

SUTHERLAND SHIRE COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSSH-11
DA Number	DA19/0786
LGA	Sutherland Shire
Proposed Development	Demolition of existing structures, construction of a medical centre
Street Address	Lots 7 to 9 DP 8147, 398 to 402 Kingsway and 27 Flide Street, Caringbah
Applicant/Owner	Irwin Medical Developments Pty Ltd
Date of DA lodgement	22 October 2019
Number of Submissions	12
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	State Environmental Planning Policy (State and Regional Development) 2011, requires this application to be referred to the Sydney South Planning Panel (SSPP) as the development has a capital investment value of more than \$5 million and as such is nominated under Schedule 7 "Regionally significant development" of SEPP (State and Regional Development) 2011. The application submitted to Council nominates the value of the project as \$20,465,000.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55). • State Environmental Planning Policy (State and Regional Development) 2011. • Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015). • Sutherland Shire Development Control Plan 2015 (SSDCP2015) • Draft Environmental Planning Instruments • Section 7.12 Development Contribution Plan 2016 - Sutherland Shire.
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Appendix A – Submissions Review • Appendix B - Compliance Table • Appendix C – Draft Conditions of Deferred Commencement Consent without Prejudice
Clause 4.6 requests	Not applicable
Summary of key submissions	Refer Appendix A
Report prepared by	Meredith Alach – Development Assessment Officer Sutherland Shire Council
Report date	3 June 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not Applicable**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **No**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

EXECUTIVE SUMMARY

REASON FOR THE REPORT

State Environmental Planning Policy (State and Regional Development) 2011, requires this application to be referred to the Sydney South Planning Panel (SSPP) as the development has a capital investment value of more than \$5 million and as such is nominated under Schedule 7 “Regionally significant development” of SEPP (State and Regional Development) 2011. The application submitted to Council nominates the value of the project as \$20,465,000.

PROPOSAL

The proposal is for the demolition of existing structures and the construction of a medical centre.

THE SITE

The site has a primary eastern frontage to Kingsway of 45.72m and a western frontage to Flide Street of 15.24m.

ASSESSMENT OFFICER’S RECOMMENDATION

THAT:

That Development Application No. DA19/0786 for Demolition of existing structures and construction of a medical centre at Lots 7 to 9 and 37 DP 8147 398 to 402 Kingsway and Flide Street, Caringbah is determined by the refusal of development consent for the reasons outlined below:

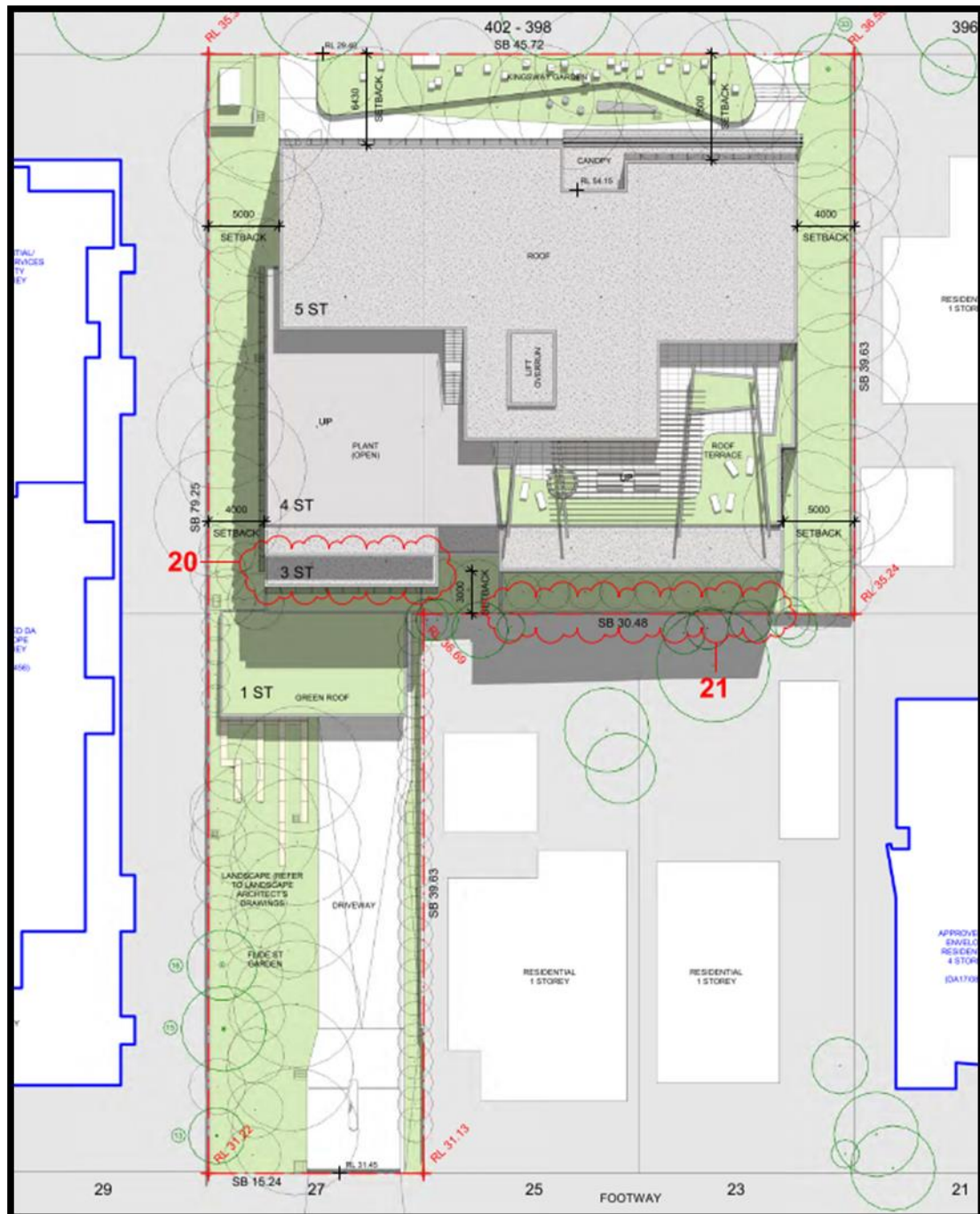
1. The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal is not of the desired future character envisaged for the Caringbah Medical Precinct locality. The proposal fails to satisfy objectives (1) (a), (d) and (e) of Clause 6.21 under SSLEP 2015.
2. The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal fails to satisfy Clause 6.16 Urban Design – general of SSLEP2015, as the design, bulk and scale of the building is not in keeping with the desired future character of the Precinct and locality.
3. The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal fails to satisfy Clause 6.18 Urban Design – non residential development in residential areas of SSLEP2015, as the design results in unacceptable setbacks, use of materials and is of a bulk and scale that is not of the desired future character of the locality.

4. The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, in that the proposal fails to satisfy the controls and objectives for amalgamation of land contained within Clause 5, Chapter 9 of Sutherland Shire Development Control Plan 2015 (SSDCP2015).
5. The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, in that the basement is not compliant with the street and rear basements required under Clauses 10.2.5 and 11.2.4 of Chapter 9 within SSDCP2015, preventing the planting of quality vegetation including canopy trees provided along Kingsway frontage and at the rear of the site.
6. The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, in that the side and rear setbacks are non compliant with Clause 11 of Chapter 9 contained in SSDCP2015. These setbacks will result in unacceptable impacts on adjoining properties, in terms of separation, visual and amenity impacts and the redevelopment potential of adjoining properties.
7. The application is considered unacceptable pursuant to the provisions of s4.15(1)(e) of the Environmental Planning and Assessment Act 1979, in that the approval of the development will create an undesirable precedent and is therefore not in the public interest.

ASSESSMENT OFFICER'S COMMENTARY

1.0 DESCRIPTION OF PROPOSAL

A site plan is provided below.



2.0 SITE DESCRIPTION AND LOCALITY

The site is irregular in shape with a total area of 2,415.6m². It has a primary eastern frontage to Kingsway of 45.72m and a western frontage to Flide Street of 15.24m. Its northern boundary adjoining 404 Kingsway & 29 Flide Street has a length of 79.25m and its southern boundary which adjoins 396 Kingsway has a length of 39.62m. The western rear boundary adjoins 23 & 25 Flide

Street and has a length of 30.48m. The site has a fall just over 3.2m from its south-eastern corner (RL36.33) to its north-western corner (RL33.10).

The site is currently occupied by 4 dwelling houses, each being single storey in height. Each lot currently has private vehicular access and a number of trees exist on the site. The site is surrounded by single residential dwelling houses. Residential flat buildings exist opposite the site along Kingsway and further north west of the site within the Caringbah Medical Precinct, new buildings (including residential and health service facilities) have been completed and others are under construction.

Adjoining the site to the north is 404 Kingsway and 29 Flide Street. Both lots are part of a DA approval involving 4 lots, 404 to 406 Kingsway and 29 to 31 Flide Street all of which were part of Site 13 within amalgamation plan within SSDCP 2015. DA16/0456 is for the demolition of 4 lots, construction of a 6 storey mixed use building containing 42 residential units, 2 health services facilities with basement car parking which lapses on 12 April 2021.

The site is located at the eastern edge of the Caringbah Medical Precinct. Caringbah railway station is approximately 380m away from the site to the south east. The site was “up zoned” under Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015) allowing a maximum height of 20m and an FSR of 2:1 for development containing health service facilities, otherwise a maximum height of 9m and FSR of 0.55:1 applies for residential purposes allowed under the R4 zone.

A locality plan and an aerial photo are provided below.





3.0 BACKGROUND

A history of the development proposal is as follows:

- The site has been the subject of an earlier DA approval (DA15/1401) which also included 396 – 402 Kingsway and 21 – 27 Flide Street, Caringbah. The approval was for the demolition of existing structures and construction of a development comprising health services and residential apartments. This application lapsed on 18 May 2020.
- The current application was submitted on 11 October 2019.
- The application was placed on exhibition, with the last date for public submissions being 15 November 2019.
- An information session was held on 7 November 2019.
- A meeting was held with the applicant on 4 and 27 March 2020 and additional information was requested.
- Amended plans were lodged on 16 March and 26 April 2020.
- Additional information addressing amalgamation received 6 May 2020.
- Extensive correspondence was maintained with the applicant on many occasions between lodgement and the receipt of the latest set of amended plans to assist in resolving the concerns raised.
- Revised basement plan received 23 May 2020.

4.0 ADEQUACY OF APPLICANT'S SUBMISSION

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

5.0 PUBLIC PARTICIPATION

The application was advertised in accordance with the provisions of Chapter 42 of Sutherland Shire Development Control Plan 2015 (SSDCP 2015). Council notified 81 adjoining or affected owners of the proposal and 12 submissions were received. A full list of the locations of those who made submissions, the date/s of their letter/s and the issue/s raised is contained within Appendix "A" of this report.

Eleven residents attended the information session which was held during the notification period. The issues raised form part of Appendix "A". Further information on the information session can be found in Section 7.0 below.

6.0 MAJOR ISSUES ARISING FROM SUBMISSIONS

The main issues identified in the submissions are as follows:

- A commercial building is inconsistent with the zone and intent of the Caringbah Medical Precinct;
- Break in Lot Amalgamation / Isolation of 23 and 25 Flide Street;
- Insufficient information addressing the use of the building;
- Non-compliant side and rear setbacks;
- Non-compliant basement setback;
- Non-compliant street setback;
- Isolation of 396 Kingsway;
- Impact on property prices;
- Overshadowing of 23 and 25 Flide Street;
- Construction Management;
- Disruption to sewer line of 23 and 25 Flide Street;
- Property Valuations;
- Dilapidation Report;
- Incorrectly neighbour notified;
- Insufficient car parking;
- Traffic Impacts;
- Waste Management;

The matters raised with regards to a commercial building is inconsistent with the zone and intent of the Caringbah Medical Precinct, breaking the amalgamation plan / isolation of 23 and 35 Flide Street, insufficient use of the building, non compliant side and rear, basement and street setbacks, Flide Street frontage width and Clause 6.21 of SSLEP2015 have been addressed in the Assessment Section of the report.

Issue 1: Isolation of 396 Kingsway

Comment: 396 Kingsway does not form part of Site 14 within the Caringbah Medical Precinct Amalgamation Plan under Clause 5/Chapter 9 of SSDCP2015.

Issue 2: Impact on Property Prices

Comment: Property value is not a matter for consideration under the Environmental Planning and Assessment Act 1979.

Issue 3: Overshadowing of 23 and 25 Flide Streets

Comment: The information provided demonstrates that 23 and 25 Flide Streets will receive 2 hours of solar access between 9.00am and 3.00pm on 21 June in accordance with Clause 14.2.a of SSDCP2015.

Issue 4: Construction Management

Comment: A construction management plan is required with any future construction certificate application.

Issue 5: Disruption to sewer line on 23 and 25 Flide Street

Comment: Any works required to be carried out with regards to a sewer line forms part of an application to Sydney Water at the construction certificate stage of the development process.

Issue 6: Property Valuations

Comment: Three property valuations were provided with the application for 23 and 25 Flide Street. Each valuation considered Clause 6.21 of SSLEP 2015 and recommended a similar valuation price for each property.

Issue 7: Dilapidation Report

Comment: The requirement for a dilapidation report would form part of the conditions of consent with any approval on this site.

Issue 8: Incorrectly Neighbour Notified

Comment: The proposal was neighbour notified in accordance with the requirements for '*all other development requiring development consent*' in a R4 High Density Residential Zone under Clause 9, Chapter 42 of SSDCP2015.

Issue 9: Insufficient Car Parking

Comment: Car parking provided with the development should be in accordance with Control 18.2.1 within Chapter 9 of SSDCP2015. The proposal satisfies the car parking controls within the DCP.

Issue 10: Traffic Impacts

Comment: Traffic generation from the development was considered by Council's Traffic Engineer and no significant concerns were raised.

Issue 11: Waste Management

Comment: A waste management plan was provided with the application. The plan was considered by Council's Waste Management Officer and no significant concerns were raised.

Information Session

An Information Session was held on 8 November 2019 and 11 parties attended the information session, 4 were asked to leave approximately 10 minutes into the meeting due to their direct financial gain as owners of the sites which form the development, including 1 real estate agent working with them. Seven parties remained for the duration of the meeting.

Revised Plans

The applicant lodged revised plans on 16 March and 26 April 2020. In accordance with the requirements of SSDCP2015 these plans were not publicly exhibited as, in the opinion of Council, the changes being sought did not intensify or change the external impact of the development to the extent that neighbours ought to be given the opportunity to comment.

Submission Review Panel (SRP)

The submissions received were discussed and given the nature of the issues raised it was decided that referral to Council's SRP was required. As a result of the submissions received and the issues raised, the Council's SRP decided that the concerns raised with regards to the break in the amalgamation and building envelope plan (BEP), street, side, rear, basement and landscape setbacks, privacy and bulk and scale were considered substantive.

7.0 STATUTORY CONSIDERATIONS

The subject land is located within Zone *R4 High Density Residential* under the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being a building for health services facility, is a permissible land use within the zone under Clause 6.21 of SSLEP2015 with development consent from Council.

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

- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55).
- State Environmental Planning Policy (State and Regional Development) 2011.
- Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015).
- Sutherland Shire Development Control Plan 2015 (SSDCP2015)
- Draft Environmental Planning Instruments
- Section 7.12 Development Contribution Plan 2016 - Sutherland Shire.

8.0 COMPLIANCE

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

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

A site inspection identified that the site is currently occupied by dwelling houses. A review of Council's GIS and historical aerial photos has shown that the above has been in place since 1943. A search of Council's records, including historical files, has revealed that the site has had no other previous uses.

A search of Council's contaminated land register specifies that the site is not potentially contaminated. In conclusion, the site is suitable for the proposed residential use in accordance with requirements of SEPP 55.

9.2. State Environmental Planning Policy (State and Regional Development) 2011

State Environmental Planning Policy (State and Regional Development) 2011 identifies State and Regionally Significant development in NSW. Schedule 7 of the SEPP identifies this application as regionally significant development as it has a capital investment of more than \$30 million. As such, the application is referred to the South Sydney Planning Panel for determination.

9.3. Sutherland Shire Local Environmental Plan 2015

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

Sutherland Shire Local Environmental Plan 2015			
CLAUSE	REQUIRED	PROPOSAL	COMPLIANCE
cl.4.3 Height of Building	20m	20m	Yes
cl.4.4 Floor Space Ratio	2:1 4,831.2m ²	2.01:1 4,831.2m ²	Yes

cl.6.14	30%	30.8%	Yes
Landscaped Area	(724.68m ²)	(745m ²)	

9.4. Sutherland Shire Development Control Plan 2015

The proposal has been assessed for compliance with SSDCP 2015. A compliance table with a summary of the applicable development controls is contained in Appendix B.

9.5. Draft Environmental Planning Instruments

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

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

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

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

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

The site and proposal has been assessed against the provisions of SEPP55 and likelihood of contamination is **low**. The proposal is satisfactory with regard for the provisions of draft *Remediation of Land SEPP*.

9.0 SPECIALIST COMMENTS

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

Design Review Forum (DRF) and Council's Architect

The application was referred to DRF and the comments provided are shown in italics below. The revised plans received were considered by Council's Architect and provided the comments under each point raised by DRF.

1. *The site does not follow the amalgamation pattern in the DCP, with the south-western 'tail' of the site on Flide St being too narrow to effectively build on, thus necessitating the concentration of the allowable GFA on the north-western portion of the site fronting the Kingsway.*

Comment: The inability to amalgamate the Flide Street sites as outlined in the SSDCP 2015 creates the 'disjointed' site configuration. The consequences as stated still remain, but, also the orderly development of the left over sites become problematic. This also affects the proposed design in that it will be required to preclude adverse amenity impacts upon those remaining sites.

2. *It was noted that there has been little take-up of the medical facilities on the lower floors in those developments that have been completed, and that a consolidated medical building with no residential component, as is the case for this application, is more tuned to market requirements.*

Nevertheless, the site is in a residential precinct, and the proposal should assume, for setback and building separation purposes, the adjacent sites are developed with residential components. Given this, the commercial space of the proposal must be considered as habitable space, and the setbacks from side and rear boundaries should accord with the ADG.

Comment: The argument that the commercial space is not of an activity that impacts upon the amenity of an adjoining residential development and that SEPP65 or the objectives of the ADG are not applicable is not supported and the ADG setbacks need to be maintained. The proposed revisions do not have the appropriate ADG setbacks and the impact issues remain of a concern.

3. *Setbacks shown on the DCP envelope plans are not applicable as they are predicted on a different amalgamation pattern, functional mix and build form envelope. This being the case, commercial habitable space should be setback 6m (for the first 4 floors) from side and rear boundaries for purposes of building separation. On the side boundaries, the proposal is for mostly 4m setbacks to the glass and approximately 2.8m to sun shading elements; on the rear boundary, 3m to the glass and approximately 1.8m to sun shading elements, with no deep soil in the rear zone.*

Comment: These are still not changed and as such remain of a substantial concern.

4. *Some discussion was had about the clear glass being amended to opaque or translucent glass. This would undermine the desired character of the proposal, and would not come to terms with setback issues.*

Comment: These changes appear to have been adopted and as a result the design's desired character is affected and the setback issues remain.

5. *The front setback to the Kingsway does not appear to comply with the DCP required limit of 30% into the articulation zone. In addition, setbacks should be measured to the face of any shading elements.*

Comment: The non-compliance of the design with this measure remains resulting in a more pronounced visual building presentation to the Kingsway.

6. *The panel considers that the proposed setbacks are not sufficient. The building would be visually intrusive across the side and rear boundaries. Along the side boundaries, the trees seem uncomfortably close to the building and its projections, and trees should not be relied on to compensate for reduced setbacks. On the rear boundary, the lack of planting in deep soil together with the minimal setback would be particularly harsh for future adjacent development.*

Comment: These issues remain and a reliance on landscaping features to soften the visual bulk of the building is an insufficient response.

7. *Regarding the architectural character of the proposal, it was described as a glass pavilion and presented as a light, transparent form surrounded by landscape. While there is some welcome modulation of the form, the building is uniformly wrapped in what appears to be a utilitarian curtain wall assembly, with some added elements which do not seem responsive to orientation or correlated with solar control. Whether the glazing can (and should, at the sides and rear) achieve the transparency of the images presented is a moot point.*

The Panel questions whether the basic idea of the building is right for the conditions of the site. It could perhaps be seen more appropriately as a street building with a front, sides and back, all with different circumstances and orientation, and a language and material palette could be developed that takes account of this and the likely adjacent residential components, that is better able to co-exist with its future context, and meets the ground in more convincing manner.

Comment: The original intent of the design's character is still being pursued. The concern of such a character relating to the future local surrounding context still remains unresolved. Traditionally, a glass pavilion typology are set within more expansive open landscaped surrounds as a stand-alone structure and as a consequence this design will be highlighted as an 'oddity' next its neighbours.

8. *A sustainable agenda should be pursued in such a high technology building. Additionally, in respect of the sites northerly oblique orientation, external impacts such as glare and reflections upon traffic and surrounding development should be considered if the curtain wall model is adopted.*

Comment: No significant changes to the finish of the building. Issue still remains.

9. *The Panel suggests that the entry from the street should be more clearly identifiable and direct than the current arrangement.*

Comment: There has been no discernible change and along with the contorted basement exits the arrangements for the entry and egress of the building are poor and accidental. The poor identification of the building entry creates a need to provide excessive pathways within the (reduced) front setback area to direct pedestrians.

10. *Signage design strategy should be incorporated into the proposal in these initial stages to prevent a later random application of various tenancy signage compromising the character of the building.*

Comment: There is no attempt to illustrate these elements to be as a complimentary part of the proposed design.

11. *In summary, the Panel does not support the built form, particularly in relation to its setback, and is not convinced that the architectural character of the proposal is appropriate. One possibility for investigation regarding built form could be to look at increasing height with more reasonable setbacks applied.*

Comment: No changes have been undertaken in this respect. Consequently, the proposed built form cannot be supported on architectural grounds.

RECOMMENDATIONS

The issues noted above should be taken into account in a revised proposal to realise an outcome that could be supported by the Panel. It may be that an appropriate built outcome is not able to realise the maximum permissible FSR for the site.

Comment: The revisions have not addressed the concerns or issues raised by DRF which brings the conclusion, that the proposed development cannot be supported on its architectural merits.

Traffic Engineer

The application was referred to Council's Traffic and Transport Engineer and no significant concerns were raised with regards to traffic generated from the proposed development.

Furthermore, two patient transport parking spaces were proposed at the rear of the site accessed from the driveway from Flide Street. Information was provided indicating that these spaces are to be utilised by '*patient transport vehicles*' dropping off and picking up patients to and from the building. Council's Traffic Engineer raised no significant concerns with regards to the *patient transport vehicle* dropping-off and picking-up along Kingsway as long as its outside commuter peak hours (7am-9am and 4pm-6pm) are parked legally for no more than 2 minutes. However, if the RMS change this section of the Kingsway to a clearway, then this area will be a no stopping or parking zone. Revised plans were received showing these spaces modified to '*service parking*' to be utilised by the lower ground level.

Landscape Architect

The application was referred to Council's landscape Architect who raised significant concerns with regards to the non compliant basement and landscape setbacks and long term maintenance of the green roof. The non compliant setbacks will prevent large trees from being planted adjacent to the boundaries of the site. Furthermore, the deep soil planting will be constrained by the size/depth of the planter bed and could die from lack of maintenance of the planter bed which will also be difficult to access and no maintenance plans was provided for the green roof.

Environmental Health

The application was referred to Council's Environmental Health Unit and no significant concerns were raised.

Engineering (Assessment Team)

The application was referred to Council's Assessment Team Engineer who raised no significant concerns, subject to standard conditions of consent in the event of an approval.

Waste Management

The application was referred to Council's Waste Management Officer and no significant concerns were raised, subject to conditions of consent in the event of an approval.

10.0 ASSESSMENT

A detailed assessment of the application has been carried out having regard to the Matters for Consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979. The following matters are considered important to this application.

10.1 Caringbah Medical Precinct

The site is located at the eastern edge of the Caringbah Medical Precinct. The site was "up zoned" under SSLEP 2015 to a maximum height of 20m and FSR of 2:1 when a building contains health service facilities and satisfies the clauses and objectives of Clause 6.21.

The intent of the Caringbah Medical Precinct is *'to create a new area of mixed use developments in a landscaped setting with substantial landscaped building setbacks'*. A building comprising health service facilities is permissible on the land, as Clause 6.21 (3) stipulates *'Despite any other provision of this Plan relating to the purposes for which development may be carried out, development consent may be granted for development for the purposes of a health services facility on land to which this clause applies.'*

The proposal has been assessed against the objectives of Clause 6.21:

- (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.*

The proposal is for a building to be utilised for the purposes of health service facilities (in its entirety), that is located within walking distance of Sutherland Public Hospital, Kareena Private Hospital and the Caringbah commercial 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,*

A building comprising health service facilities will create employment opportunities in the local area.

- (c) *To be a catalyst for the revitalisation of Caringbah Centre,*

The proposed development will likely contribute to the revitalisation of the Caringbah commercial 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,*

The proposal has been designed with notably insufficient basement and deep soil landscape setbacks. These setbacks are in place to complement the bulk and scale of a building of the scale envisaged in the precinct and to help with screening the building to minimise visual impacts when viewed from surrounding properties in the street within the R4 zone and adjoining zones.

- (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,*

The proposal is varying the recommended amalgamation and BEP resulting in the building designed with reduced setbacks from the side and rear boundaries of the site. These setbacks will result in unacceptable impacts on surrounding properties, in terms of visual intrusion, separation and amenity impacts. The development will also impact on the viability of the sites along Flide Street which were identified as part of the amalgamation plan.

Isolating 23 and 25 Flide Street will impact on those sites to achieve their full FSR permissible on the site whilst maintaining a building height of 4 storeys maximum. The intent of the 4 storey building height along the eastern side of Flide Street is to ensure residential amenity is achieved and the building form fits comfortably within the residential context and streetscape and to allow the development to transition and integrate with the lower scale, 2 storey residential character on the western side of Flide Street.

- (f) *To improve safety and traffic flow by limiting vehicle access from Kingsway, Caringbah, to redevelopment sites.*

Vehicle access has been limited from Kingsway as a driveway from Flide Street is proposed to access the building.

Whilst health service facilities are permissible on the site and would make a positive contribution to revitalisation of the locality, the site is situated in a residential zone. New buildings must be designed to respond to the local residential context, maintain residential amenity and integrate and contribute to the desired future residential character of the locality.

10.2 Amalgamation and Building Envelope Plan

The site is identified as forming part of Site 14 (6 lots) within the Caringbah Medical Precinct Amalgamation Plan shown under Clause 5, Chapter 9 of SSDCP2015. The proposal is to vary the amalgamation and BEP for site 14 and construct a building fronting Kingsway over 3 lots with vehicular access from a fourth lot along Flide Street (see Maps 2 and 3).



Map 2: Caringbah Medical Precinct Amalgamation Plan



Map 3: Caringbah Medical Precinct Building Envelope Plan

Applications seeking to vary the amalgamation pattern must provide information indicating that fair financial offer/s have been made to the owner/s of sites not incorporated in the designated amalgamation pattern. Furthermore, if no agreement can be reached, the applicant must provide schematic diagrams of how the isolated lots can be developed.

Further, the planning principles contained in the LEC judgement of *Karavellas v Sutherland Shire Council [2004] NSWLEC 251* (Karavellas) can be used to consider development amalgamation/site isolation. In short, the general questions to be answered when dealing with amalgamation of sites or when a site is to be isolated through redevelopment are:

- *Firstly, is amalgamation of the sites feasible?*
- a) *Step 1: negotiations to commence at an early stage prior to lodging an application.*

The applicant provided a copy of an email (from a real estate agent to the applicant) advising that an offer of \$1,300,000 was given to 23 and 25 Flide Street in September 2019, however these offers were rejected.

- b) *Step 2: details of negotiations between the owners to be detailed, including offers, based on independent valuations and may include reasonable expenses incurred by the owner of the isolated property in the sale.*

From the information provided, it appears that attempts may have been made to acquire 23 and 25 Flide Street in September 2019, prior to lodging the development application. However, copies of the written offers and rejection of offers were not provided with the application. Additional correspondence was provided indicating attempts were also made to communicate with the owners of 23 and 25 Flide Street in November 2019, after the development application was lodged with Council.

The information submitted with the development application includes the following:

- Three independent valuations of 23 and 25 Flide Street. Each valuation considered Clause 6.21 of SSLEP 2015 and recommended a similar valuation price for each property.
- Email (dated 18 September 2019) from Justin Ressler (Real Estate) advising the applicant that an offer of \$1,300,000 was given in person to both 23 and 25 Flide Street on 16 and 17 September 2019 and these offers were rejected. (Copies of offers or responses from 23 and 25 Flide Street were not provided with the application).
- Email (dated 15 November 2019) from Justin Ressler (Real Estate) advising the applicant that an offer of \$1,300,000 was submitted to 25 Flide Street. (a copy of the written offer was not provided with the application)
- Email (dated 18 November 2019) from Justin Ressler (Real Estate) advising the applicant that attempts were made to communicate with the owner of 23 Flide Street and a letter was placed in the letter box on 15 November 2019. The letter requests the owner to contact the real estate agent to discuss the offer. A copy of this letter was provided to Council.

- c) *Step 3: the level of the negotiation and any offers for the isolated site to be given weight in the consideration in the assessment. Weight is to be given to the level of negotiation, the reasonableness of the offer and relevant planning requirements.*

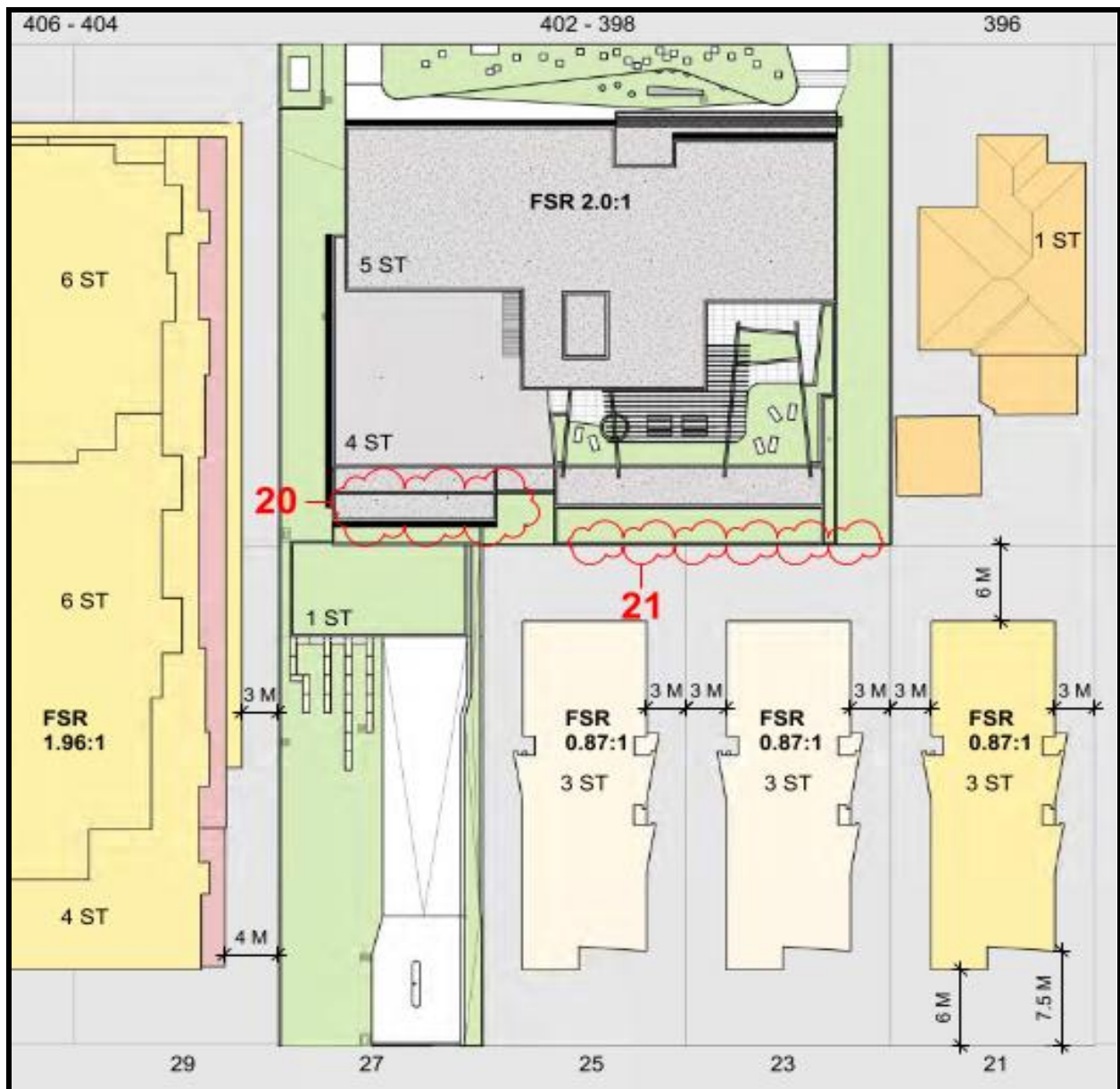
Insufficient information was provided to confirm whether genuine attempts were made and an acceptable level of negotiation was carried out to acquire 23 and 25 Flide Streets prior to lodgement of the development application. Objections to the proposal were also submitted from these properties regarding the failure to satisfy the amalgamation plan.

- *Secondly, can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible?*

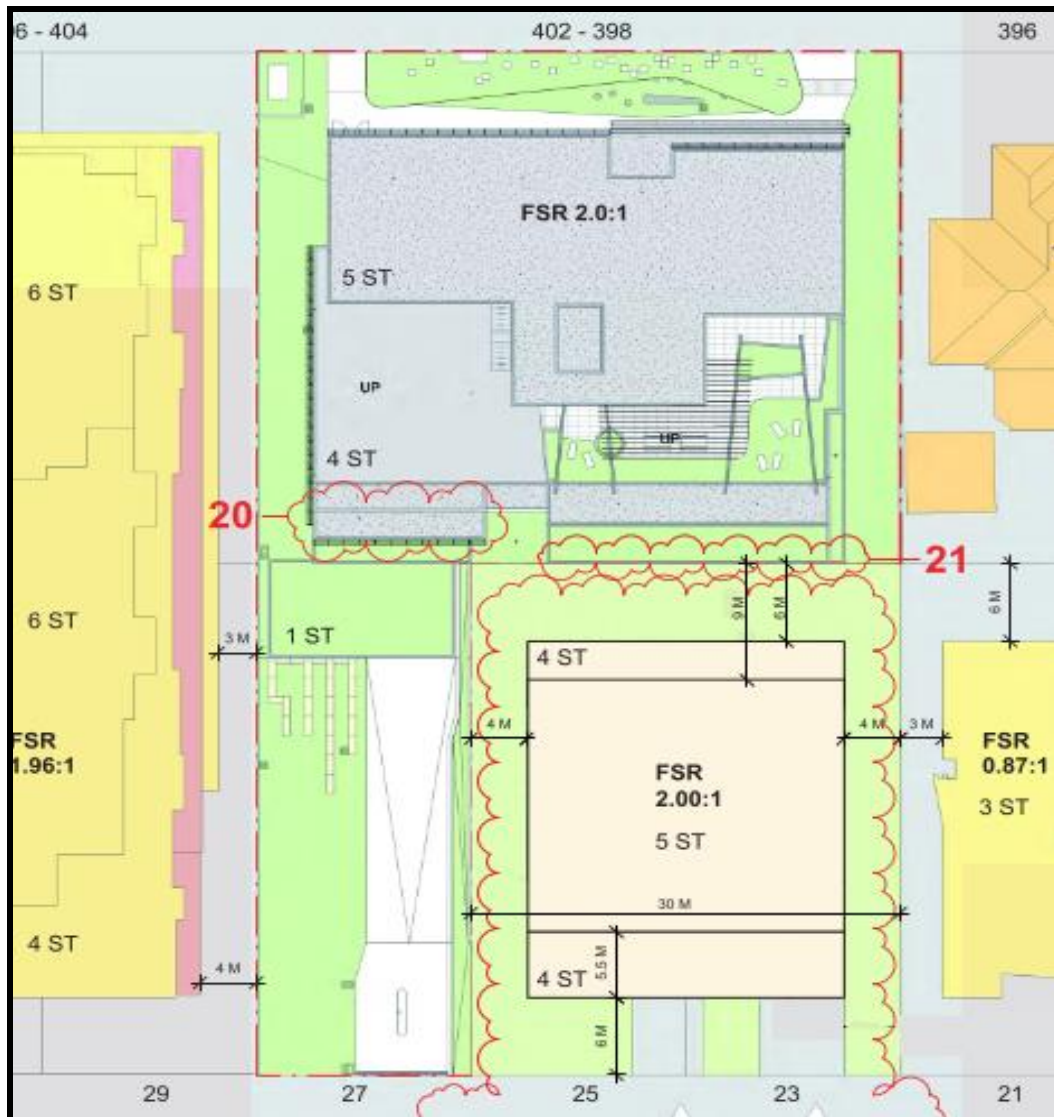
The application must demonstrate that an alternative building layout will achieve the intent of the amalgamation plan and will not adversely impact on the redevelopment potential of the isolated lots.

Control 5.2(3), Chapter 9 of SSDCP2015 requires lots to be a sufficient width to accommodate the development, nominating a 26m frontage. The site is proposed with a frontage of 45.72m to Kingsway and 15.24m to Flide Street. The design is proposing a building across 3 lots fronting Kingsway with driveway access from 27 Flide Street but with reduced side, rear, basement and landscape setbacks. The frontage to Flide Street is under the recommended site width and has been acquired as part of the development site to enable vehicular access from Flide Street. This results in a long driveway to the building located on the Kingsway sites which causes the development to appear as a battleaxe site or presenting to Flide Street like an internal lot.

The isolated lots (23 and 25 Flide Street) have an individual frontage of 15.24m or combined frontage of 30.48m. The applicant provided the following schematic drawings showing three potential options for the redevelopment of 23 and 25 Flide Street if redeveloped in the future:



A 3 storey residential flat building constructed on each individual lot. This drawing reflects a building footprint replicated from the building that was proposed under the Affordable Housing SEPP approved on 8 May 2018 by the Land and Environment Court.



A 5 storey residential flat building with a floor space area of 2:1 and with habitable setbacks from the rear boundary as recommended by the ADG.

The intent of the Caringbah Medical Precinct is to allow for larger building forms fronting Kingsway and smaller building forms with generous landscaping to Flide Street. This is to ensure residential amenity is achieved and the building form fits comfortably within the residential context and streetscape and to allow the development to transition and integrate with the lower scale, 2 storey residential character on the southern side of Flide Street.

Based on the information provided, varying the amalgamation and building envelope plan for Site 14 will result in a building situated on an irregular shaped lot that will have unacceptable impacts on surrounding properties and the street, in terms of bulk and scale, visual, building separation, basement and landscape setbacks. If the building design was amended to resolve many of these issues, the FSR permitted on the site would unlikely be realised. In this case, the proposal has not demonstrated that breaking the amalgamation and BEP envisaged for Site 14 will result in a better alternative outcome for the Caringbah Medical Precinct.

10.3 Streetscape

Control 10.2.2, Chapter 9 of SSDCP2015 stipulates *'building elements may encroach 1.5m into the front setback for a maximum of one third of the area of the façade, forming an articulation zone.'* A large portion of the façade (including screening) along Kingsway sits well within the articulation zone and an awning is proposed setback 5.22m from the front boundary.

Kingsway Frontage

The application argues that the design *'gives the building a strong presence along the Kingsway'* and *'it is likely to be highly frequented and should therefore be a more visible feature on the street than the predominantly residential buildings which should be more recessive in appearance'*. The building has been designed with a commercial style appearance that will be visually intrusive within the street and locality and therefore should be designed with setbacks that will ensure the development integrates with the residential context and sit comfortably within the streetscape.

Flide Street Frontage

Due to the break in amalgamation plan, the frontage to Flide Street is 15.24m, and well under the recommended width for redevelopment of the site. This results in an irregular shaped lot. Whilst the development is proposed across the 3 lots fronting the Kingsway, a long driveway is proposed from Flide Street to the building. This results in a long driveway presenting to Flide Street like an internal lot.

The intent of the Caringbah Medical Precinct is to develop a cluster of new medical facilities in close proximity to Sutherland Hospital and Kareena Private Hospital, and within walking distance of Caringbah Centre. The medical cluster will help meet the health needs of Shire residents and provide specialist medical services to the region while also providing more opportunities for residents to find local employment. The development of specialist medical businesses in this precinct is intended to

stimulate commercial activity in Caringbah Centre. Clients and workers will use the shops and services of the centre to revitalize it. The proximity to the centre means that the precinct is an appropriate place to provide additional dwellings as well as medical facilities.

The proposal is for a commercial style building in a residential zone and therefore its commercial appearance will already be a prominent feature in the streetscape. The building should be designed satisfying the street setback controls to allow the building to maintain spatial proportions in the street and to allow the building to integrate and fit comfortably within the residential context while still rendering some characteristics which assist in identifying the locality as a medical precinct.

Side and Rear Setbacks

To achieve the objectives for side and rear setbacks in the Caringbah Medical Precinct, setbacks should be in accordance with the recommended BEP shown on Map 3 within Clause 8.3 of Chapter 9 of SSDCP2015. The application is proposing to vary the amalgamation and building envelope plan and therefore the setbacks of the BEP do not apply. When a variation is proposed to the BEP, the assessment principles contained within Clause 11.3 of Chapter 9 of the DCP stipulates that *‘assessment will be in accordance with SEPP 65 and the ADG building separation distances and habitable rooms should be assumed when calculating separation distances where a property is not yet developed’*.

Side Setbacks

The building has been designed across 3 lots fronting Kingsway as envisaged in the BEP for site 14 within the DCP. Whilst it is difficult to apply the BEP to this site due to the break in the amalgamation pattern, the following table is provided to show the proposal does not comply with the north western side and rear setbacks of the BEP:

Building Envelope Plan Setbacks	Required	Proposal	Complies
South east side (levels 1 to 5)	4m	4m	Yes
North west side (levels 1 and 2)	4m	4m	Yes
North west side (level 3 to 5)	14m	4m to façade (levels 3 and 4) 3.55m to screens (levels 3 and 4) 5m (level 5)	No No

Although the building does not include residential development, the floor levels of the proposed building would still be considered as habitable spaces and therefore should be designed with habitable setbacks from the side and rear boundaries of the site, as recommended in the Apartment Design Guide (ADG) acknowledging that the area is zoned for residential purposes with medical services also permissible. The following table shows how the proposal is non-compliant with the ADG setbacks:

ADG Setbacks	Required	Proposal	Complies
Up to four storeys	6m habitable rooms	<i>South east side</i>	
		4m (levels 1 to 4)	No
		<i>North west side</i>	
		4m to façade (levels 1 to 4)	No
		3.55m to screens (levels 3 and 4)	No
		<i>Rear boundary</i>	
		3m (levels 1 to 4)	No
		1.5m to screens (levels 2 and 3)	No
		3m (level 4)	No
Above four storeys	9m habitable rooms	<i>South east side</i>	
		4m (level 5)	Yes
		<i>North east side</i>	
		5m (level 5)	Yes
		<i>Rear boundary</i>	
		6m to terrace edge (level 5)	No

Page 3 of the submission received from Planning Ingenuity, dated 24 April 2020 states ‘where an adjoining site has not been developed, it should be assumed that the adjoining site will contain habitable rooms facing the boundary (as such, on that adjoining site, the setback from their boundary will be 6m or 9m depending on the building height). However, it does not require a habitable room setback on the subject site if non-habitable rooms, or a blank wall, are proposed to face the boundary. That is, the actual side boundary condition of the proposal is to be considered. A setback of 4-5m is provided to the north western boundary which will meet the separation requirement for habitable (assuming the adjoining site) and non-habitable rooms (the subject site). An assessment of the habitable to non-habitable separation distances of the ADG has been carried out assuming the adjoining lots have habitable setbacks from the boundaries:

ADG Setbacks	Required	Proposal	Complies
Up to four storeys	9m between habitable to non-habitable rooms (assuming 6m setback on adjoining site)	<i>South east side</i>	
		4m (levels 1 to 4)	Yes
		<i>North west side</i>	
		4m to façade (levels 3 and 4)	Yes
		3.5m to screens (levels 3 and 4)	Yes
		<i>Rear boundary</i>	
		3m (levels 1 to 4)	Yes
		1.5m to screens (levels 2 and 3)	No

Above four storeys	12m between habitable rooms to non-habitable rooms (assuming 9m setback on adjoining site)	<i>South east side</i> 4m (level 5)	Yes
		<i>North east side</i> 5m (level 5)	Yes
		<i>Rear boundary</i> 6m to terrace edge (level 5)	Yes

South Eastern Side Setback

The south eastern elevation is proposed 4m from the side boundary for levels 1 to 5. This elevation has been designed with predominantly '*clear tinted glass windows*' on levels 1 to 4 and '*opaque colourback no vision glass panels*' on level 5. Vertical screens (projecting 450mm) are setback 3.55m from the boundary are proposed on levels 3 and 4. A portion of the building façade on level 5 steps back an additional 8.9m to accommodate a terrace area that is setback 4m from the boundary with a planter bed extending around the edge of the terrace. Whilst the south eastern setback is consistent with BEP for Site 14, the BEP can not be entirely applied in this circumstance. The finish of this elevation is predominantly clear glazing and therefore will result in unacceptable visual, privacy and amenity impacts on adjoining properties which are most likely to be residential and medical uses given the zoning.

North Western Side Setback

The north western elevation is proposed to be setback 4m from the side boundary for levels 1 to 4 and 5m for level 5. This elevation has been designed with a mix of glazed finishes, resulting in '*clear tinted glass windows*' on level 1, '*opaque colour back no vision glass*' on level 2 and '*translucent no vision glass*' on levels 3 and 4. Vertical screens (projecting 450mm) are setback 3.55m from this boundary are proposed on levels 3 and 4 only. Whilst the materials proposed are to minimise amenity impacts on the adjoining property, insufficient separation will be achieved in order to break up the bulk and scale of the building form and minimise visual intrusion impacts.

Rear Setback

The rear (south western elevation) is proposed setback 3m min on level 1, 1.8 – 3m on levels 2 and 3, 3m on level 4 and 6m on level 5. This elevation has been designed with predominantly '*clear tinted glass windows*' with '*solid aluminium no vision panels*' located toward the southern end adjacent to the rear boundaries of 23 and 25 Flide Streets. Small panels of '*translucent no vision glass*' and '*darker tinted glass*' are proposed toward the centre of this elevation. Horizontal shading screens (projecting 450mm) are setback 1.35m and are also proposed on levels 2 and 3.

Whilst the development site includes 27 Flide Street, in this case, the building also should be setback from the prolongation of the rear boundaries of 23 and 25 Flides Street, to minimise visual and amenity impacts on surrounding properties. In addition, the rear setback may impact on the redevelopment potential of 23 and 25 Flide Street from being developed with a 4 storey building and

therefore those sites may not achieve a transition in height to allow the development to integrate with the lower scale, 2 storey residential character on the western side of Flide Street. The setbacks and treatment of the rear elevation will result in unacceptable impacts on adjoining properties, in terms of visual intrusion, privacy and amenity impacts and the potential redevelopment of 23 and 25 Flide Street.

The proposal varies the amalgamation and BEP plan for the site. The setbacks of the BEP do not apply and therefore the building should be designed to meet the habitable to habitable separation distances recommended in the ADG. In addition, objective 1(e) of Clause 6.21 of SSLEP2015 (Caringbah Medical Precinct) stipulates *'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 transitional scale of building height to Flide Street, Caringbah'*.

In this case, the floors levels of the building are habitable and therefore the building should be designed with habitable to habitable setbacks from side and rear boundaries that will achieve adequate building separation, maintain residential amenity, minimise visual intrusion impacts and to ensure the redevelopment of 23 and 25 Flide Street will achieve a transition in building height to the lower scale residential development on the western side of Flide Street.. The proposed setbacks are unacceptable and fail to satisfy the objectives for side and rear setbacks.

10.4 Basement and Landscape Setbacks

Clause 10.2/5 of SSDCP2015 stipulates that *basement underground car parks may be allowed within the articulation zone of the street setback, provided the structure is considered in conjunction with the overall landscape design* and Clause 11.2/4 of SSDCP2015 stipulates that *part of a basement construction which extends beyond the building footprint must be set back a minimum of 3m from side and/or rear boundaries'*. The proposal is non-compliant with the required basement and landscape setbacks from the front, rear and side boundaries of the site.

The intent of the basement and landscape setbacks is to provide opportunities for deep soil areas to accommodate large trees that will complement the scale of buildings, screen the development and soften the visual impact of building bulk when viewed from the street and surrounding properties.

Front boundary

A basement setback of 5.2m is proposed from the front boundary. Basements within the 6 metre articulation zone will be considered, provided that the structure is designed to integrate with the overall landscape design to accommodate large indigenous trees along Kingsway as required under Clause 6.21 of SSLEP 2015. The landscape design within the front setback includes large pathways to the entrance of the building and therefore reduces the available space along the frontage for the planting of large indigenous trees.

Rear Boundary

The basement is proposed right up to the rear boundary and protruding between 0.37m to 1.48m above the natural ground level of the site with a planter bed over to accommodate some vegetation. A 3m basement and deep soil landscape setback should be provided from this boundary to provide opportunities for large trees that will complement the bulk and scale of the building and screen the building when viewed from surrounding properties and Flide Street. Furthermore, deep soil planting would not be constrained by the size/depth of the planter bed nor killed by a lack of maintenance of the planter bed which is currently difficult to access. This design approach puts pressure on any future development on the Flide Street properties to both provide for adequate setbacks on their site to cater for the lack of separation on the proposal and provide adequate landscape setbacks to allow for any substantial landscaping to occur between the two developments. The lack of deep soil planting adjacent to the rear boundary including the height of the basement out of ground is unacceptable.

Side Boundary

A green roof, two service parking spaces and driveway/basement walls are proposed to be setback 835mm to 850mm from the side boundaries of the site. These setbacks will unlikely provide good conditions for any form of substantial planting and assist in balancing the form of such a bulky building, as they are narrow spaces and the walls to the service parking spaces will also have drainage materials and stormwater pipes behind them from the development to the street.

Driveway Landscape Strip

A landscape strip of 0.935m - 1.34m is proposed from the south eastern side boundary to 25 Flide Street. The section of landscape strip between the boundary and basement walls is narrow and will unlikely accommodate substantial screen planting, as the vegetation will be restricted by the width and the green roof structure over the driveway.

The proposed basement and landscape setbacks fail to provide adequate deep soil areas that can accommodate large trees. The proposal makes it difficult to provide decent landscaping that will complement the bulk and scale of the building, screen the building form and soften the appearance of the development when viewed from surrounding properties and the street.

10.5 Green Roof

Two service parking spaces are proposed at the rear with a green roof over setback 835mm – 850mm from the side boundaries of the site. The intent of the green roof is to soften the appearance of the structure when viewed from surrounding properties and Flide Street. The success of the green roof is reliant on maintenance and no maintenance plan has been provided with the application. This proposal is difficult to support without such a maintenance plan as this is an important aspect of the longevity of this part of the proposal and the long term impacts the development will have on its surroundings.

10.6 Use of the building

The application form states the proposal is for *'demolition of existing buildings, construction of a 5 storey commercial building (to be used as a medical centre)*. The traffic report provided indicates that the use of the building will include a Cancer Treatment Centre, extended hours Medical Centre and Specialist Centre. Insufficient information was provided including the lack of an operation management plan addressing the use of each floor level, hours of operation and staff numbers. The applicant confirmed that the application is not for the use of the building and would accept a condition requiring development application/s be submitted for future use of the building.

10.7 Overshadowing

Clause 14.2.5 of Chapter 9 contained in SSDCP 2015 stipulates for neighbouring properties that *'direct sunlight to north facing windows of habitable rooms and 10m² of useable private open space areas of adjacent dwellings should not be reduced to less than 2 hours between 9.00am and 3.00pm on 21 June'*. Overshadowing from the building will reduce solar access to 396 Kingsway to less than 2 hours between 9am and 3pm. This is partly as a result of the orientation of the site, however if the setbacks of the building were increased to comply with habitable to habitable setbacks in accordance with the ADG, this would minimise overshadowing impacts on 396 Kingsway and be more acceptable. The south eastern side setback is consistent with the recommended amalgamation and BEP for Site 14 therefore would result in a similar building form that would overshadow 396 Kingsway to some extent.

10.8 Building Layout

Due to the break in amalgamation, the lot is irregular in shape and the building layout results in no pedestrian access provided from Kingsway to Flide Street. In addition, the lower ground plan (basement 01) is complicated, as it contains long convoluted corridors to various service areas of the building. The building footprint requires further development and refinement to allow pedestrian access from Kingsway to Flide Street and simplify the lower ground floor layout.

10.9 Earthworks

The proposal includes earthworks and Clause 6.2 of SSLEP 2015 requires certain matters to be considered in deciding whether to grant consent. These matters include impacts on drainage; future development; quality and source of fill; effect on adjoining properties; destination of excavated material; likely disturbance of relics; impacts on waterways; catchments and sensitive areas and measures to mitigate impacts. The relevant matters have been considered and the application is acceptable.

10.10 Stormwater Management

Clause 6.4 requires Council to be satisfied of certain matters in relation to stormwater management prior to development consent being granted. These matters include maximising permeable surfaces; on-site stormwater retention minimising the impacts on stormwater runoff. These matters have been addressed to Council's satisfaction.

10.11 Energy Efficiency and sustainable building techniques

Clause 6.15 of SSLEP 2015 contains matters for consideration relating to ecologically sustainable development and energy efficiency and sustainable building techniques. The relevant matters have been considered as a part of the assessment of the application and the proposal is considered to be acceptable.

10.12 Urban design (non-residential)

Clauses 6.16 and 6.18 of SSLEP 2015 contain certain matters of consideration relating to urban design. The application has failed to satisfy these matters for consideration. The proposal has been designed with unacceptable street, basement, building and landscape setbacks. This will result in a development that will have an adverse impact on surrounding residential adjoining lots that will not respond appropriately to the local context or integrate and contribute to the desired future residential character of the locality.

10.13 Greenweb

The subject site is identified within Council's Greenweb strategy. The Greenweb is a strategy to conserve and enhance Sutherland Shire's bushland and biodiversity by identifying and appropriately managing key areas of bushland habitat and establishing and maintaining interconnecting linkages and corridors. The subject site is identified as a Greenweb restoration area. Having regard for the nature of the proposed development conditions have been included in relation to additional Greenweb plantings.

11.0 DEVELOPMENT CONTRIBUTIONS

The proposed development has a value of greater than \$100,000. In order to provide high quality and diverse public facilities, the proposed development will attract Section 7.12 Contributions in accordance with Council's adopted Section 7.12 Development Contribution Plan 2016.

This contribution is based upon the proposed cost of the development and has been calculated at 1% of \$20,465,000 (the estimated cost of development identified on the development application form). Therefore, in the event the application was supported, the Section 7.12 levy for the proposed development is \$204,650.00.

12.0 DECLARATIONS OF AFFILIATION, GIFTS AND POLITICAL DONATIONS

Section 10.4 of the Environmental Planning and Assessment Act, 1979 requires the declaration of donations/gifts in excess of \$1000. In addition Council's development application form requires a general declaration of affiliation. In relation to this development application no declaration has been made.

13.0 CONCLUSION

The subject land is located within zone *R4 High Density Residential* pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being a building to accommodate health services facilities, is a permissible land use within the zone subject to the proposal satisfying the requirements of Clause 6.21 under SSLEP 2015.

In response to public exhibition, 12 submissions were received including 3 letters of support.

The proposal includes variations to the amalgamation and BEP plans for Site 14, street, side and rear, basement and landscape setbacks. These variations have been discussed and are not acceptable.

Council is supportive of a building comprising health service facilities in the Caringbah Medical Precinct, however, the site is located within a residential zone and must be designed to respond appropriately to the local residential context. Applications seeking to vary the amalgamation plan and BEP that are designed with acceptable street, side, rear, basement and landscape setbacks may not allow for the full floor space ratio permitted on the site to be realised. New development must be designed to minimise adverse impacts on surrounding residential lots, the streetscape and integrate and contribute to the desired future residential character of the locality.

The application has been assessed having regard to the Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979. The application will result in any significant impact on the environment or the amenity of nearby residents. Following assessment, Development Application No. 19/0786 cannot be supported for the reasons outlined in this report.

RESPONSIBLE OFFICER

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