

2015SYE157 – 396-402 Kingsway & 21-27 Flide Street,  
Caringbah

DA15/1401

## ASSESSMENT REPORT APPENDICES

Appendix	A	Draft Conditions of Consent
	B	Pre-Application Discussion dated 30 June 2015
	C	Architectural Review Advisory Panel Report dated 17 December 2015
	D	NSW Police Comments dated 9 February 2016
	E	Clause 4.6 Objection to Building Height

**DRAFT CONDITIONS OF DEVELOPMENT CONSENT**  
**Development Application No. DANo9**

**PART 1 - DEFERRED COMMENCEMENT CONDITIONS**

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To enable the submission of further information to clarify or resolve specific aspects of the proposed development this Development Consent is issued as a "Deferred Commencement" Consent under the provisions of Section 80(3) of the Environmental Planning and Assessment Act as amended. The Consent does not operate until the applicant satisfies the Council as to the following matters.

The required information must be submitted within 12 months of the date of issue of this development consent.

Note- Under the provisions of Clause 95A(5) of the Environmental Planning and Assessment Regulation 2000 upon submission of the required information, Council must advise in writing whether or not it is satisfied as to the relevant matters.

**1. Deferred Commencement Solar Access and Natural Ventilation**

To increase solar access and natural ventilation to living rooms and balconies:

- a. Swap the location of the balcony with the kitchen of units A213, A313 and A413 to provide a corner balcony.
- b. Provide two cross over units between lobbies A1 and A2 in Building A at levels 2, 3, 4 and 6. Living rooms of each unit are to face Kingsway.
- c. Relocate the skylight in the living room to units B401, A607, A608, A610 further north west and/or west to provide solar access to the living areas of these units.
- d. Add skylights / openings to balcony roofs of units B402 and B403.
- e. Ensure all skylights / openings to balcony roofs are a minimum 3.5m<sup>2</sup> in area and are located within the north west section of the balcony. Provide an adjustable louver roof to each of the skylights / openings to allow the balcony to be fully enclosed to provide shade and shelter when required and open to provide increased ambient / reflected sun light in winter.
- f. Add operable skylights to units A602 and A603 to provide cross ventilation to these units.

**2. Deferred Commencement Building Separation**

In order to comply with required building separation to the adjoining site:

- a. The bedrooms only of units A206, A207, A306, A307, A406 and A407 are to be extended south east by 1m to be set back from the boundary by 3m.
- b. A clear and operable window is to be provided to the east elevation of the stepped façade to units A206, A306 and A406 and to the west elevation of the stepped façade to units A207, A307 and A407 to provide an outlook to the respective street frontages.
- c. The south eastern elevation of the stepped façade is to be provided with a fixed opaque highlight window at a minimum sill height of 1.6m from internal floor level to provide additional natural light to the bedrooms without reducing visual or acoustic privacy.

## PART 2 - CONDITIONS OF CONSENT

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### 3. **Approved Plans and Documents**

The development must be undertaken substantially in accordance with the details and specifications set out on the Plan / Drawings:

<i>Plan number</i>	<i>Reference</i>	<i>Prepared by</i>	<i>Date</i>

**Note: The above table will be populated upon approval of revised plans as required by Condition 1.**

and any details on the application form and on any supporting information received with the application except as amended by the following conditions.

**Note:** The following must be submitted to Sutherland Shire Council prior to the commencement of any building work.

- i) A Construction Certificate.
- ii) Notification of the appointment of a Principal Certifying Authority and a letter of acceptance from that Principal Certifying Authority.
- iii) Notification of the commencement of building works with a minimum of 2 days notice of such commencement.

### 4. **Public Place Environmental, Damage & Performance Security Bond**

#### **A. Before Construction**

Prior to the issue of a Construction Certificate, the person acting on this consent must provide security to Sutherland Shire Council against damage caused to any Council property and / or the environment as a consequence of the implementation of this consent. The security may be provided by way of a deposit with Council or a bank guarantee. A non refundable inspection / administration fee is included in the bond value.

It is the responsibility of the person acting on this consent to notify Sutherland Shire Council of any existing damage to public areas in the vicinity of the development site by the submission of a current dilapidation report supported by photographs. This information must be submitted to Council at least two (2) days prior to the commencement of works.

In the event that the dilapidation report is not submitted two days prior to commencement and the public area sustains damage the person acting on this consent may be held liable.

Should any public property and / or the environment sustain damage as a result of the works associated with this consent, or if the works put Council's assets or the environment at risk, Council may carry out any works necessary to repair the damage and / or remove the risk. The costs incurred must be deducted from the bond.

The value of the bond is \$20,200.

**Note:** Bond amount includes a non refundable administration fee which must be paid separately.

Use of Bank Guarantee - As bond releases may occur under different timeframes only one bond amount / bond purpose is permitted on a Bank Guarantee. Multiple bonds will require multiply bank guarantees to be lodged.

#### **B. After Occupation**

A request for release of the bond may be made to Sutherland Shire Council after all works relating to this consent have been completed. Such a request must be submitted to Council on the 'Bond Release Request Form' signed by the owner or any person entitled to act on the consent and must be accompanied by a current dilapidation report including photographs.

### **SECTION 94 CONTRIBUTIONS**

The following dedication of land and/or monetary contributions have been levied in relation to the proposed development pursuant to Section 94 of the Environmental Planning and Assessment Act 1979.

The Contributions Plan may be viewed on line on Council's web page (search for S94 Contributions Plan). A copy may also be viewed or purchased at the Customer Service Counter in Council's Administration Centre, Eton Street, Sutherland during office hours.

#### **5. Monetary Contribution for Shire-Wide Open Space and Recreational Facilities**

##### **A. Before Construction**

Pursuant to Section 94 of the Environmental Planning and Assessment Act 1979 and Sutherland Shire Council's Contributions Plan - Shire Wide Open Space and Recreation Facilities 2005, a monetary contribution \$637,819.97 must be paid to Sutherland Shire Council toward the cost of land identified for acquisition and works contained in the Works Programme of the Contributions Plan.

This contribution has been assessed and calculated in accordance with the Shire Wide Open Space and Recreation Facilities 2005, Contribution Plan on the basis of 87 proposed Residential Flat Units with a concession for 8 existing allotments.

The contribution will be indexed on 1 July in each year in accordance with the Implicit Price Deflator for Gross Fixed Capital Expenditure - Private Dwellings, with amended rates being available from Council.

Payment must be made prior to the issue of the Construction Certificate.

#### **6. Community Facilities, Shire Wide 2003 Plan**

##### **A. Before Construction**

A monetary contribution of \$108,910.56 must be made for the cost of providing community facilities.

This contribution has been assessed pursuant to s.94 of the Environmental Planning and Assessment Act, and the Sutherland Shire Contributions Plan - Community Facilities in the Sutherland Shire, after identifying the likelihood that this development will require or

increase the demand for community facilities within the shire. It has been calculated on the basis of 87 proposed Residential Flat Units with a concession for 8 existing allotments.

The contribution will be indexed on 1 July in each year in accordance with the Implicit Price Deflator for Gross Fixed Capital Expenditure - Private Dwellings, with amended rates being available from Council.

Payment must be made prior to the issue of the Construction Certificate

## **7. Design and Construction of Works in Road Reserve (Council Design)**

### **A Design**

Council has determined that the proposed development generates a need for the following works to be undertaken by the applicant in the road reserve. To this end a Detailed Frontage Works application under the Roads Act must be submitted to Sutherland Shire Council, prior to the release of the Construction Certificate. The form is available on Council's website. A fee applies for the relevant inspections, assessment, coordination, creation of design brief and the issue of permits providing consent to undertake frontage works. The design will be quoted separately by Council's Design Services unit.

This design will generally comply with the approved architectural design drawings, except where amended and/or addressing the following;

- i) Establish the property alignment levels and crossing profiles,
- ii) Frontage design must satisfy Council Public Domain Design Manual
- iii) Construct an 8m wide vehicle crossing,
- iv) Remove all redundant driveways and associated laybacks fronting Kingsway & Flide Street and reinstate kerb and verge to match natural surface levels,
- v) Construction of a 1.5m wide footpath pavement along the full frontage of Flide Street,
- vi) Construction of a 2.5m wide shared cycleway pavement against the front boundary along the full frontage of Kingsway,
- vii) Kerb & gutter where required,
- viii) Alter / install street signage where required,
- ix) Regrade, topsoil and landscape the footpath verge to final design levels. Plant the Kingsway verge with native grasses only and the Flide Street verge with street tree planting in accordance with Sutherland Shire Council - Caringbah Medical Precinct.
- x) Adjust public services infrastructure where required,
- xi) The existing kerb inlet pit within the frontage of No.23 Flide Street must be modified to remove the existing lintel and convert to a "V" grate opening within the proposed driveway crossing and construct a new kerb inlet pit and lintel on the western side of the proposed driveway crossing over the existing street piped drainage system.
- xii) Ensure there are adequate transitions between newly constructed and existing infrastructure.
- xiii) Undergrounding of powerlines for the full frontage of Kingsway and Flide Streets. Note: high voltage wires cannot be undergrounded (refer DCP2015 Ch.8.9.2.15).

- ix) Installation of street trees and blisters along the frontage of Flide Street

Evidence of the approved application must be provided to the PCA prior to the release of the Construction Certificate.

#### **B. Before Construction**

Prior to the release of the Construction Certificate property alignment levels and crossing profiles must be obtained from Sutherland Shire Council.

#### **C. Before Occupation**

Prior to the occupation of the building or the issue of an Occupation/Subdivision Certificate the following certification must be provided to Sutherland Shire Council:

- i) The supervising engineer must certify the road frontage works were constructed to their satisfaction and in accordance with the development consent and associated Roads Act consent.

### **8. Site Management Plan**

#### **A. Before Commencement of Works including Demolition**

An Environmental Site Management Plan must accompany the application for a Construction Certificate. If demolition is to commence prior to the issue of a Construction Certificate the applicant must submit to Sutherland Shire Council a separate Demolition Site Management Plan. These plans must satisfy the Objectives and Controls of Sutherland Shire Development Control Plan 2015 relating to environmental site management and must incorporate the following throughout demolition and construction:

- i) safe access to and from the site during construction and demolition
- ii) safety and security of the site, road and footpath area including details of proposed fencing, hoarding and lighting
- iii) method of loading and unloading excavation machines, building materials
- iv) how and where, construction materials, excavated and waste materials will be stored.
- v) methods to prevent material being tracked off the site onto surrounding roadways
- vi) erosion and sediment control measures

#### **B. During Works**

The site management measures set out in the above plan must remain in place and be maintained throughout the period of works and until the site has been stabilised and landscaped.

### **9. Supervising Engineer**

#### **A. Before Construction**

The applicant must engage an Accredited Certifier in civil engineering works or a Charter Civil Engineer to supervise construction of any:

- i) Road frontage works.
- ii) Construction / installation of stormwater drainage.
- iii) Rainwater harvesting & reuse.
- iv) All other works that form part of a subdivision.

## **B. During Construction**

The engineer must supervise the works as listed above to ensure compliance with:

- i) All relevant conditions of development consent
- ii) Any Consent issued under the Roads Act for this development

## **C. Before Occupation**

The supervising engineer must certify the works required in "A" above were undertaken and completed in accordance with the requirements of this Development Consent and to their satisfaction.

# **10. Internal Driveway Profile**

## **A. Before Construction**

An Access Application must be made to Council to obtain footpath crossing and boundary alignment levels before commencing the final design of internal driveways, paths and car park area.

## **B. Design**

The internal driveway profile must be designed to:

- i) Provide adequate sight distance for the safety of pedestrians using the footpath area.
- ii) Align with Council's issued footpath crossing levels.
- iii) Comply with AS2890.1(2004) in relation to the design of vehicular access, parking and general maneuvering for the B85 vehicle.
- iv) Comply with AS2890.2(2002) in relation to the design of vehicular access, parking and general maneuvering for the MRV vehicle.
- v) The maximum longitudinal grade of the driveway must not exceed 25%.

Certification by an appropriately qualified person to the effect that these design requirements have been met must accompany the application for a Construction Certificate.

# **11. Parking Areas and Access**

## **A. Design**

All vehicular access, parking and maneuverability including loading areas for the proposed development must be designed and constructed to comply with AS2890.1 - 2004.

The following specific requirements must be incorporated into the design:

- i) All "one way" traffic aisles in the car parking area must be clearly identified by signposting and pavement marking.
- ii) The ingress and egress crossing must be clearly identified by signage.
- iii) The proposed loading and delivery area must be clearly defined with suitable signposting and pavement markings.
- v) The health services facilities parking spaces must be 2.6m wide.

## **B. Before Construction**

Certification of the above must accompany the application for a Construction Certificate.

## **12. Basement Car Park Design**

### **A. Design**

The basement car park must be designed in accordance with AS 2890 and must incorporate the following:

- i) A minimum headroom of 2.2m measured from the parking floor to the underside of any beam, ventilation duct or service conduit, or to the underside of any door including a security door and fittings when those doors are in an open position.
- ii) The proposed security door fitted to the car parking area entrance must be independently mounted on rubber pads to prevent vibration noise transmission through the concrete walls and / or columns.

### **B. Before Construction**

Certification of the above must accompany the application for a Construction Certificate.

## **13. Drainage Design - Detailed Requirements**

### **A. Design**

The stormwater drainage system must be designed in accordance with the approved stormwater drainage design drawing, Australian Standard AS3500.3:2003 and the BASIX Certificate issued for this development. Except where modified by the following:

- i) A detailed drainage design supported by a catchment area plan and drainage calculations (including Hydraulic Grade Line Analysis),
- ii) A longitudinal section of the pipeline within the road reserve including existing natural surface levels, design surface levels, design invert levels of the proposed pipeline and the location, size and reduced level of all services to AHD where those services cross the proposed drainage line.
- iii) The rate of discharge of stormwater from the site to a drainage system under Council's control shall be controlled so that it does not exceed the pre-development rate of discharge.
- iv) The rainwater tank shall have a minimum capacity of 17.5m<sup>3</sup>
- v) All levels reduced to Australian Height Datum,
- vi) Harvested rainwater must be used for irrigation, toilet flushing and a coldwater tap in the laundry for clothes washing.
- vii) The existing kerb inlet pit within the frontage of No.23 Flide Street must be modified to remove the existing lintel and convert to a "V" grate opening within the proposed driveway crossing and construct a new kerb inlet pit and lintel on the western side of the proposed driveway crossing over the existing public piped drainage system.

### **B. Before Construction**

Certification from an Accredited Certifier in Civil Engineering or a Chartered Civil Engineer, to the effect that the drainage design is to their satisfaction and satisfies the design requirements in "A" above must accompany the application for a Construction Certificate.

### **C. Before Occupation**

- i) A Works-As-Executed drawing (WAED) of the stormwater drainage system shall be prepared by a Registered Surveyor. This drawing must detail the alignment of



pipelines, pits, the rainwater tanks and the detention facilities. An original or a colour copy shall be submitted to Sutherland Shire Council.

- ii) The Supervising Engineer must certify the WAED of the stormwater drainage system that the stormwater drainage works, rainwater harvesting facility and rainwater reuse systems were constructed to their satisfaction and in accordance with the Development Consent. Prior to the occupation or use of the building the Applicant / Owner shall submit to Council a copy of the aforementioned letter of certification.

#### **D. Ongoing**

- i) The operation of all devices or appliances installed within the development approved by this consent as required by conditions pertinent to rainwater harvesting and rainwater reuse must be maintained in good operating order at all times.
- ii) The stormwater detention facility must be:
  - Kept clean and free from silt, rubbish and debris.
  - Be maintained so that it functions in a safe and efficient manner.
  - Not be altered without prior consent in writing of the Council.

**Note:** Upon submission of the Works-As-Executed drawing for the stormwater drainage system a notation will be added to the section 149(5) certificate advising future owners that their property is burdened by a stormwater detention facility.

### **14. Noise Control During Construction and Demolition**

To minimise the impact on the surrounding environment:

#### **A. During Works**

The LAeq sound pressure level measured over a period of 15 minutes when the construction or demolition site is in operation, must not exceed the ambient background level (LA90 15min) by more than 10dB(A) when measured at the nearest affected premises.

### **15. Damage to Adjoining Properties**

#### **A. Before Works**

To minimise vibration damage and loss of support to buildings / structures and properties in close proximity to the development site, a Geotechnical Engineers Report must be prepared detailing constraints to be placed on earth moving and building plant and equipment and the method of excavation, shoring, underpinning and support. This report must be provided to the person undertaking the excavation and the Principal Certifying Authority.

#### **B. During Works**

The constraints and recommendations of the Geotechnical Engineers Report must be implemented.

### **16. Public Utilities - Subdivision**

This condition is imposed to facilitate the provision of services to the subdivision and reduce conflicts between services and lot boundaries, buildings or associated facilities.

#### **A. Before Construction**

Suitable arrangements must be made with all relevant utility service providers to ensure the development is appropriately serviced by electricity, gas, telecommunications and the like, and any necessary underground conduits are provided.

**Note:** Should these requirements result in any significant change to the approved design an application must be made to modify the consent under s.96 of the Environmental Planning and Assessment Act.

### **17. Endorsement of Linen Plan of Subdivision for Consolidation**

#### **A. Before Construction**

To facilitate the issue of the Plan of Subdivision for the consolidation of Lots 7, 8, 9, 10, 34, 35, 36 & 37 in Deposited Plan No.8147 into one lot, a film eight (8) paper copies of the Plan of Subdivision shall be submitted together with any necessary Instrument under the Conveyancing Act, where required for ultimate lodgement with the Land Titles Office

### **18. Approved Landscape Plan**

#### **A. Design Changes**

The landscape works on the site must be carried out in accordance with the approved Landscape Plan except as amended by the following. The amended landscape plan must be submitted to Council for approval prior to the issue of the Construction Certificate:

- i. Show all existing trees to be retained or removed, including any trees on adjoining properties that are affected by the development.
- ii. Show Tree Protection Zones (TPZs) for all trees to be retained.
- iii. Provide a detailed planting plan and plant schedule showing the species, location and numbers of all proposed plants.
- iv. Ensure that all trees greater than 4m (mature height) in deep soil are planted at a minimum distance of 3m from the building or basement carpark.
- v. To the 'main (mixed groups) social recreational area - No.7 ' in the L1 communal terrace double the size of the wing shaped shade to cover the whole space and provide tables and chairs/benches, either fixed or loose, suitable for group use.
- vi. Provide an additional 10 small indigenous shade trees to the L1 communal terrace, including around the small group social area (No.5) at the northern end of the garden. Cluster trees informally to reinforce plantings in the deep soil area adjacent.
- vii. Provide basic kitchen facilities in the BBQ area of the roof terrace.
- viii. Provide a garden maintenance path of stepping stones along the south-eastern side of Building A.
- ix. As the site is located within a Greenweb 'Restoration' area, all new tree plantings in deep soil areas must be indigenous species and understorey plantings to be 50% indigenous species from the Sydney Turpentine Ironbark Forest (STIF) vegetation community. Species such as *Cupaniopsis anarcardioides* (Tuckeroo) and *Banksia integrifolia* (Coast Banksia) are not indigenous to this area. *Eucalyptus haemastoma* (Scribbly Gum) should be replaced by *E.racemosa* (Narrow Leaved Scribbly Gum) which grows in this area. Suitable STIF plant species for the site must be selected from the Native Plant Selector available on Council's website.
- x. For planting on slab (Level 1 communal terrace and roof terrace), species such as heath species shall be selected that grow well in planter boxes with exposure to wind and sun. Suitable species shall be selected using the "Plants anywhere across the Shire" tab in Native Plant Selector.

- xi. Any exhaust stacks from the basement carpark and substation (if required) must be coordinated as part of the landscape design.
- xii. Each unit above the ground floor must be provided with a clothes line on a balcony. Ensure that clothes lines are not visible above the balustrade.
- xiii. All landscaped areas must be provided with a water-efficient irrigation system, connected to a pump and the rainwater tank, to enable effective landscape maintenance.

The applicant must engage a suitably qualified Landscape Designer or Landscape Architect to oversee any design changes to the approved Landscape Plan and amendments required above. Details of these design changes must be included in the documentation submitted with the application for a Construction Certificate.

**Notes:**

A Landscape Designer is a person eligible for membership of the Australian Landscape Designers and Managers and a Landscape Architect is a person eligible for membership of the Australian Institute of Landscape Architects as a Registered Landscape Architect.

If demolition works to occur prior to the Construction Certificate being issued, tree protection measures must be installed prior to commencement of demolition.

**B. Prior to Occupation/Occupation Certificate**

The landscape works must be completed in accordance with the approved Landscape Plan and amendments required by 'A' above. A Final Landscape Inspection must be carried out and a certificate issued by Council's landscape officer prior to occupation or the issue of an occupation certificate (interim or final). This certificate is required to ensure that all landscaping works and the deep soil percentage requirements have been carried out in accordance with 'A' above, and that all new indigenous plants on the site and within the road reserve are the correct species.

To arrange a Final Landscape Inspection please phone 9710-0333 48 hours prior to the required inspection date. An inspection fee of \$225 is required to be paid, prior to the inspection. Additional inspections will be charged at a rate of \$150 each.

**C. Ongoing**

All landscaping works required by 'A' above must be maintained for 12 months following the final landscape inspection date.

Any plants found faulty, damaged, diseased or dead shall be replaced with the same species in the same sized container within one month with all costs borne by the owner.

**Note:** If difficulty is experienced sourcing suitable indigenous plants from other suppliers, plants grown from locally provenance seed may be available from:

Sutherland Shire Council Nursery  
345 The Boulevarde, Gymea  
Ph: 02 9524 5672

## 19. Trees on Private Land

### A. Tree Removal

The removal of the following trees is approved:

- i) All existing trees within the site except for Trees 19 (*Archontophoenix cunninghamiana*), 20 (*Archontophoenix cunninghamiana*), 27 (*Livistona australis*) and 28 (*Livistona australis*) in the NE corner of the site.
- ii) Any declared noxious plant, especially numerous Privet in the NW corner of the site. The applicant is to ensure that all noxious plants are properly identified and removed.
- iii) Any tree species exempted by the Sutherland Shire Local Environmental Plan 2015.

All other vegetation that would require approval to be removed must be protected.

## 20. Removal and/or Pruning of Trees on Council Land

### A. Design

Council has preferred supplier agreements in place with arborists who are approved to carry out arbor works on Council land. Removal / Pruning of the tree/s listed below must only be undertaken using Council's preferred supplier at the applicant's expense. The applicant is responsible for contract management and payment of the arborist prior to works being undertaken.

Select from Council's list of preferred suppliers listed on Council's website: <http://www.sutherlandshire.nsw.gov.au/Residents/Trees/Trees-on-Council-or-Public-Land>. Payment of the quoted amount provided must be made prior to any works commencing on site.

The following trees have been approved for removal within the road reserve:

Tree No.	Tree Species (botanical and common name)	Location
26	<i>Lophostemon confertus</i> (Brush Box)	Kingsway
29	<i>Lophostemon confertus</i> (Brush Box)	Kingsway
34	<i>Lophostemon confertus</i> (Brush Box)	Kingsway
51	<i>Lophostemon confertus</i> (Brush Box)	Kingsway

## 21. Tree Retention and Protection

### A. Before Works

Prior to the commencement of any demolition, excavation or construction works on site the applicant shall engage a suitably qualified and experienced Arborist to oversee the measures for the protection of existing trees as listed below.

**Note:** An Arborist is a person with a current membership of the National Arborist's Association of Australia at a grade of General Member, Affiliate Member or Life Member, or alternatively a person who has obtained an Australian Qualifications Framework AQF Level 5 in Arboriculture.

Prior to the commencement of any works, including demolition, the supervising Arborist

must oversee the protection of the following trees as listed in the table below to ensure the installation and adequacy of all tree protection measures.

Tree No.	Tree Species (botanical and common name)	Location
3A	<i>Callistemon viminalis</i> (Weeping Bottlebrush)	Flide Street
3B	<i>Callistemon viminalis</i> (Weeping Bottlebrush)	Flide Street
6	<i>Eucalyptus scoparia</i> (Wallangarra White Gum)	Neighbouring property, eastern boundary
19	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	NE corner of site
20	<i>Archontophoenix cunninghamiana</i> (Bangalow Palm)	NE corner of site
27	<i>Livistona australis</i> (Cabbage Tree Palm)	NE corner of site
28	<i>Livistona australis</i> (Cabbage Tree Palm)	NE corner of site
54	<i>Stenocarpus sinuatus</i> (Firewheel Tree)	Neighbouring property, eastern boundary
55	<i>Eucalyptus scoparia</i> (Wallangarra White Gum)	Neighbouring property, eastern boundary
56	<i>Leptospermum petersonii</i> (Lemon-scented Tea Tree)	Neighbouring property, eastern boundary
73A	<i>Cupressus sempervirens</i>	Neighbouring property, NW corner of site

The trees identified for retention must be protected by the following measures:

- i) Protective fencing constructed of 1.8m high chain wire mesh supported by robust posts must be installed in accordance with the approved Landscape Plan. Signage must be erected on the fence with the following words clearly displayed "TREE PROTECTION ZONE, DO NOT ENTER".
- iii) The tree protection zone within the protective fencing must be mulched with a maximum depth 75mm of suitable organic mulch (woodchips or composted leaf chip mulch) and kept regularly watered for the duration of the works subject to this consent.
- iv) No development or associated activity is permitted within the fenced tree protection zone for the duration of works subject to this consent. This includes vehicular or pedestrian access, sheds, washout areas, excavations, backfilling, installation of services (including stormwater), removal of top soil, stockpiling of soil or building materials.
- vi) Where site access/egress is required over the roots of trees identified for retention and protection, provide hardwood rumble boards over a 200mm thick layer of wood chip.

## **B. During Construction**

- i) The tree protection measures detailed in 'A' above must be maintained during construction.
- ii) The supervising Arborist must be present during any approved hand excavation or under boring works within the Tree Protection Zone (TPZ) of any tree identified for retention and protection and have the authority to direct works to ensure the trees long term preservation;
- iii) The supervising Arborist must strictly supervise that there is no disturbance or

- severing of roots greater than 30mm diameter and to cleanly cut those roots between 10-30mm in diameter.
- iv) If the trees identified for retention in 'A' above are damaged or destabilised during construction then works must cease and Council's Tree Assessment Officer (ph. 9710 0333) must be contacted to assess the tree/s and recommend action to be taken.

## **22. Car Wash Bays**

To prevent contamination of the stormwater drainage system a car-wash bay must be provided on site:

### **A. Design**

The wash-bay must be graded to an internal drainage point and connected to the sewer.

### **B. Before Construction**

Details of the design satisfying 'A' above must accompany the application for a Construction Certificate.

### **C. Before Occupation**

The Principal Certifying Authority must be satisfied that

- i) 'A' above has been complied with and
- ii) any discharge to the sewer from the premises is in accordance with the requirements of Sydney Water.

### **D. Ongoing**

All car-wash, engine degreasing and steam cleaning must be conducted in the wash-bay detailed in 'A' above. Wastewater must be treated in accordance with the requirements of Sydney Water.

## **23. Garbage, Recycling and Green-waste Storage Area**

To ensure the proper storage of waste from the premises:

### **A. Design**

The garbage and recycling storage area must have a smooth impervious floor that is graded to a floor waste. A tap and hose must be provided to facilitate regular cleaning of the bins and all waste water must be discharged to the sewer in accordance with the requirements of Sydney Water. Garbage bins must be designed to prevent the escape of any liquid leachate and must be fitted with a lid to prevent the entry of vermin.

### **B. Before Construction**

Details of compliance with 'A' above must form part of the documentation accompanying the applications for a Construction Certificate.

### **C. Before Occupation**

The works must be completed prior to the issue of any Occupation Certificate.

#### **D. Ongoing**

All waste and recycling bins must be stored wholly within the approved waste storage area. The bins must only be put out for collection in the evening prior to pick-up and returned to the storage area as soon as possible after pick-up.

#### **24. External Lighting - (Amenity)**

To ensure that any lighting on the site does not cause a nuisance to neighbours or motorists on nearby roads:

##### **A. Design**

All lighting must be designed in accordance with Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting.

##### **B. Ongoing**

All lighting must be operated and maintained in accordance with the Standard above.

#### **25. Noise Control - Residential Air Conditioning Units**

To minimise the noise impact on the surrounding environment:

##### **A. Design**

Individual units must be designed and/or located so that noise generated does not cause an LAeq (15min) sound pressure level in excess of 5 dB(A) above the ambient background level when measured on or within any residential property.

##### **B. Ongoing**

- i) Units must be operated in accordance with 'A' above.
- ii) Between the hours of 10.00pm and 8.00am on weekends and public holidays and 10.00pm and 7.00am any other day, noise emitted must not be heard within any residence with its windows and/or doors open or closed.

#### **26. Noise Control - Design of Plant and Equipment (General Use)**

To minimise the impact of noise from the development, all sound producing plant, equipment, machinery, mechanical ventilation system or refrigeration systems:

##### **A. Design**

All plant and equipment must be designed and / or located so that the noise emitted does not exceed an LAeq sound pressure level of 5dB above the ambient background level when measured at the most affected point on or within any residential property boundary.

**Note:** The method of measurement of sound must be carried out in accordance with Australian Standard 1055.1.

##### **B. Before Occupation**

Certification must be provided by a qualified acoustic engineer that all work associated with the installation of the acoustic measures has been carried out in accordance with 'A' above.

### **C. Ongoing**

All plant and equipment must be operated and maintained in accordance with 'A' above.

## **27. Noise and Vibration Control - Residential Car Park**

To minimise noise and vibration from use of the security door in the car park:

### **A. Design**

The proposed security door fitted to the car parking area entrance must be independently mounted on rubber pads or otherwise installed to prevent vibration noise transmission through the concrete walls and / or columns.

### **B. Before Occupation**

The Principal Certifying Authority must be satisfied that 'A' above has been complied with.

## **28. Car-Park Ventilation - Alternate System**

To ensure adequate ventilation for the car park:

### **A. Design**

As the basement car-park does not appear to comply with the natural ventilation requirements of Section 4 of Australian Standards AS1668.2 -1991, the car-park must be either mechanically ventilated by a system complying with AS1668.2 -1991 or alternatively, the natural ventilation system must be certified by a qualified mechanical ventilation engineer to the effect that the system is adequate. The certification shall confirm that the system will protect the health of occupants of the car park at anytime it is used and satisfies the atmospheric contaminate exposure rates specified in the Worksafe Australia document: Workplace Exposure Standards for Airborne Contaminants.

### **B. Before Construction**

Details of compliance with 'A' above must form part of the application for a Construction Certificate.

### **C. Before Occupation**

Certification must be provided by a qualified mechanical ventilation engineer that the installation of the ventilation system has been carried out in accordance with 'A' above.

### **D. Ongoing**

The ventilation system must be operated and maintained in accordance with 'A' above.

## **29. Demolition Work**

To ensure that demolition of structures is carried out in an environmentally acceptable and safe manner:

### **A. Before Commencement**

If works involve the removal of more than 10 square metres of asbestos material, a bonded asbestos licence is required. A friable asbestos licence is required to remove, repair or disturb any amount of friable asbestos. For further information contact the NSW Workcover Authority.



## **B. During Works**

- i) The demolition of the existing building must be carried out strictly in accordance with Australian Standard 2601 - The Demolition of Structures.
- ii) The applicant must ensure that the demolition contractor has a current public risk insurance coverage for a minimum of \$5 million. A copy of the Policy must be submitted to the Council prior to demolition.

To ensure that the removal and transportation of any asbestos material, regardless of the quantity, is carried out in an environmentally acceptable and safe manner, all work must comply with the following:

- a) Work Health and Safety Act 2011;
- b) Work Health and Safety Regulation 2011;
- c) Safe Work Australia Code of Practice - How to Manage and Control Asbestos in the Workplace;
- d) Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC:2002(2005)];
- e) Workcover NSW 'Working with Asbestos - Guide 2008';
- f) Protection of the Environment Operations Act 1997; and
- g) Protection of the Environment Operations (Waste) Regulation 2005.

Asbestos waste in any form must be disposed of at a waste facility licensed by the Department of Environment Climate Change & Water to accept asbestos waste.

## **30. Dilapidation Report - Adjoining Properties**

### **A. Before Works**

To assist in the resolution of any future disputes about damage to properties adjoining the development site, prior to commencement of any work on site the Applicant or principal contractor must provide dilapidation reports on the adjacent buildings at No.s 19 & 29 Flide Street and 394 & 404 Kingsway, including any basements and ancillary structures. The reports must be provided to the Principal Certifying Authority and to the owners of the properties that are the subject of the report.

The reports must be prepared by a suitably qualified and experienced person, such as a structural engineer.

## **31. Design Requirements for Adaptable Housing**

### **A. Design**

A report prepared by a suitably qualified Adaptable Housing Specialist must be submitted with the Construction Certificate, demonstrating that the development complies with the requirements of AS4299 - Adaptable Housing. The report must contain a completed checklist (Appendix A - AS4299) demonstrating compliance with the requirements of a Class C Adaptable House.

## **32. Verification of Design for Construction - SEPP 65**

### **A. Design**

Design verification must be provided by a registered Architect pursuant to SEPP 65 stating that the design intent approved by the Development Consent has been maintained

in the building / architectural plans submitted with the Construction Certificate. This must accompany the application for a Construction Certificate.

**B. Before Occupation**

Prior to the issue of the final Occupation Certificate design verification must be provided in accordance with SEPP 65.

**33. Certification Requirement of Levels**

**A. During Construction**

At the following stages of construction:

- i) Prior to the pouring of each floor or roof slab,
- ii) Upon completion of the roof frame.

A registered surveyor must provide the Principal Certifying Authority with Certification that the stage of structure complies with the development consent in respect of levels.

**B. Before Occupation**

The certification referred to above must form part of the application for an Occupation Certificate.

**34. Sydney Water Tap in™ & Compliance Certificate**

**A. Before Construction**

The plans approved as part of the Construction Certificate must be submitted to a Sydney Water Tap in™ to determine as to whether the development will affect Sydney Water's sewer and water mains, stormwater drains and / or easements, and if further requirements need to be met. Customers will receive an approval receipt. Please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au).

**B. Before Occupation / Prior to issue of Subdivision Certificate**

A Compliance Certificate under s73 of the Sydney Water Act, 1994, must be submitted to Council by the Principal Certifying Authority. Sydney Water may require the construction of works and/or the payment of developer charges.

**Sydney Water Advice on Compliance Certificates:**

An application must be made through an authorised Water Servicing Coordinator. For details see the Sydney Water web site at [www.sydneywater.com.au/customer/urban/index](http://www.sydneywater.com.au/customer/urban/index) or by telephone 13 20 92.

Following application a "Notice of Requirements" will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water / sewer extensions can be time consuming and may impact on other services as well as building, driveway or landscaping design.

**35. Dial Before You Dig**

**A. Before Construction**

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating

or erecting structures (this is the law in NSW).

It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

### **36. Noise Control and Permitted Hours for Building and Demolition Work**

#### **A. During Works**

To minimise the noise impact on the surrounding environment:

- i) The LAeq sound pressure level measured over a period of 15 minutes when the construction or demolition site is in operation, must not exceed the ambient background level (LA90 15min) by more than 10dB(A) when measured at the nearest affected premises.
- ii) All building and demolition work must be carried out only between the hours of 7.00am and 6.00pm Monday to Friday inclusive, 8.00am and 3.00pm Saturdays. No work must be carried out on Sundays and Public Holidays.

Only for the purpose of pouring large floor or roof slabs, work may be carried out on the site from 7.00am to 8pm Monday to Friday, excluding Public Holidays on a week day.

In order to activate the extended hours of operation both Council and affected neighbours must be notified a minimum of 48 hours prior to commencement. Affected neighbours include those in the immediate vicinity, adjacent or adjoining the development site. Notification must be by way of written advice including:

- Date/s the extended hours will be utilised.
- The purpose of the extended hours - pouring large slab.
- Address of the development works / site.
- Contact name and number of appropriate site officer (supervisor or manager) for enquiries.

Notification to Council must include a copy of the letter and a map or list identifying those affected neighbours who have been notified.

### **37. Toilet Facilities**

#### **A. During Works**

Toilet facilities must be available or provided at the work site at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site before works begin and must be maintained until the works are completed.

Each toilet must:

- i) be a standard flushing toilet connected to a public sewer, or
- ii) have an on-site effluent disposal system approved under the Local Government Act 1993, or
- iii) be a temporary chemical closet approved under the Local Government Act 1993

### **38. Street Numbering and Provision of Letter Box Facilities**

#### **A. Before Occupation**

- i) Street / unit / shop numbers must be clearly displayed.

- ii) Suitable letterbox facilities must be provided in accordance with Australia Post specifications.
- iii) The dwellings must have the following street address format:  
The site must be known as 21 Flide Street Caringbah, the units are to be numbered in accordance with the approved architectural plans.

### 39. **Car parking Areas**

#### **A. Ongoing**

To ensure that the car parking area satisfies the demands of the development:

- i) it must be made available on an unrestricted basis and free of charge at all times for employees' and visitors' vehicles to the health services.
- ii) any parking nominated as visitor parking or common property must be continually available as common property.

### 40. **Car Parking Allocation**

#### **A. Before Subdivision**

Car parking must be allocated to individual strata lots as part of their unit entitlement.

Visitor parking facilities and/or car wash bays must be designated as common property on any strata plan.

Parking must be allocated on the following basis:

- Residential dwellings: 121 spaces
- Residential visitors: 22 spaces
- Car wash bay(s): 4 spaces
- Retail/commercial: 67 spaces
- Loading/servicing: 1 MRV space

#### **B. Ongoing**

The car-parking provided must only be used in conjunction with the dwellings and/or tenancies contained within the development and not for any other purpose.

### 41. **General Deliveries / Loading**

#### **A. Ongoing**

- i) All general deliveries to the site must be carried out within the hard stand waste collection / loading bay within the site.
- ii) The hard stand waste collection / loading bay must be clearly signposted as being used for both the collection of waste and for all general deliveries / loading.

### 42. **Security**

#### **A. Design**

In order to maximise safety and security of future residents and visitors, the following security measures are to be provided.

- Adequate lighting is to be provided to the central pathway and building entry points. Lighting is to be directed to pathways and appropriately spaced to ensure even lighting throughout the area.

- Basements are to be painted a light colour to improve lighting efficiency.
- Adequate lighting is to be provided throughout all parking levels.
- Entry doors and lifts are to be provided with appropriate security measures including intercom.
- A CCTV system must be installed to monitor all common areas (including letter boxes), the access / exit driveway and all basement car park levels including lift areas.

**B. Before Occupation**

The Principal Certifying Authority must be satisfied that 'A' above has been complied with.

**43. Undergrounding of Power Lines**

**A. Before Occupation**

Power lines along road frontages must be placed underground. Street lighting is to be installed along both frontages as required to the satisfaction of Ausgrid prior to the issue of any Occupation Certificate. A copy of certification from Ausgrid that the works have been completed to Ausgrid's satisfaction must accompany an application for any Occupation Certificate.

Note: High voltage power lines cannot be undergrounded.

**44. Health Services**

**A. Ongoing**

The floor area identified as 'health services' in the approved plans must only be used for the purpose of *health services facility* as defined in the Sutherland Shire Local Environmental Plan.

Note: Each use within the *health services facility* floor space requires a separate consent.

**END OF CONDITIONS**

Annette Birchall - 9710 0846  
File Ref: PAD15/0065

5 August 2015

Sky Blue Developments Pty Ltd  
54 Sorrell Street  
NORTH PARRAMATTA NSW 2160

Dear Sir

**Pre-Application Discussion No. PAD15/0065**

**Proposal: Amalgamation of 8 Lots into 1 and demolition of existing single dwellings and erection of a new residential flat building with health services below and associated basement carparking**

**Property: 396, 398, 400 & 402 Kingsway and 21, 23, 25 & 27 Flide Street, Caringbah.**

Council refers to the pre-application meeting (PAD) held on 30 June 2015 regarding the above development proposal. Annette Birchall (development assessment officer), David Jarvis (Architect), Barbara Buchanan (Landscape Architect) and Grant Rayner (Engineer) attended the meeting on behalf of Council and Jason Youssef (applicant), Jason Nowosad and Pegah Hadisadeh (Architects) and Ben Black (planning consultant) attended on behalf of the applicant.

The purpose of this letter is to provide a summary of the issues discussed at the meeting and provide information that will assist you should you proceed with preparing a development application (DA). Council cannot provide you with certainty on the determination of the proposal until a DA has been lodged and assessed.

Your DA will need to be supported by a Statement of Environmental Effects addressing all relevant Environmental Planning Instruments, and the detailed planning controls contained in Council's Draft Development Control Plan.

The Site and Proposal:

The site encompasses 2 adjacent sets of 4 Lots off the south west side of Kingsway and off the north east side of Flide Street. The development site is a regular shaped lot with an approximate 60.96m wide frontage to both Kingsway and Flide Street and 79.25m side boundaries for a total lot area of approximately 4,831.8m<sup>2</sup>. The land slopes gently down diagonally some 5m from the north east corner (Kingsway) to the south west corner (Flide Street) of the site. The development site currently consists of eight residential dwellings, outbuildings and a swimming pool with a few trees, particularly along Kingsway and the north west corner.

The proposal is to develop 2,483m<sup>2</sup> of health services within a T shaped building base and 89 dwellings within two towers above. Specifically, the proposal is as follows:

### **Basement and podium levels**

- 3 levels of basement parking extending from Flide Street to Kingsway including 2 levels of basement parking for the residential towers and 1 level of basement parking dedicated to the health services space.
- The level labelled as Lower Ground consists of 1,502m<sup>2</sup> of space for health services fronting Flide Street which extends to the north east corner of the building. This level is below ground at Kingsway due to the natural contours of the site. The north west corner of this level includes additional basement parking dedicated to the health services space.
- Access to the lower ground health services and the Flide Street tower are provided from Flide Street.
- Access and egress to all parking is provided at the south west corner of the site off Flide Street.

### **Kingsway**

- The level labelled as Ground Floor consists of health services space fronting Kingsway. This consists of two independent floor plates which are separated by a corridor accessing the Flide Street tower to the rear and the vertical circulation for the Kingsway tower.
- 5 levels of residential dwellings above the health services level, ranging from 1,013m<sup>2</sup> of residential floor space at level 1 to 519m<sup>2</sup> of residential floor space at level 5 through the gradual increase of side setback.
- One and two bedroom dwellings for a total of 51 dwellings.
- Access to ground floor health services and the Kingsway tower is from the Kingsway.

### **Flide Street**

- The level labelled as Ground Floor is the first floor at the Flide Street frontage and is located above the health services level. This is the first level of residential units for the Flide Street tower.
- A total of 5 levels of residential dwellings.
- Levels 3 and 4 (the top two levels of this tower) are provided with an increased setback to Flide Street.
- One, two and three bedroom dwellings for a total of 38 dwellings.
- Access to ground floor health services and the Flide Street tower is from Flide Street.
- An additional access corridor is provided from Kingsway to the Flide Street residential tower. The towers are connected via a glazed corridor on each level.

The property is within Zone R4 High Density Residential under the provisions of Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015). The proposed residential flat building is a permissible form of development within this zone.

The site is located within the Caringbah Medical Precinct and is subject to additional controls pursuant to clause 6.21 of the SSLEP 2015.

SSLEP2015 indicates that the site is mapped as being affected by the road noise buffer (associated with Kingsway). This will need to be considered and addressed appropriately when preparing your DA.

Comments on the Proposal:

The following comments are provided in respect to the concept plans presented for consideration at the meeting.

1. Compliance with SSLEP 2015 controls

Landscape Area:

Pursuant to SSLEP 2015, the minimum landscaped area for this development is 30% of the site area. Landscaping over basements is not included in this calculation. Any development application is to comply with this standard.

Floor Space Ratio:

Pursuant to SSLEP 2015, the maximum floor space ratio (FSR) for this site is 0.55:1. However, as the land is identified as being within Area 7 on the Floor Space Ratio map, any application which includes health services facility is subject to clause 6.21(5) and may exceed this maximum floor space ratio by an additional 1.45:1. The maximum FSR for this proposal is therefore to 2:1. The presented information indicates that the concept complies.

Height:

Pursuant to SSLEP 2015, the maximum height for this site is 9m. However, as the land is identified as being within Area 7 on the Height of Buildings map, any application which includes health services facility is subject to clause 6.21(4) and may exceed this maximum height by an additional 11m. The maximum height for this proposal is therefore 20m. The proposal is to comply with the maximum height limit for the development site.

2. Compliance with draft Development Control Plan (DCP) 2015 controls

Various setbacks do not comply with the draft DCP (Chapter 8).

- The front setback to Kingsway does not comply with required 7.5m street setback.
- A nil set back from the sites south eastern boundary and a reduced set back from the sites north western boundary (4m proposed and 6m required).
- Additional height proposed fronting Flide Street.
- A 2m landscaped side setback should be provided to the driveway.
- Chapter 8 of draft SSDCP 2015 requires that health services facilities must occupy 25% of the floor space to obtain the maximum height and FSR on this site.
- If the development does not comply with the amalgamation plan, it must be demonstrated that all sites can achieve their full development potential (FSR 2:1), comply with the SEPP 65 standards and provide for building forms of varied height across the precinct (see note under clause 5 of chapter 8).

The significant non-compliances need to be convincingly justified as the development in its current form is not consistent with the objectives of the controls and impacts on the development potential and quality of neighbouring properties within the precinct.

3. Design

The subject sites are located within a developing precinct where the topography, orientations and immediate context of the site located between Kingsway and Flide Street create some challenges to which a successful design must respond.

To assist with providing a cohesive response to these sites and create a unified precinct which maintains development potential for all sites, diagrams have been provided in the draft DCP 2014. These diagrams set out some basic principles for these sites, including: focus the taller portion of the built form towards Kingsway, provide vehicle access from Flide Street, maintain



a maximum of 4 storeys fronting Flide Street and provide large areas of landscaping fronting Flide Street.

It is acknowledged that realising the full extent of the permissible FSR on these sites is challenging and that a successful response may step outside of the diagrammatic forms shown in councils draft DCP, however, by amalgamating 8 sites as opposed to 6, the proposal has broken with the site amalgamation pattern set out in the draft DCP and the portion of the site adjoining Flide Street has become less efficient as a result. This in turn makes it even more difficult to realise the full extent of FSR permissible on these sites.

Numerous departures from the principles set out in the draft DCP are evident. The inefficient lot amalgamation pattern significantly contributes to these departures. A built form that better fits the DCPs vision for this precinct could be achieved if a 6 lot site amalgamation were to be developed.

The proposed lot amalgamation also creates some potential challenges for the adjoining sites to the south east. It is difficult to see how a Residential Flat Building (RFB) compliant with the Apartment Design Guide (ADG) that meets councils landscaping requirements can be developed on the remaining sites to the south east. If an 8 lot amalgamation is to be progressed considerable analysis is required to demonstrate the viability of these adjoining sites.

#### 4. Landscaping

A landscape plan was not submitted the comments below are general comments:

- The overhead wires in Kingsway and Flide Street will be required to be undergrounded as part of the development (draft DCP2015 Ch8.9.2.13). This will allow street trees to be planted in both streets which will greatly improve both streetscapes.
- The site is located in a Greenweb 'Restoration' zone which requires that new trees shall be 100% indigenous species and understorey planting shall be 50% indigenous species. The applicant is referred to the Native Plant Selector available on Council's website for suitable species.
- The objectives of the Caringbah Medical Precinct requires substantial landscaping including large scale indigenous trees which will complement the scale of buildings, particularly in the building setbacks adjacent to Kingsway, Caringbah.

#### 5. Vehicular Access-way & Parking

A full traffic report and construction site management are to be undertaken and provided with the development application. The report must include details about internal ramps, location of any mirrors etc, as well as manoeuvring within the basement and ramps. Details of garbage collection and deliveries shall be provided within the traffic report.

It is likely that a 2.5m wide shared pavement will be required adjacent to the kerb along Kingsway and a 1.5m wide footpath pavement is to be provided along the frontage of Flide Street.

The number of spaces and allocation of parking spaces are to comply with Council's DCP controls including residential visitor's spaces and carwash bays. This includes the required number of adaptable parking spaces which are to comply with AS2890.6 or AS4299 (including 2.5m clearance headroom).

Bicycle parking rates are to be provided in accordance with Councils DCP.

The alignment of Flide Street kerb and gutter must be amended to suit the requirements set out in the Public Domain Manual and Specification.

A loading bay is to be provided to facilitate garbage collection, deliveries to the health services levels and removalist vehicles for residential users. The loading bay dimensions must comply with AS2890.2 for a "HRV" sized vehicle including headroom. A possible suitable location is adjacent to the basement ramp.

Roads development application (RDA) should be applied for and obtained for the driveway levels prior to lodging any development application.

#### 6. Stormwater Management

The required concept stormwater drainage design shall be undertaken by a qualified Civil Engineer. This design shall detail the Interlot drainage system including detention, connection location into Councils existing kerb inlet pit within Flide Street in front of No. 27, water sensitive urban design principles and treatment devices in accordance with Councils DCP and stormwater specification.

The connection to Council existing drainage system is to be towards Flide Street. The design must be connected to the existing kerb inlet pit in front of number 27 Flide Street.

#### 7. Utilities and Infrastructure

You are advised to make enquiry early with the various infrastructure and utility providers to ensure relevant considerations for the provision of services have been taken into account early in the building design. Urban infrastructure and utilities are reaching, or have reached maximum capacity in some localities. Electricity substations are required on occasion to ensure sufficient power to buildings and to meet flow requirements for sprinkler systems; NSW Fire have required substantial water tanks in other instances. Infrastructure to support these requirements will not be approved in the front boundary set back, or at the expense of landscaping or parking requirements.

#### 8. Waste

As there are more than 45 units proposed, bulk rubbish bins and a private contractor will be required. The storage and movement of these are to be addressed in the application.

#### Conclusion:

The proposed built form does not comply with several Council controls, largely as a result of breaking the amalgamation pattern as proposed in the Draft DCP 2014. This also results in potential impact on the development potential of the neighbouring properties to the south east. Any departures from Council controls are to be supported with a strong argument as to how the proposal is consistent with the objectives of these controls and a thorough analysis of its impact on surrounding properties including their ability to comply with SEPP 65 and achieve the desired development potential.

It is important to note that the information provided in this letter is based on the planning instruments applicable at the time of writing. You should make yourself aware of any subsequent changes to legislation or local planning controls before lodging your development application.

For detailed information about how to prepare and lodge a development application, please refer to the "Development" section of Council's website ([www.sutherlandshire.nsw.gov.au](http://www.sutherlandshire.nsw.gov.au)).

On the web page a "DA Guide" is available and an online tool called "Development Enquirer" which searches the applicable planning instruments for the planning controls relevant to your site and development.

Council's Development Enquiry Officers are also available to assist you with the lodgement requirements for your application (9710 0520).

Please contact Council if you believe any of the above information to be incorrect or if you need clarification of the advice provided. Your initial point of contact should be Annette Birchall (9710 0846) as this is Council's development assessment officer who will most likely be responsible for the assessment of your DA.

Yours faithfully

Carine Elias  
Acting Manager – Projects and Development Assessment  
for J W Rayner  
General Manager

## Architectural Review Advisory Panel

Proposal:

**Demolition of existing structures and construction of a mixed use development comprising health services and residential apartments**

Property:

**402 Kingsway CARINGBAH NSW 2229  
27 Flide Street CARINGBAH NSW 2229  
23 Flide Street CARINGBAH NSW 2229  
398 Kingsway CARINGBAH NSW 2229  
396 Kingsway CARINGBAH NSW 2229  
400 Kingsway CARINGBAH NSW 2229  
21 Flide Street CARINGBAH NSW 2229  
25 Flide Street CARINGBAH NSW 2229**

Applicant:

**Sky Blue Developments Pty Ltd**

File Number:

**DA15/1401**

The following is the report of the Architectural Review Advisory Panel Meeting held on Thursday, 17 December 2015 at the Administration Centre, Sutherland Shire Council, Eton Street, Sutherland. The report documents the Panel's consideration of the proposed development described above.

### **2. DA15/1401 – Demolition of Existing Structures & Construction of a Seven (7) Storey Mixed Use Development Comprising Three (3) Health Services Suites, Eighty-Nine (89) Residential Apartments & Three (3) Levels of Basement Car Parking at 396-402 Kingsway and 21-27 Flide Street, Caringbah**

Council's David Jarvis, Annette Birchall and Barbara Buchanan outlined the proposal for the Panel, including providing details of Council's relevant codes and policies.

Jason Nowosad, Pegah Hadisadegh, Ben Black, John Wehbe and Jason Youssef addressed the Panel regarding further development of the proposal and how they have addressed the issues raised by the Panel at the previous meeting.

#### **Description of the Site and Proposal**

This development application is for demolition of existing structures and construction of a seven (7) storey mixed-use development comprising three (3) health services suites, eighty-Nine (89) residential apartments and three (3) levels of basement car parking. The proposed unit mix is 32 x 1 bedroom, 52 x 2 bedrooms & 5 x 3 bedrooms.

The site is zoned R4 – High Density Residential (SSLEP 2015)

The site is located at 396-402 Kingsway and 21-27 Flide Street, Caringbah

#### **Key Controls:**

Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015)

Sutherland Shire Council Draft Development Control Plan 2015 (SSDDCP 2015)

### **Applicant's Submission**

The Panel note that the proponent has attended a PAD meeting (15/0065) and ARAP Pre-DA meeting (15/0018).

## **PRINCIPLE 1 – CONTEXT AND NEIGHBOURHOOD CHARACTER**

The site has frontages to the major regional road of the Kingsway and Flide Street, a quiet local thoroughfare.

The proposal is for an eight lot amalgamation in the Caringbah Medical Precinct, which is now zoned to transform from detached housing to mixed-use buildings comprised of apartments and commercial space suitable for a range of medical uses to service the expanding hospital. LEP2015 provides for up to 6 storeys in height and a substantial floor-space increase of up to FSR 2:1 with the inclusion of commercial space.

Council's precinct DCP proposed 6 lot amalgamations, so the applicant was asked to demonstrate that development over 8 lots would not disadvantage neighbouring sites. This has been investigated, and the Panel support the developed scheme subject to it being adjusted to address comments in relation to side setbacks and heights.

As emphasised in the Pre-DA ARAP Report, the proposal now responds successfully to the two different contexts of the Kingsway and Flide St, the latter of which will remain a low-density area on its southern side.

## **PRINCIPLE 2 – SCALE AND BUILT FORM**

The scale and form of the scheme to Flide St has been successfully resolved with the building presenting as three residential storeys above a commercial base (medical suites), plus a set back upper residential floor. In addition, the generous landscaped courts to either side will integrate the increased density on this suburban street and will establish a strong landscaped presence in keeping with Sutherland Shire's desired character.

The height of the frontage to Kingsway is suitably scaled to its setting, although it breaches the height limit. However, the side setbacks to the upper levels of the Kingsway building do not comply with ADG requirements (3F-Visual Privacy) being 6m rather than 9m. As a result the mass of this large building frontage is considered to be too persistent, and as a result the potential impact on privacy and overshadowing to future development on adjacent sites is greater than it should be. It is important that the spaces between buildings on these large sites avoid a canyon-like character and there is adequate space, light and deep soil for substantial landscaping between the buildings.

## **PRINCIPLE 3 – DENSITY**

The proposed density is acceptable subject to resolution of the side setbacks.

## **PRINCIPLE 4 – SUSTAINABILITY**

Complying winter solar access to units within the development should be confirmed in elevation as well as in plan (e.g. a sun's eye view).

Solar access compliance should be checked when the site to the west is developed as shown in the draft DCP. Skylights to the top floor may be required.

To achieve natural cross-ventilation compliance, four units are included via provision of a façade slot. The ADG distinguishes between natural ventilation and natural cross ventilation, and the applicant should check that these units comply.

Ensure that rainwater storage capacity is sufficient to irrigate the extensive landscape areas, particularly on podium areas.

## **PRINCIPLE 5 – LANDSCAPE**

A variety of well-designed landscaped spaces have been provided at ground level and on the roof.

The overall landscape plan must be designed to ameliorate the impact of the scale of the proposed built form.

Kingsway Landscape: will reinforce the Kingsway boulevard with appropriate species however it is not clear if the intended cycleway has been accommodated.

Flide Street Landscape: similarly will ameliorate the scale of the development, however more large trees could be added to the south-west corner.

East and West Boundary Landscapes: simple but strong tree planting is essential in achieving visual separation between these new high-density developments. Whilst there are substantial retaining walls proposed at ground level, these are set back from side boundaries and suitably landscaped.

Courtyards: within this landscape frame, a number of thoughtfully designed spaces interpenetrate with the built form at various levels. The sunken courtyard will provide an interesting feature, however Section DD needs to include the details it so that it is clear to see how the planting will work. The Sedum roof at Level 2 will provide similar green interpenetration into the built complex.

The West Terrace: will provide pleasant community spaces, however some of the angular access paths are possibly too narrow for the ease of movement. The planted mounds modulate the space well but perspectives DA 703 and 705 show the security fencing for the adjoining units is too intrusive. This fencing needs a detailed drawing to show how it is concealed within the planted mounds; also reconsider more generous spacing of palisades. Well designed and integrated fences between private courtyards and common open space should be provided as discussed at the ARAP meeting, ensuring that private courtyards achieve suitable privacy while allowing surveillance of common space.

The East Communal Courtyard: this area also has a number of pleasant spaces that link with internal medical facilities.

**Roof Garden:** access by bridge and lift will encourage ease of access and use of these spaces, however mass planting on southern side will screen the attractive views to Gunnamatta Bay. Maintenance of sedum roofs will require facility for storage of garden tools. A toilet for residents use would improve amenity.

### **PRINCIPLE 6 – AMENITY**

Daylight and ventilation have been provided and are essential for the amenity of the long circulation corridors.

The units are well planned and comfortable. Potential impacts of overlooking from the pedestrian link-bridge to adjacent apartments must be carefully controlled by the proposed mix of screening and translucent glazing.

The Panel expressed some concern with the large commercial health services floor-spaces that are partially below ground, and that there should be opportunity in the fit-out to ensure that the more public areas are provided with adequate light and air.

The common open space on the roof of the 4 storey south building will have high amenity, provided that users are restricted from overlooking the private courtyards below.

Although common open space on this site is considered to be generous, solar access to common open space for the site to the east will probably be restricted to its 4 storey rooftops: this is probably acceptable however as the eastern neighbour will enjoy outlook and light from this site's western courtyard.

### **PRINCIPLE 7 – SAFETY**

Side setback zones and common open space at ground level require security fencing. A through-site link provided along the eastern boundary could provide useful mid-block pedestrian access, and should be discussed with Council.

There is good street surveillance from all lobbies, and suitable separation of residential and medical suite circulation.

### **PRINCIPLE 8 – HOUSING DIVERSITY AND SOCIAL INTERACTION**

The proposed apartment mix is acceptable.

There will be good opportunities for social interaction in the common open spaces.

### **PRINCIPLE 9 – AESTHETICS**

The architect has subtly but successfully differentiated the two buildings in scale and form, while the health facility is distinguished by its greater transparency. The Kingsway façade has been articulated into vertical bays, and this will be further improved by setting back the upper 2 floors to the side boundary as discussed above.

The palette of materials, textures and colours has been well considered and varied with subtlety to suit different aspects of the building.

### **RECOMMENDATIONS**

This is competent scheme that has addressed many of the issues discussed at the Pre-DA meeting. The building has been designed with skill and finesse.

Whilst the scheme has the advantage of extra ground area for deep soil and common open space due to it being an eight lot amalgamation, it requires more bulk on the Kingsway to achieve the allowable FSR. This creates potential future amenity impacts for neighbouring developments. In summary the Panel make the following recommendations:

- The side setbacks of the Kingsway building are not acceptable. The ends of the upper two levels of the Kingsway building should be setback at least 4 metres from the lower levels, 2 metres is inadequate and not compliant with the ADG.
- Natural cross ventilation requirements are checked and compliance confirmed.
- Solar access is further documented to demonstrate compliance.

Tony Caro  
Deputy ARAP Chairman

18 January 2016



**NSW Police Force**  
www.police.nsw.gov.au**ISSUE:**

Submission regarding Development Application No. DA15/1401 at 396-402 Kingsway and 21-27 Flide Street, Caringbah, submitted by Senior Constable Christopher Shade Reg'd No. 27402.

**BACKGROUND:**

See attached file.

**COMMENT:**

**Development Application No.:** DA15/1401

**Proposal:** Demolition of existing structures and construction of a mixed use development comprising of health services and residential apartments.

**Property:** 396-402 Kingsway and 21-27 Flide Street, Caringbah.

**Police Ref:** D/2016/60529

We refer to your development application which seeks approval for the development of a mixed residential apartments comprising of Health Services suites. The development containing 89 residential units with three levels of basement car parking for 142 residential spaces and 69 spaces for health services. The proposed development will result in an increase in activity, both in and around the location. Such activity will subsequently increase the risk of crime, along with increasing crime opportunities and potential offenders to the development and its surroundings.

After perusing the paperwork the following suggested treatment options are submitted for consideration including a number of Crime Prevention through Environmental Design (CPTED) factors that should be considered in this development.

**Surveillance**

The attractiveness of crime targets can be reduced by providing opportunities for effective surveillance, both natural and technical. Good surveillance means that people can see what others are doing. People feel safe in public areas when they can easily see and interact with others. Would-be offenders are often deterred from committing crime in areas with high levels of surveillance.

**Miranda Local Area Command**

34 Kingsway, Cronulla

Telephone 02 9527 8199 Facsimile 02 9527 8137 E/Net 58199 E/Fax 58137 TTY 9211 3776 (Hearing/Speech impaired)

ABN 43 406 613 180

**NSW POLICE FORCE RECRUITING NOW 1800 222 122**



### **Lighting and Technical Supervision**

Lighting should meet minimum Australian standards. Effective lighting contributes to safety by improving visibility, increasing the chance that offenders can be detected and decreasing fear. Special attention should be made to lighting the entry and exit points from the buildings, pathways throughout the site, car park and access/exit driveways.

The access/exit driveways need to be adequately lit to improve visibility and increase the likelihood that offenders will be detected and apprehended. At the same time throughout the site transition lighting is needed to reduce vision impairment, i.e. reducing a person walking from dark to light places.

Security lighting should not illuminate observers or vantage points. Within the residential complex, observers are likely to be "inside" dwellings. Light should be projected away from buildings towards pathways and gates – not towards windows and doors. Additionally, the central pathway through the complex should provide adequate lighting for pedestrian safety. The attached development application does not specify such lighting considerations.

### **Landscaping**

The safety objective of "to see and be seen" is important in landscaped areas. Research and strong anecdotal evidence suggests that vegetation is commonly used by criminals to aid concealment through the provision of entrapment pockets. Dense vegetation can provide concealment and entrapment opportunities.

Species can be selected for different locations on the basis of their heights, bulk and shape. A safety convention for vegetation is: lower tree limbs should be above average head height, and shrubs should not provide easy concealment. It is recommended that 3-5m of cleared space be located either side of residential pathways. Thereafter, vegetation can be stepped back in height to maximise sightlines.

Given the inclusion of shrubs and trees throughout the site within the proposed development, it must be emphasised that the vegetation be kept trimmed and maintained at all times.

### **Access Control**

Physical and symbolic barriers can be used to attract, channel or restrict the movement of people. They minimise opportunities for crime and increase the effort required to commit crime. By making it clear where people are permitted to go or not go, it becomes difficult for potential offenders to reach and victimise people and their property.

Illegible boundary markers and confusing spatial definition make it easy for criminals to make excuses for being in restricted areas. The proposed development application does not specify access control measures throughout the development. It is, however, crucial that these access control measures be considered.



Consideration should be given to installing security shutters at the entry to the underground car park area. It is noted that the following 'can be conditioned' - *"where security measures to car parks are provided an intercom system shall be installed for visitors to gain entry. This system shall incorporate a CCTV system to ensure that the visitor space availability can be determined"* (Annexure B, SSDCP 2006 Compliance Table, p.15). This security control measure should strongly be considered prior to approval of this development application.

Police would recommend that all residents are allocated access cards to provide temporary activation of security shutters to the basement area. This security access control measure could also be used to gain access into the pool area – access/safety control measures are not specified within the development application.

The proposal does not specify the type of locks to be fitted to roller doors within the basement car park area. Police would recommend that garage doors are designed and installed to the Australian Standards, fitted with quality locks. Within the local area, a common *modus operandi* of break and enter offenders whilst targeting premises of similar nature, is to access the residential premise via the garage area. Hence, quality deadlock sets should be fitted to internal doors leading from the garage area into individual townhouses. Storage doors within the garage area should also be fitted with quality deadlocks.

Police recommend that the underground car parking areas be painted white to greatly help to reflect light. Painted facilities not only look larger and more spacious than unpainted car parks, but can greatly reduce the number of lights required to illuminate the car park and on-going energy costs.

Police would suggest the use of CCTV to monitor the common areas, access/exit driveways and underground car parks to ensure resident safety and security.

Internal residential entrance doors and frames should be of solid construction. These doors should be fitted with quality deadlock sets, which comply with the Australian/New Zealand standards and Fire Regulations (Australian Building Code) to enable occupants to escape in emergency situations such as a fire. Consideration should be given to installing key operated locks to windows. In addition to this, consideration should be given to installing locks that allow for windows and doors in a partially open position.

## **Territorial Reinforcement**

With few exceptions, criminals do not want to be detected, challenged or apprehended. For offenders, the capability of guardianship (to detect, challenge or apprehend) is an important consideration. It is argued that residents are more effective as guardians (crime deterrents) than passing members of the community.

Territorial reinforcement can be achieved through:

- ✓ Design that encourages people to gather in public space and to feel some responsibility for its use and condition



- ✓ Design with clear transitions and boundaries between public and private space
- ✓ Clear design cues on who is to use the space and what it is to be used for. Care is needed to ensure that territorial reinforcement is not achieved by making public spaces private spaces, through gates and enclosures.

### **Environmental Maintenance**

Clean, well-maintained areas often exhibit strong territorial cues. Rundown areas negatively impact upon perceptions of fear and may affect community confidence to use public space and ultimately, it may affect crime opportunity. Vandalism can induce fear and avoidance behaviour in a public space, therefore the rapid repair of vandalism and graffiti, the replacement of car park lighting and general site cleanliness is important to create a feeling of ownership. Ownership increases the likelihood that people will report or attempt to prevent crime.

Many graffiti vandals favour porous building surfaces, as 'tags' are difficult to remove. Often a ghost image will remain even after cleaning. Easily damaged building materials may be less expensive to purchase initially, but their susceptibility to vandalism can make them a costly proposition in the long term, particularly in at-risk areas. This should be considered when selecting materials for construction.

The overall design of the outdoor "common areas" should include low barrier vegetation, bright/even lighting, wide/even paving, effective guardianship and an absence of entrapment opportunities. In addition to visible street numbering at the entrance to the complex, and throughout, this development should contain clearly signposted directional signage to assist both visitors and emergency services personnel.

### **Lighting**

Offenders within the area target this type of development, both in its construction phase and when the units are occupied. Police would recommend the use of security sensor lights and a security company to monitor the site while construction is in progress.

### **Car Park Security**

One of the major issues that have been brought to Police attention in this Local Government Area is the prevalence of offenders breaching the security access to the car park areas, and breaking into the vehicles. Due to the isolation of the garages, these offences are not usually noticed by the owners until much later. It is suggested that this area be monitored by CCTV and appropriately sign-posted to deter potential offenders.

### **Way-finding**

Way-finding in large environments such as this proposed development site can be confusing. Design and definitional legibility is an important safety issue at these locations. Knowing how and where to enter and exit, and find assistance within the development, can impact perceptions of safety, victim vulnerability and crime opportunity. Signage should *reinforce*, but not be an alternative to legible design.



### Letter Boxes

Mail theft/identity theft cost the community millions of dollars annually and thieves thrive off residents leaving their letter boxes unlocked. It is highly recommended the letter boxes are constructed of quality material and be fitted with quality and robust locks. Letter boxes that are positioned on the outside of the complex are easily accessible by offenders using a master key and residents leaving letter boxes unlocked.

*The NSW Police Force (NSWPF) has a vital interest in ensuring the safety of members of the community and their property. By using recommendations contained in this evaluation any person who does so acknowledges that:*

- It is not possible to make areas evaluated by the NSWPF absolutely safe for the community and their property*
- Recommendations are based upon information provided to, and observations made by the NSWPF at the time the evaluation was made*
- The evaluation is a confidential document and is for use by the Council or the organisation referred to on page one*
- The contents of this evaluation are not to be copied or circulated otherwise than for the purpose of the Council or the organisation referred to on page one.*
- The NSWPF hopes that by using recommendations contained within this document, criminal activity will be reduced and the safety of members of the community and their property will be increased. However, it does not guarantee that the area evaluated will be free from criminal activity if its recommendations are followed.*

### RECOMMENDATION:

This report to be forwarded to Sutherland Shire Council for assessment.

*to Rgt*  
Christopher Shade  
Senior Constable  
Crime Prevention Officer  
Miranda Local Area Command  
9 February, 2016.  
Ph: 9541 3899

- 1) Sergeant Millington – Crime Co-ordinator, Miranda LAC  
*For information and attention of SSC. Rgt sgt 11/2/16.*
- 2) Detective Chief Inspector Woolbank – Crime Manager, Miranda LAC.  
*[Signature]*  
*12.2.16*
- 3) General Manager, Sutherland Shire Council.

Our Ref: 0211/15lt1  
Your Ref: DA15/1401

11 March 2016

The General Manager  
Sutherland Shire Council  
Locked Bag 17  
SUTHERLAND NSW 1499

**Attention: Ms Annette Birchall**

Dear Annette,

**RESPONSE TO ADDITIONAL INFORMATION REQUEST – DA15/1401  
DEMOLITION OF EXISTING STRUCTURES & CONSTRUCTION OF A MIXED USE  
DEVELOPMENT COMPRISING HEALTH SERVICES AND RESIDENTIAL APARTMENTS  
396-402 KINGSWAY & 21-27 FLIDE STREET, CARINGBAH**

As you are aware, we act on behalf of the applicant in relation to the proposed development at the above property. The purpose of this letter is to respond to the issues raised in Council's letter dated 5 February 2016 with consideration to the report prepared by Council's Architectural Review Advisory Panel (ARAP) dated 18 January 2016. This submission is accompanied by amended architectural, landscape and stormwater plans. Also provided with the submission is a response prepared by the project architect to the comments made by the ARAP.

Provided below is a correlated response to each issue raised by Council staff.

**1. Height**

As indicated in the submission prepared by the project architect, the proposal has been amended to achieve a building height reduction of 1750mm. This has been achieved by:

- Reduction of the residential floor-to-floor height from 3100mm to 3050mm (capable of achieving 2700mm floor to ceiling height).
- Reduction of the health services floor-to-floor height from 4000mm to 3600mm (capable of achieving 3300mm floor to ceiling height).
- Reduction of the height of the parapet from 1000mm to 200mm.

This reduction in height means that only a small portion of the building fronting Kingsway will exceed the height maximum (for a height of approximately 400mm for a 2m length at the north-eastern end of the building) and that the majority of the development will be compliant. An amended Clause 4.6 variation is attached with height blanket diagrams included to describe the extent of non-compliance.

**2. Building Setbacks**

The proposal has been amended by increasing the setback of the Kingsway Building to the southern and northern boundaries by 9.6m and 9m, respectively, to the 5<sup>th</sup> and 6<sup>th</sup> storeys. This is compliant with the requirements of the Apartment Design Guide (ADG). The ground floor

(medical services) for the Kingsway building is setback 4m from each side boundary, consistent with the site specific DCP control and also consistent with the recommendations of Council's ARAP.

However, the building proposes setback variations to the middle 3 floors where, in lieu of a 6m setback to achieve strict compliance with the visual privacy controls of the ADG compliance, a 4m setback is proposed. It is noted that the ADG setback controls override the DCP control (in accordance with Section 6(a)(1) of SEPP No. 65).

The ADG Design Criteria for visual privacy states:

*Separation between windows and balconies is provided to ensure visual privacy is achieved.*

The purpose of the ADG setback is therefore **only** to achieve visual privacy. As indicated on the building elevations for the non-compliant parts of the building, full height aluminium privacy screens are proposed adjacent to bedroom and living room windows. The proposal therefore achieves the objectives and intent of the visual privacy control and therefore must be deemed as being acceptable.

Notwithstanding the above statements, consistent with the requirements of Section 79(c)(3A) of the Environmental Planning & Assessment Act, 1979, which requires a consent authority to consider a DCP variation on its merits, Part 11 of the Caringbah Medical Precinct contains inbuilt flexibility to vary the DCP provisions. Provided below is a response to the specific tests listed in the DCP.

*To test whether a building's side and rear setbacks are appropriate, the following questions should be asked:*

- a. Does the proposed bulk and scale of the development result in excessive visual intrusion when viewed from an adjoining development or public area outside of the site?

The DCP specifies an amalgamation pattern and the proposal includes all of 'Site 14' and two of the adjoining properties (No. 21 Flide St and 396 Kingsway) from 'Site 15'. Although the proposal is for a larger development site than anticipated by the DCP, the site width of Site 15 (and its development potential) is not compromised as it will have a width to Flide Street (30m) and to Kingsway (45m) that exceeds the DCP minimum of 26m (the development potential of the adjoining site and compliance with core controls is described on architectural plans CA 901, 902, 903 and 904).

For sites fronting Kingsway, a common theme on the Building Envelope Plan is 6 storey built form (4m side boundary setback) positioned to the north of 2 storey built form on an adjoining site (also with a 4m side boundary setback). This built form relationship sets the *expected* scale and bulk relationship between development sites and the public domain, and is useful to determine what could be described as 'excessive' (as required by the DCP test outlined above).

In lieu of 2 storey and 6 storey form set against the respective northern and southern site boundaries, the proposal seeks to balance the form with a 6 storey building set within a 4 storey podium. In addition, the top 2 stories are setback 9m (or greater) from the side boundaries. The comparable impacts created by the 'visual intrusion' of 4 storey form adjacent

to the southern boundary would be less than a 6 storey form, and could not be described as being excessive when viewed from the adjoining southern site.

The adjoining site to the north-west has not been developed as expected for the Precinct, although it is anticipated in the shorter term. That future residents of that site would be expected a 2 storey form on the subject site, whereas a 4 storey form is proposed. The proposed additional storeys would not create 'excessive' visual intrusion as the apartments would be designed *front and back*, where the orientation would be towards the Kingsway or towards Flide Street.

Similarly, the public domain would not be excessively impacted upon. A predominant building height of 6 storeys is expected with a landscaped setback to the Kingsway, which is consistent with the proposal.

The proposal was reviewed by Council's independent architectural experts, the ARAP. The report prepared by ARAP supports the proposal (subject to increased setback to the upper 2 levels, as proposed within the amended plans) and states that (our emphasis added):

*Council's precinct DCP proposed 6 lot amalgamations, so the applicant was asked to demonstrate that development over 8 lots would not disadvantage neighbouring sites. This has been investigated, and the Panel support the developed scheme subject to it being adjusted to address comments in relation to side setbacks and heights.*

*As emphasised in the Pre-DA ARAP Report, the proposal now responds successfully to the two different contexts of the Kingsway and Flide St...*

In addition, as recommended by the ARAP, the front and site boundary setback zones contain deep soil areas that will be extensively landscaped and will enhance the built form and reduce visible building bulk when viewed from neighbouring properties and the public domain.

It is demonstrated that the proposal will not have excessive visual intrusion.

b. Does the scale and siting of the proposed development result in significant overshadowing of adjoining properties?

Setting back the uppermost floors by 9.6m to the southern boundary will achieve greater solar access for the neighbour property to the south-east in comparison to a building that has a 6 storey height with a 4m side boundary setback, as anticipated by the DCP Building Envelope Plan.

In addition, the project architect has modelled solar access and cross ventilation available to a likely development form on the adjoining sites to the south-east (see plans CA 903 and 904) and compliance with the ADG provisions is achieved. Furthermore, plans CA 901 and 902 demonstrates that the adjoining sites can be fully development to the anticipated density (FSR of 2:1) and scale (6 storeys), with appropriate side boundary setbacks, communal open space and deep soil landscaped area.

The proposal therefore will not result in significant overshadowing or loss of amenity got the adjoining properties.



- c. Does the podium wall or any basement level or elements erected on the podium, result in excessive visual intrusion when viewed from outside the site?

No. Deep soil planted areas surround the site.

Submitted with this letter is a response to Council's comments prepared by the project architect. Justifications provided above along with the project architects comments and detailed design for the adjoining sites (the remainder of 'Site 15'), demonstrates that the proposal will allow the adjoining development site to achieve a development outcome that is of a density, scale and amenity that is expected by the DCP.

It is noted that the balcony width for Units B402 and B403 has been reduced to 3m as requested by Council.

### **3. Private & Communal Open Space**

Balcony sizes have been adjusted to achieve or exceed compliance with the ADG requirements.

In relation to the communal open space, it is advised that the lower communal open space located to the north of the Flide Street building is designed and intended to be used for more passive purposes such as reading. Conversely, the rooftop open space is designed for more active and social purposes. In this regard, the amended proposal includes a barbecue area, seating, garden store and unisex toilet. Please refer to the amended landscape plans.

### **4. Natural Light & Ventilation**

Cross ventilation diagrams are provided within the amended submission demonstrating compliance with the ADG minimum of 60%. It is noted that the building indents have been amended to achieve the ADG ratio of 2:1.

As indicated in the sun access diagrams provided with the application, solar access is achieved to 67% of the units within the development for a 2 hour period at mid-winter. Whilst this is less than the ADG minimum of 70%, it is considered to be a marginal non-compliance and acceptable in the circumstances as the number of north facing units has been maximised and the DCP desired footprints, along with the skewed site orientation, result in a large number of units with south-east to south-west orientation. Notwithstanding these unfavourable constraints, the architect has worked hard to maximise solar access and achieve unit layouts that offer high levels of amenity. We note that, given the alignment of Kingsway and Flide Street, all blocks within this portion of the precinct will likely experience similar difficulty in achieving compliant solar access.

In addition, it is noted that the development significantly exceeds the communal open space requirements of the ADG and compliant solar access is achieved.

### **5. Engineering**

- Waste storage has been amended accordingly. A waste holding area and truck loading bay is provided adjacent to the basement entry on Flide Street.
- The JRPP may impose a suitable consent condition in relation to the size of the medical facilities parking spaces.

- Amended stormwater plan and details are provided under separate cover. The JRPP may also impose suitable consent conditions.

## **Conclusion**

As demonstrated above, the proposal has been amended in response to Council's and ARAP's comments.

We trust that the amended documentation is sufficient and self-explanatory. However, should you require any further information or clarification in this regard, please do not hesitate to contact our office.

Yours faithfully,

**PLANNING INGENUITY PTY LTD**

A handwritten signature in black ink, appearing to be 'Benjamin Black', written over a circular stamp or seal.

Benjamin Black  
**ASSOCIATE DIRECTOR**

## CLAUSE 4.6 VARIATION – BUILDING HEIGHT

396-402 KINGSWAY & 21-27 FLIDE STREET | CARINGBAH

*Amended March 2016*

**CLAUSE 4.6 VARIATION – BUILDING HEIGHT (AMENDED)**  
**396-402 KINGSWAY & 21-27 FLIDE STREET, CARINGBAH**  
**CLAUSE 6.21(4), SSLEP 2015**

**1. General**

This Clause 4.6 Variation should be read in conjunction with the submitted Statement of Environmental Effects and the additional information response dated 11 March 2016, prepared by Planning Ingenuity Pty Ltd.

Clause 4.3 of *Sutherland Shire Local Environmental Plan 2015* relates to height of building (building height) requirements and refers to the *Height of Buildings Map*. The maximum building height shown on the map for the subject site is 9m.

Despite the maximum building height shown on the map, subclause 6.21(4) states that:

*‘The height of a building on land to which this clause applies may exceed the maximum height shown for the land on the Height of Buildings Map by an additional 11 metres if:*

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

The maximum building height for the subject site is therefore 20m.

Height of building is defined as:

**“building height (or height of building)** means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.”

The proposed development involves demolition of the existing dwellings and structures to enable the construction of a part 4 and part 6 storey mixed use development comprising a health services facility and residential apartments.

The maximum proposed building heights are as follows:

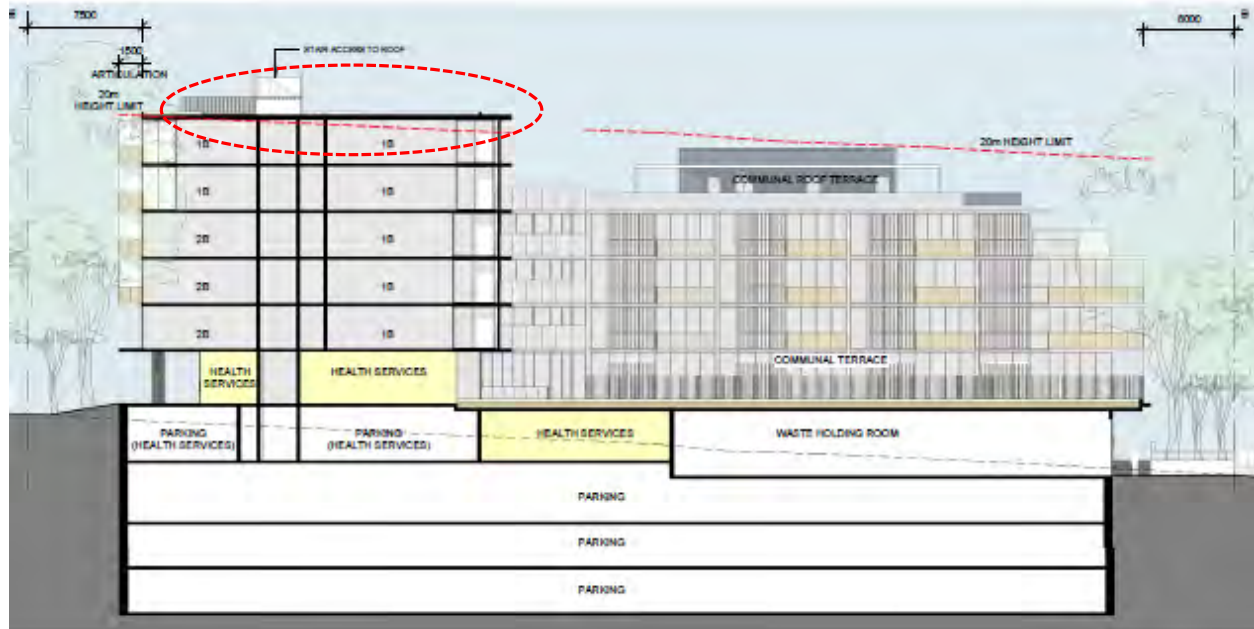
- To the highest ‘visible’ part of the development (the north-western corner of Building A) – 21.1m;
- To the top of the lift overrun on Building A– 21.2m; and
- To the top of the fire access stairs on Building A – 21.9m.

Despite the above stated non-compliances, the majority of Building A and all of Building B (Flide Street portion of the site) complies with the 20m height limit.

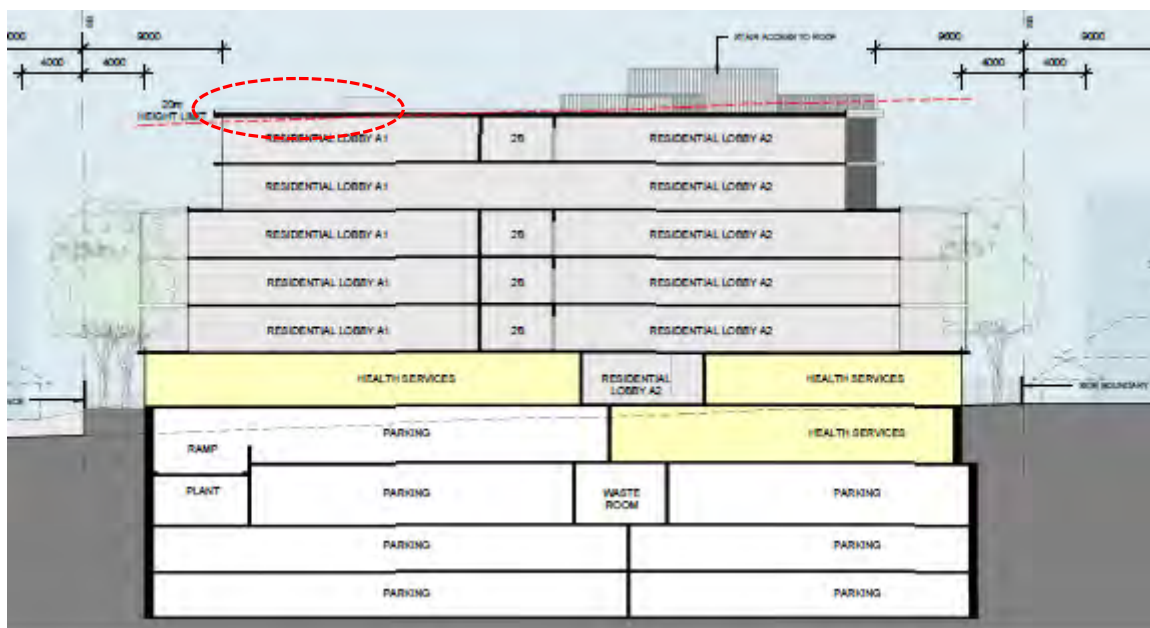
The proposal therefore seeks a variation that ranges from 1.1m to 1.9m to the building height development standard.

Figures 1 and 2 show the location of the extent of the building height non-compliance for Building A when the building is viewed in Section (D-D and E-E). It is noted that the height lines indicated in the elevation drawings are taken at the site boundary and therefore do not represent the extent of non-compliance. Non-compliances are best viewed in Section as indicated on plans DA203, DA204 and DA205.

The extent of non-compliance is circled red in Figures 1 and 2.



**Figure 1: Height non-compliance (Section D-D)**



**Figure 2: Height non-compliance (Section E-E)**

Figure 3 visually demonstrates that the majority of the development complies with the LEP building height limit and also the portions of the building that seek a variation.



**Figure 3: Height blanket diagram**

Maximum building height is a “development standard” to which exceptions can be granted pursuant to Clause 4.6 of the LEP. It is hereby requested that an exception to this development standard be granted so as to permit the resulting maximum building height of 21.9m.

The objectives and provisions of Clause 4.6 are as follows:

- “(1) The objectives of this clause are as follows:*
  - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) Development consent must not be granted for development that contravenes a development standard unless:*
  - (a) the consent authority is satisfied that:*

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
  - (b) the concurrence of the Secretary has been obtained.
  - (5) In deciding whether to grant concurrence, the Secretary must consider:
    - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
    - (b) the public benefit of maintaining the development standard, and
    - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.
  - (6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:
    - (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
    - (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.
- Note.** When this Plan was made it did not include all of these zones.
- (7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
  - (8) This clause does not allow development consent to be granted for development that would contravene any of the following:
    - (a) a development standard for complying development,
    - (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,
    - (c) clause 5.4.excluded from the operation of clause 4.6."

The development standards in clauses 4.3 or 6.21 are not "expressly excluded" from the operation of clause 4.6.

Objective 1(a) of Clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8).

This submission will address the requirements of subclauses 4.6(3) and (4) in order to demonstrate that the exception sought is consistent with the exercise of "an appropriate degree of flexibility" in applying the development standard, and is therefore consistent with objective 1(a). In this regard, it is noted that the extent of the discretion afforded by subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in, for example, subclause 4.6(6).

Objective 1(b) of clause 4.6 is addressed later in this statement.

The balance of this request will be divided into the following sections, each dealing with the nominated aspect of Clause 4.6:

- consistency with the development standard objectives and the zone objectives (Clause 4.6(4)(a)(ii));
- sufficient environmental planning grounds to justify contravening the development standard (Clause 4.6(3)(b)); and

- compliance is unreasonable or unnecessary in the circumstances of the case (Clause 4.6(3)(a)).

## **2. Consistency with the development standard objectives and the zone objectives (clause 4.6(4)(a)(ii))**

### **Development Standard Objectives**

The objectives and relevant provisions of Clause 4.3 are as follows, inter alia:

- (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.

As previously noted despite the maximum height shown on the Height of Buildings map, Clause 6.21(4) states that:

- (4) Despite clause 4.3 (2), the height of a building on land to which this clause applies may exceed the maximum height shown for the land on the Height of Buildings Map by an additional 11 metres if:
  - (a) the building contains a health services facility, and
  - (b) the building provides a transitional scale of building height to Flide Street, Caringbah, and
  - (c) the building setbacks are sufficient for the deep soil planting of substantial landscaping, including large scale indigenous trees on Kingsway frontage at Caringbah.

This variation seeks a 1.9m variation to the permitted 20m building height limit.

In order to address the requirements of subclause 4.6(4)(a)(ii), each of the objectives of Clause 4.3 are addressed in turn below.

#### **Objective (a):**

This objective seeks to ensure that buildings are compatible with the height, bulk and scale of the adjoining development and the existing and future character of the locality and positively complement the landscape setting. In our view, “compatible” does not promote “sameness” in built form but rather requires that development fits comfortably with its urban context. Of relevance to this assessment are the comments of Roseth SC in *Project Venture Developments Pty Ltd v Pittwater Council* [2005] NSWLEC 191:

*“ 22 There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.”*



The proposed development is of a scale that is consistent with the desired future scale and character of the Caringbah Medical Precinct.

**Objective (b):**

This objective seeks to ensure reasonable daylight access for all buildings and the public domain. All units within the development have windows to living areas and bedrooms which will allow high levels of natural light to penetrate into the apartments.

The proposed development will ensure reasonable solar access for the occupants of the subject site and the adjoining properties as outlined at Section 4.3.6 of the Statement of Environmental Effects.

**Objective (c):**

This objective seeks to minimise the impacts of new buildings on adjoining or nearby properties from loss of views, loss of privacy, overshadowing or visual intrusion. As outlined in the Statement of Environmental Effects the proposed development demonstrates that there will be no unreasonable detrimental impacts to views, privacy or daylight access and minimal visual intrusion on neighbouring properties.

In terms of views, the height of the building will not result in any view loss compared with a compliant building. The height of the proposal will not be detrimental to the environmental amenity of the site and the surrounding properties.

In terms of privacy, the non-compliance will not have any additional impacts on adjoining properties as it relates to a limited portion of the roof of Building A. The development has been designed to ensure that the setback to the rear and side boundaries and landscaping treatments provides appropriate building separation and privacy relationship.

In relation to solar access, the building will result in shadow impacts that are reasonably anticipated as part of redeveloping the site. The non-compliant parts of the building will not cast any shadow on an adjoining property.

**Objective (d):**

This objective seeks to ensure the visual impact of buildings is minimised.

The proposed development will not result in any greater visual impact compared with a compliant building.

**Objective (e):**

This objective seeks to ensure that the height of non-residential buildings are compatible with the scale of residential buildings.

The proposed development contains health services facilities located on the ground and first floor and residential apartments above. Whilst this objective may not be entirely relevant it is reiterated that the proposed scale is compatible with the anticipated built form in the Caringbah Medical Precinct.

The proposed development is therefore consistent with the objectives for maximum building height despite the numeric non-compliance.

### **Zone Objectives & Precinct Specific Objectives**

Clause 4.6 (4) also requires consideration of the relevant zone objectives.

The objectives of the *R4 High Density Residential 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.*

Clause 6.21 also sets out the following specific objectives for development within the Caringbah Medical Precinct:

- a) *to create a mixed use development precinct that has health services facilities and residential accommodation located adjacent to the Sutherland Hospital and within walking distance of Caringbah Centre,*
- b) *to provide employment opportunities and promote economic growth for Sutherland Shire through synergies with the existing medical facilities of Sutherland and Kareena Hospitals,*
- c) *to be a catalyst for the revitalisation of Caringbah Centre,*
- d) *to ensure that there are high quality areas of private and public domain, with deep soil setbacks for the planting of substantial landscaping including large scale indigenous trees which will complement the scale of buildings up to 6 storeys, particularly in the building setbacks adjacent to Kingsway, Caringbah,*
- e) *to protect the amenity of the adjacent areas by providing a transition to adjacent 2-storey residential development, including reasonable setbacks from side and rear boundaries and the maintenance of a transitional scale of building height to Flide Street, Caringbah,*
- f) *to improve safety and traffic flow by limiting vehicle access from Kingsway, Caringbah, to redevelopment sites.*

The precinct specific objectives are also relevant in relation to Clause 4.6 (4).

The proposed development is consistent with the objectives of the zone as it will allow for the provision of a range of residential apartment sizes to meet the housing needs of the community. Apartments designed to meet the adaptable housing and livable housing requirements are incorporated into the building and will supply housing to meet the needs of older people and people with a disability.

A high quality landscape scheme which responds to the desired landscape character of the Caringbah Medical Precinct is provided. The proposed development will deliver a high quality design which responds to the desired future urban environment of the Caringbah Medical Precinct. The building will offer high quality amenity to the future residents while not compromising future development on adjoining sites. In essence, the proposed development will provide a mixed use development at a scale and density that is consistent with the desired future scale of high density development within the Caringbah Medical Precinct

The proposed development incorporates a mix of health services and residential accommodation. The health services facilities will provide capacity for employment opportunities which have synergies with the nearby hospitals.

### **3. Sufficient environmental planning grounds to justify contravening the development standard (Clause 4.6(3)(b))**

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

On “planning grounds” and in order to satisfy that the proposal meets objective 1(b) of Clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve “a better outcome for and from development”, it is considered that the proposal represents a building scale which is compatible with the capacity of the site and the intended future character of the Caringbah Medical Precinct.

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 through:

- reduced dwelling yield;
- failure to maximise attainment of objectives for development in the R4 zone and Caringbah Medical Precinct, namely, the provision of housing *within a high density residential* environment;
- increased strata levies for apartments as the number of apartments that running costs could be distributed amongst would be reduced;
- reduced dwelling yield would not maximise opportunities for the provision of housing in close proximity to public transport, employment and services; and
- reduced density would reduce economic viability of providing the health services component which is a driving focus for the Precinct.

### **4. Compliance is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a))**

In *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. It states, inter alia:

*“ An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.”*

However, in *Four2Five v Ashfield Council* [2015] NSWLEC 90 the Land and Environment Court said that whether something was ‘unreasonable or unnecessary’ is now addressed specifically in clause 4.6(4)(a)(ii), with separate attention is required to the question of whether compliance is unreasonable or unnecessary. Accordingly, while the objectives of the standard are achieved despite non-compliance with the standard, this request goes further. It seeks to demonstrate that requiring strict adherence to the standard would be

'unreasonable or unnecessary' for reasons that are additional to mere consistency with the development standard.

Preston CJ in *Wehbe* expressed the view that there are five ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Additionally, in an analogous context, in *Botany Bay City Council v Saab Corp* [2011] NSWCA 308 Court of Appeal said that a requirement may be unreasonable when 'the severity of the burden placed on the applicant is disproportionate to the consequences attributable to the proposed development' (at paragraph 15).

Having regard to all of the above, it is considered that compliance with the building height development standard is unreasonable or unnecessary in the circumstances of this case as:

- The proposed height variation would be imperceptible to the casual observer.
- Requiring strict compliance with the height limit would undermine or thwart the objective of the height standard and zone objectives, as outlined previously.
- If the height control was strictly applied this would reduce the number of dwellings provided within the development, which would undermine or thwart the zone objectives and ability to maximise public transport patronage by occupants of the site.
- The proposed development meets the objectives of the height control **and** strict compliance with the height control would undermine or thwart its objectives, or the zone's objectives (or both).
- The burden placed on future residents and/or the broader community (by reducing the numbers of homes within an accessible location in easy reach of public transport) would be disproportionate to any consequences that may arise from the proposed non-compliance with the height control.

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.

Therefore, insistence upon strict compliance with the standard would be unreasonable and unnecessary.

## **5. Conclusion**

The development proposal will provide a mixed use development with superior amenity and streetscape presentation. This is achieved by well-planned and functional built form. 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 east to west. There would be no broader planning benefit achieved by requiring compliance.

Accordingly, for the reasons stated above, we respectfully request that Council permit the variation to the maximum building height development standard.