
Apartment size	1br: 50m <sup>2</sup> 2br: 70m <sup>2</sup> 3br: 90m <sup>2</sup>	1br: Min. 51m <sup>2</sup> 2br: Min. 71m <sup>2</sup> 3br: Min. 104m <sup>2</sup>	Yes Yes Yes
Ceiling heights	2.7m	2.7m	Yes
Private open space: 1 br apartment 2 br apartment 3 br apartment	Primary balconies: 8m <sup>2</sup> , min. 2m depth 10m <sup>2</sup> , min. 2m depth 12m <sup>2</sup> , min 2.4m depth	8m <sup>2</sup> , min. 2m depth 10m <sup>2</sup> , min. 2m depth 16m <sup>2</sup> , min 2.4m depth	Yes Yes Yes
Ground level apartments (or on a podium)	15m <sup>2</sup> with min 3m depth	30m <sup>2</sup> , min 4.8m	Yes
Communal open space (COS): Size:	Min 25% (1,208m <sup>2</sup> )	27% (1,300m <sup>2</sup> )	Yes
Solar Access:	Direct sunlight to at least 50% of COS for 2 hours, 9am – 3pm	>50%	Yes
Residential storage	6m <sup>3</sup> per 1br apartment 8m <sup>3</sup> per 2br apartment 10m <sup>3</sup> per 3br apartment  At least 50% of storage to be located within the apartments	Storage has been provided in both the basement and within apartments	Yes

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

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

Standard/Control	Required	Proposed	Complies? (% variation)
<b>Sutherland Shire Local Environmental Plan 2015</b>			
Building Height	20m	21.9m (maximum) 21.1m (building)	<b>No (9.5%)</b>
FSR	2:1 (9,662.16m <sup>2</sup> )	1.98:1 (9,563.6m <sup>2</sup> )	Yes
Landscaped Area	30% (1,449m <sup>2</sup> )	32% (1,544m <sup>2</sup> )	Yes
<b>Sutherland Shire Development Control Plan 2015</b>			
Medical floor space	25% of GFA (2,390.9m <sup>2</sup> )	24% (2,298.5m <sup>2</sup> )	<b>No (3.8%)</b>
Street setbacks	7.5m from Kingsway (+1.5m articulation zone) 6m from Flide St	7.5m + 1.5m articulation zone  6m	Yes  Yes
Basement street setbacks (deep soil)	6m from both frontages	6m from both frontages	Yes
Side setback	6m up to 12m 9m over 12m	Min. 4m Min. 9m	<b>No (33.3%)</b> Yes
Adaptable units	20% (18 units)	18 units	Yes
Livable units	10% (9 units)	10 units	Yes
Common and Private Open space:-	As per the ADG requirements	As noted in ADG compliance table above	
Car parking <sup>1</sup>	120 residential 22 visitor 63 Commercial	121 residential 22 visitor 69 commercial	Yes Yes Yes
Solar access: Open space	Direct sun between March and September	Yes	Yes

## 9.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

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

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

The proposal was considered by Council's ARAP on 17 December 2015. The ARAP made the following comments:

- The scale and form of the scheme to Flide Street has been well resolved but the mass of the large building frontage to Kingsway is too persistent.
- Side setbacks to the upper two levels of the Kingsway building are not acceptable.
- Compliance with natural cross ventilation and solar access need to be confirmed.

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

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

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

### 9.3. Engineering

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

### 9.4. Architect

Council's architect has undertaken an assessment of the application and advised that generally the development is well designed. The development does not comply with the ADG design criteria for solar access, natural ventilation or building separation. These matters are addressed below in the "Assessment" section of this report and suitable conditions of consent have been recommended.

### 9.5. Landscape Architect

Council's landscape architect has undertaken an assessment of the application and advised that no objection is raised to the proposal however, notable information is absent from landscape plan and some inappropriate tree species are proposed. Suitable conditions of development consent have been included to address these issues.

## 10.0 ASSESSMENT

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

### 10.1 Amalgamation Pattern and Building Envelopes

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

The site amalgamation pattern also informs building envelopes which ensure that a residential flat building can realise the maximum floor space ratio of 2:1 with heights up to 20 metres while also complying with the design requirements of SEPP 65 as well as the streetscape and vehicle access strategy for this precinct.

The site amalgamation plan allows for an arrangement of buildings (as shown on the Building Envelope Plan) which encourages a variation of building heights along Kingsway to maximise solar access to all buildings and allow compliance with the ADG for building separation at different heights between buildings. For this development, the DCP also provides a transition to the existing two storey dwellings on the west side of Flide Street

through the provision of a four storey building perpendicular to Flide Street along with the provision of large landscaped spaces between each built form along this frontage.

The proposal encompasses 8 existing lots to create an almost square lot. This is generally consistent with Amalgamation Site 14 as per the DCP amalgamation requirements. However, it also adds the two adjoining sites from Amalgamation Site 15, effectively breaking the amalgamation pattern.

The direct consequence of this is on the distribution of floor space. The overall larger site renders the Flide Street side of the development site less efficient and pushes the floor space towards Kingsway. The result is a full length 6 storey building along the Kingsway frontage with reduced side setbacks at lower levels, as well as a 5<sup>th</sup> storey setback on the Flide Street building. This is driven by the quest to achieve the maximum allowable floor space ratio, which, due to the broken amalgamation pattern, cannot be achieved within the envisaged envelopes being a part 2 / part 6 storey building along Kingsway and a 4 storey building fronting Flide Street.

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

While a 5 storey building perpendicular to Flide Street was not envisaged, the visual transition to the two storey development off the western side of Flide Street has been adequately addressed through the provision of an additional 4.4m setback to balconies and 7m to the building from the Flide Street boundary and an additional 2.2m from the eastern boundary. Due to the setbacks, this additional level will have minimal visual impact from surrounding properties. The central position of the fifth floor and the buildings large side setback minimises any additional overshadowing. This part of the building complies with the 20m height limit for the site and complies with the control to allow a transition in building scale to Flide Street.

The omission of the 2 storey element along Kingsway and additional length of the 6 storey element of the Kingsway building have contributed to this building not complying with solar access requirements. This is discussed in detail in section 10.4 below.

The inclusion of an additional two lots from Amalgamation Site 15 reduces this Site to 5 lots and some 2,910m<sup>2</sup> with a minimum street frontage of 30m. The applicant has provided a schematic design of this Site showing that development on this site can comply with development controls and the ADG while achieving the full development potential. This is generally accepted, apart from the encroachment on the side setback. This is discussed in section 10.3 below.

The proposal also provides for efficient and safe vehicle entry points and will make a positive contribution to the streetscape while presenting a high standard of amenity to future residents of the development as well as the precinct. The objectives and controls of the amalgamation requirements have generally been met, however, the revised amalgamation pattern is only supported if issues relating to setbacks and solar access can be resolved.

## 10.2 Built Form

The intention of the precinct is to create a new area of mixed use developments in a landscaped setting with substantial landscaped building setbacks. The Architectural Review Advisory Panel (ARAP) considered this development to have successfully resolved the

scheme to Flide Street with three residential storeys above a commercial base, plus a setback upper floor and generous landscaped courtyards to either side which will integrate the increased density into the suburban setting.

The two buildings are generally as envisaged in the Draft DCP. This built form allows for building elements to be spaced between large landscaped setbacks along the Flide Street frontage and a taller tower to front Kingsway. The buildings have been appropriately designed to address road frontages as well as the two large landscaped terraces to the north and south of the Flide Street building.

The balconies and living areas facing these spaces promote casual surveillance and activate the public areas around the buildings for improved security. The buildings have also been subtly differentiated in scale and in form to better related to the individual context of the two distinct sides of the development

No vehicle access is available from the Kingsway frontage, leaving the ground floor of this elevation dedicated to pedestrian access to both the residential and large street frontages of the commercial space. The ground floor commercial tenancies are set back from the street and under the residential units above, providing a large sheltered pedestrian space at street level that is not dominated or segregated by vehicle movements.

All vehicle access is provided at the western corner of the site from Flide Street, including deliveries and waste collection. The large driveway has been provided with a 4m landscaped setback to the northern boundary and is roofed with a large landscaped terrace, both of which will aid in reducing the visual impact of the basement entrance. The remainder of the Flide Street frontage consists of level access to the low scale Flide Street building and a large landscaped courtyard.

The first level of basement provides all parking associated with the commercial space. Secure residential parking is then accessed from this level. All parking levels are accessed via a lift ensuring accessibility to all levels of each building.

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

### 10.3 Building Separation

The ADG design criteria require a minimum separation between balconies and window of habitable rooms of 12m up to 4 storeys (12m). To achieve this equitably between sites, a 6m setback from side boundaries is required for buildings up to 4 storeys. Variations to this can be considered depending on the design of any existing developments or the adequacy of window treatments.

Revised plans redesign levels 5 and 6 of the Kingsway building to provide the required 9m setback to the north western boundary and a 9.6m setback to the south eastern boundary. Levels 4 and below however, remain set back 4m from side boundaries which is 2m short of the ADG minimum requirements for habitable rooms. To address this issue, perforated aluminium screens have been located over windows to the habitable rooms. Though this measure may be seen as adequate in addressing visual privacy issues outlined in part 3F of the ADG, part 2F of the ADG discusses building separation in a more holistic approach and seeks to address acoustic privacy, visual separation and outlook as well as visual privacy.



The applicant argues that the setbacks are consistent with the site specific DCP control and also with the recommendations of ARAP. While the DCP for the medical precinct notes that a 4m side setback is appropriate, it clearly shows that this relates to the 2 storey commercial elements that were envisaged to be adjacent to neighbouring 6 storey by the Building Envelope Plan. The setback as per the DCP was then to be increased by an additional 10m to the south east for the residential tower, thus providing appropriate setbacks.

With regards to ARAP, the panel did not recommend that these setbacks be retained but rather remained silent on this issue noting only that the applicant must confirm compliance with solar access and cross ventilation and that any neighbouring buildings can also comply and reach their full potential.

Council has raised this concern with the applicant on a number of occasions, noting that this may be acceptable for the north western elevation but is of particular concern on the south eastern elevation where the adjoining site will be dependent upon utilising its north western elevation to provide amenity to its units. Considering that the neighbouring amalgamation has been reduced in size by this proposal, it is unrealistic to expect any development to the south east to provide a 2 storey element and should not be further negatively impacted by this proposal.

As the ADG allows a minimum setback of 3m to a blank elevation or non-habitable rooms, an alternative strategy would be to provide a stepped façade which allows bedrooms to be provided with windows orientated towards the two street frontages rather than directly towards side boundaries.

This would provide better amenity to bedrooms in terms of outlook as well as visual and acoustic privacy. It would also improve the ability for future development to the south east to comply with ADG requirements including solar access. Additional opaque highlight windows to these bedrooms on the south eastern elevation will improve internal amenity without compromising privacy or the development potential of any future neighbouring building. A deferred commencement condition has therefore been recommended to enable the applicant to suitably redesign these elements of the proposal.

#### 10.4 Solar access and natural ventilation

The ADG design criteria requires at least 70% of apartments to receive at least 2 hours direct sunlight between 9am and 3pm in mid winter and 60% of apartments to achieve natural cross ventilation.

Sun Eye view, solar access and cross ventilation diagrams were submitted to address concerns regarding compliance with this requirement expressed by both the Council and the Architectural Review Advisory Panel. These concluded that 67% (58) of apartments are capable of meeting the minimum criteria for solar access. The applicant has noted that this small variation is acceptable considering the high number of north facing apartments and argues that all developments along this section of the precinct will be faced with the same challenge.

On reviewing the solar access studies provided, it is concluded that just 45 units (52%) will currently receive a minimum of 2 hours solar access in mid winter between 9am and 3pm. This is based on both living areas and private open space receiving the minimum solar access as is required by the ADG. This level of variation is not supportable for a new building.

Of the units claiming to receive ADG compliant solar access units A213, A313, A413, B403 and B402 receive little or no direct solar access to their balconies while units B301, B302, B304, A607, A608, A609 and A610 receive no solar access to either living areas or balconies. Units dependent upon sky lights for solar access have not taken into account that

the maximum altitude of the sun in mid winter at midday is 32 degrees when determining if solar access is achieved. When this is taken into account, most skylights do not provide adequate (or any) solar access.

The report argues that all sites within this portion of the precinct will experience similar difficulty due to the skewed site orientation and that the design maximises solar access. It is likely that this may be the case to a small degree, however, as discussed in section 10.1 above, this development has broken the amalgamation pattern forcing a much larger portion of floor space to the Kingsway building than was envisaged by the DCP Building Envelope Plan. The 6 storey element of the Kingsway building is now much longer resulting in a lower 'corner unit to single aspect unit' ratio than a less extensive building.

Nevertheless, the benefit of a longer building is the ability to provide two lift cores and in doing so, provide two central units with dual aspect. While this design provides two lift cores to the Kingsway building, this opportunity has not been utilised and no cross over units between lobbies A1 and A2 have been provided even though all but one level do not connect. Better placement of proposed skylights and minor unit layout modifications for some corner units can also increase the level of solar access. The proposed level of variation for solar access is therefore unsupportable.

The provision of central dual aspect units, repositioning of skylights and the repositioning of the balcony to the corner of units A213, A313 and A413 will increase the number of units receiving at least 2 hours of solar access to living areas and balconies to 54 (62% of units) and a further 6 units (7%) will receive adequate solar access to their living rooms but not the full 2 hours to their balconies. This level of variation would be supported as it would be the result of maximising all opportunities under the current design.

With regards to cross ventilation requirements, the submitted diagrams conclude that 61% (53) of apartments are capable of meeting the minimum criteria for cross ventilation and therefore the proposal complies with this criterion. Of these, 14 units are single sided units with façade indentations of a ratio of 2:1. While not cross ventilated, the ADG notes that these treatments improve natural ventilation to single sided units. Therefore, 45 units (52%) are naturally cross ventilated while 53 (61%) are naturally ventilated.

Through the provision of cross over units between lobbies A1 and A2 as discussed above, as well as the inclusion of operable skylights to single aspect units fronting Kingsway at level 6, the number of units which are cross ventilated would be some 49 of the 87 units or 56%. These modifications will maximise the number of units which are naturally cross ventilated and increase the amenity of these units.

A deferred commencement condition has therefore been recommended to enable the applicant to suitably redesign these elements of the proposal to significantly improve the sustainability and amenity of the development.

#### 10.5 Height of Buildings

A maximum building height of 20m applies to the site pursuant to Clause 4.3 and the Height of Buildings Map of SSLEP 2015. The proposal has a maximum height of 21.9m. The maximum non-compliance is attributable to the stair access to the roof of the Kingsway building. The northern roof of the Kingsway building is above the maximum height limit to varying degrees with the maximum roof height experienced at the western corner this building. The proposal involves a variation of up to 9.5% and fails to comply with the height of buildings development standard of SSLEP 2015.

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

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

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

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

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

- The majority of Building A and all of Building B complies with the 20m height limit. The non-compliance relates essentially to a relatively small section of the upper level of Building A which largely is a result of the site slope from the east to west.
- The development is of a scale that is consistent with the desired future scale and character of the Caringbah Medical Precinct and does not have any significant impacts on the amenity of future building occupants, on area character and on existing occupants or future development on neighbouring properties.
- The alternative would be to remove upper portions of Building A, however, the benefit of amending the design in such a manner (no material built or natural environmental benefits) is much less than the burden that would be placed on the development.
- Given that compliance with the zone and development standard objectives is achieved, insistence on strict compliance with the building height standard is considered to be unreasonable and unnecessary in the circumstances. The proposal is compliant with the relevant objectives, will create negligible environmental impacts, and will provide a building with high amenity and streetscape benefits. The proposal is therefore justified on environmental planning grounds.

In the written request to contravene the development standard, the applicant has demonstrated that compliance with the standard is unreasonable and unnecessary in the circumstances of the case as the strict compliance would require the loss of several top floor apartments with little gain to perceived bulk and scale or solar access to the rear of this site.

As the lift overruns and stair access are in the centre of the building, the shadow cast by these structures will fall on the roof only. The maximum breach of the roof form is 1.1m and is located at the western most corner of the Kingsway building as shown below. Being the edge and western side of the building, this section will increase overshadowing of the Flide Street building. However, an assessment of the sun eye view diagrams confirms that compliance with the height limit at this location will have minimal impact on solar access to living areas and private open space of units within the Flide Street building.

Furthermore, any additional bulk or perceived scale will be minimal from Flide Street due to the relative distance and elevation and will be negligible from Kingsway as the building generally complies along this elevation.



The building has been reduced in height through the modification of ceiling heights at lower levels. An increased setback to the northern elevation at upper levels also assists in reducing the extent of non-compliance. The two buildings are linked both in terms of the floor plate at lower ground level as well as via a bridge at upper levels. Further lowering of the development would further reduce the amenity of the health services level and southern courtyard with no gain to the amenity of residential units or little impact on the visual impact of the development.

On balance, while the breach of the height limit benefits the development in terms of floor space, 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. The applicant has demonstrated 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 the development by allowing flexibility in particular circumstances.

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

#### 10.6 Privacy

An objection has been received concerned with loss of privacy from the residential dwelling to the south in relation to overlooking from the multiple levels of dwellings within the development.

Due to the location of the existing neighbouring property and the setback to the proposed development, there is a total separation of some 20m between the two developments. That is, the new building will be located a full residential lot from the existing dwelling. This is well above controls for building separation for apartment buildings.

The courtyard between the two buildings is below existing ground level and being associated with the medical suites, will largely accommodate passive uses. The units above these will face the property. This includes 3 x 3 bedroom apartments, 3 x 2 bedroom apartments and 5 x 1 bedroom apartments. The balconies of these are the minimum width permitted and consist of solid balustrade, restricting overlooking particularly from a sitting position. Overlooking from the living areas of each apartment will be minimal as they are setback behind the balcony. The top 2 x 1 bedroom apartments are set a further 2.2m from the floors below.

#### 10.7 Parking and Traffic

To comply with Council's draft DCP 2015, this development requires 117 residential car parking spaces, 22 visitor's car parking spaces and 62 spaces for the medical facilities. The proposal includes 121 residential spaces and 22 visitor's spaces at basement levels 2 and 3 and 69 spaces for the medical suites at basement level 1 and the ground floor parking in the northern corner.

While development currently provides more parking than is required, the parking provided for the medical suites do not comply with Australian Standards for this class of parking. A condition of consent to provide parking spaces 2.6m wide will require the remodelling of the pillars and therefore impact on parking within each basement. As some residential parking may be lost in this process, a condition of consent requires the final design to comply with Council parking rates for the precinct.

#### 10.8 Health Services Facilities Floor Space

Clause 6.21 of SSLEP 2015 applies to land referred to as the Caringbah Medical Precinct and allows the height of a building on land to which this clause applies to exceed the maximum height for the site by an additional 11m and the floor space ratio to exceed the maximum floor space ratio for the site by an additional 1.45:1. These variations are permissible if:

- the building contains a health services facility;
- the building provides a transitional scale of building height to Flide Street, Caringbah; and
- the building setbacks are sufficient for the deep soil planting of substantial landscaping, including large scale indigenous trees on Kingsway frontage at Caringbah

Clause 7.2 of the Caringbah Medical Precinct DCP requires a minimum of 25% of the gross floor area of the development to be occupied by Health Services Facilities. The development proposes to vary this requirement by 3.8% which equates to approximately 100m<sup>2</sup>. The proposal provides some 2,300m<sup>2</sup> of floor space dedicated to medical facilities provided at street level and partially at lower ground level. This is a significant amount of health services floor space and the minor variation is acceptable and supported in this instance.



### 10.9 Stormwater Management

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

Due to the proposed connection of 2xØ300mm pipes, the applicant is required to investigate the hydraulic grade line of the existing piped Flide Street drainage system as part of the design as there may be a need for the street drainage to be upgraded. Additional work is required to the existing kerb inlet pit within the frontage of No.23 Flide Street and a new kerb inlet pit and lintel constructed. Suitable conditions of consent have been recommended to ensure adequate drainage of the site.

### 10.10 Greenweb

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

As the subject site is identified as being within a Greenweb Restoration area, all new tree plantings must be indigenous species and 50% of understorey plants must be indigenous species. Appropriate conditions have been included to substitute plantings with suitable species to address the Greenweb area requirements.

## 11.0 SECTION 94 CONTRIBUTIONS

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

Open Space:	\$ 637,819.97
Community Facilities:	\$ 108,910.56

These contributions are based upon the likelihood that this development will require or increase the demand for local and district facilities within the area. It has been calculated on the basis of 87 new residential units with a concession of 8 existing allotments.

## 12.0 DECLARATION OF AFFILIATION

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

## 13.0 CONCLUSION

The proposed development is for 2 residential flat buildings at located at 396 - 400 Kingsway and 21 - 27 Flide Street, Caringbah. The subject land is located within Zone R4 High Density Residential pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being a residential flat building is a permissible land use within the zone with development consent.

In response to public exhibition, six (6) submissions were received. The matters raised in these submissions have been discussed in this report and include overshadowing, parking and traffic impacts.

The proposal includes a variation to the height limit. This variation has been discussed and is considered acceptable in the circumstances of this development.

While the building is in many respects a competent well considered proposal, documents issued late in the assessment process demonstrate that the building significantly under performs in providing adequate solar access and cross ventilation. Side setbacks have also not been adequately addressed and present an unreasonable impact to the development potential of any development to the south east.

These unacceptable outcomes are the result of an eight lot amalgamation pattern which places more pressure on the built form to accommodate the permissible FSR on the site. As the existing built form can be modified to present an acceptable development without significantly altering the presented scheme, two deferred commencement conditions have been recommended to improve solar access and cross ventilation and to provide an appropriate response to the reduced setback to the south eastern boundary.

The application has been assessed having regard to the Heads of Consideration under Section 79C (1) of the Environmental Planning and Assessment Act 1979 and the provisions of Sutherland Shire Local Environmental Plan and all relevant Council DCPs, Codes and Policies. Following detailed assessment it is considered that Development Application No. DA15/1401 may be supported for the reasons outlined in this report.

## **14.0 RECOMMENDATION**

- 14.1 Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submission in relation to the requested variation to the height limit satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and this development standard be varied to 21.9m.
- 14.2 That Development Application No. DA15/1401 for two residential flat buildings at Lot 7 - 10DP 8147 and Lot 34 -37 DP 8147 – 396 to 400 Kingsway and 21 to 27 Flide Street, Caringbah be approved, subject to the draft conditions of consent detailed in Appendix “A” of the Report.