

Our Ref: M180368

15 June 2020

Sydney South Planning Panel
c/- Planning Panels Secretariat

Email: enquiry@planningpanels.nsw.gov.au

Dear Panel Members,

**RESPONSE TO SPP REPORT NO. PPSSSH-11 (DEVELOPMENT APPLICATION NO. 19/0786)
DEMOLITION OF EXISTING STRUCTURES, CONSTRUCTION OF A MEDICAL CENTRE
398-402 KINGSWAY & 27 FLIDE STREET**

We act as town planning consultants to the applicant for the above Development Application 19/0786 for the proposed *demolition of existing structures, construction of a medical centre* at the above address. This matter is to be considered as Agenda Item PPSSSH-11 at the Panel meeting of 17 June, 2020.

We write to formally respond to the Assessment Report prepared by Sutherland Shire Council and the recommendation made to the Panel for refusal of the application. In our opinion, the Report takes an incorrect approach to key planning controls related to assessment of the building envelope that is proposed. That leads to a conclusion that the built form is unacceptable. In addition, the Report takes an incorrect approach to its consideration of varying the amalgamation plan in the DCP ie. the process in which the applicant has engaged with adjoining property owners. Both of these matters have been the subject of lengthy and detailed submissions to Council throughout the assessment process however the content of the submissions by the applicant in this regard have not been detailed in the Assessment Report to enable the Panel to properly balance the opposing positions.

The subject site is located within the Caringbah Medical Precinct, which is a precinct that was established by the recent SSLEP 2015 with the express objectives, inter alia:

- “(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**”

These objectives for economic growth, job creation, promoting centres and facilitating health services facilities are more critical to urban planning than ever before. The Caringbah Medical Precinct to date has been an abject failure in promoting or facilitating health services facilities to relocate to this precinct. That is because the developments approved to date are mixed use development with the minimum (25%) medical space provided, configured (by residential developers) in formats and of sizes that are dysfunctional for the key health service providers. Our client has taken an entirely different approach by providing for a health services building with no residential use, in order to provide floorplates and configurations that will go directly to achieving the objectives for, and the purpose for which the precinct came into being. This application is different from those before it and should not be assessed as a residential project like those others. The controls do not require that.



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Notwithstanding our criticism of the assessment approach, we are encouraged by the inclusion of “without prejudice conditions” with the Report which include a Deferred Commencement condition that includes a series of design changes. With some minor modification to this condition, it is our opinion that the matters related to building envelope could be adequately resolved to mutual satisfaction of Council and the applicant.

We request that the Panel approve the application subject to Deferred Commencement conditions amended as follows [changes to the version of the condition included in the staff report are marked in underline and strikethrough]. A set of architectural plans is attached to this submission (**Annexure A**) ‘marked up’ to demonstrate the changes to the building envelope that would be implemented per this condition:

“ **PART 1 - DEFERRED COMMENCEMENT CONDITIONS**

To enable the submission of further information to clarify or resolve specific aspects of the propose development this Development Consent is issued as a "Deferred Commencement" Consent under the provisions of Section 4.16(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 1 year 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. Design Changes Required

Side and Rear Setbacks

- *The north western ~~and south eastern~~ sides of the building from Level 043 (Ground) Plan/4 to Level 05 should be setback 6m from the north-western boundary commencing at a point measured 15m to the front boundary (Kingsway), for the remainder of the elevation south-west of that point ~~to meet the habitable to habitable setbacks of the Apartment Design Guide (ADG).~~*
- *The rear south western elevation of the building at Level 03 should be setback 3m from the rear boundary of Nos. 23 and 25 Flide Street, for the entirety of the elevation. ~~from Level 01(Ground) Plan/1 to Level 05 should be setback to meet the habitable to habitable setbacks of the ADG.~~*
- *These elevations are to be articulated to break up the bulk and scale of the building form.*
- *The extent of glazing is to be reasonably modified to material/s that will minimise potential amenity impacts on adjacent Caringbah Medical Precinct ~~surrounding residential~~ properties.*
- *Delete the service parking spaces at the rear accessed from the driveway.*
- *Delete the green roof extending over these service parking spaces and driveway.*

Basement Setbacks

- *Basement Level 01 (Lower Ground) ~~All basement levels~~ of the building must be setback 3m from the rear boundary.*

Landscape Setbacks

- *A 3m deep soil landscape setback must be provided from the rear boundary in the setback area to Basement Level 01 (Lower Ground), above Basement Level 02.*
- *The area shown as service parking spaces should be replaced with deep soil landscaping.*

Floor Layout

~~To reduce the long corridors to the fire exits of the building on basement 01 (lower ground) level, redesign the floor layout to require the upper levels to exit directly onto the Kingsway.~~

Car parking

The modifications to the side and rear setbacks of the building will result in a reduction in floor area. Car parking provided with the development will need to be re calculated in accordance with Clause 18, Chapter 9 of SSDCP2015.

Details listed above must be included in documentation submitted to satisfy the Deferred Commencement Development consent.

Upon satisfaction of the details required above, Council shall issue an approval consistent with the Conditions in Part 2, and any conditions reasonably arising from consideration of the details submitted to satisfy the deferred commencement."

We deal briefly with the key issues that arise in the assessment report. In our opinion, the primary matters for the Panel to consider can be summarised as 1) setbacks and building envelope; 2) landscape proposal; and, 3) amalgamation (process of engaging with neighbours). The recommended reasons for refusal relate to these matters only.

A minor issue addressed in the condition above relates to the length of fire corridors. The corridors are designed to NCC requirements and there is no amenity issue related to fire corridors, they are simply for use as emergency egress (see email in **Annexure F** from BCA consultant). To modify the building design to reduce their length is unnecessary and without basis.

Setbacks and Building Envelope

The primary opposition to the building form set out in the Assessment Report relates to setbacks. In our opinion, the setbacks are incorrectly assessed. We have prepared a detailed submission in relation to this aspect which is attached at **Annexure B**. The setbacks should be assessed as follows;

As the Assessment Report correctly states on page 25, "setbacks should be in accordance with the recommended BEP shown on Map 3" in Chapter 9 of SSDCP 2015. That Map is reproduced below:



- The BEP requires a 4m setback to all levels on the south-eastern side. The proposal complies with this at all levels and in fact provides 5m to the rear of the building on the lower levels and up to 14m on Level 5.
- The BEP requires a 4m setback to the two lowest levels on the north-western side with 14m to the upper four levels. The proposal complies with the BEP setback requirement at the two lowest levels and in fact provides 5m for part of the elevation. The proposal does not meet the BEP for the upper three levels. We note that per our discussion below on Clause 11.3, where the BEP is varied, the ADG is to apply which would in fact require only 6m setback to Levels 3 and 4 and 9m to Level 5, not 14m.
- The BEP shows a hatchet shaped building that continues across the common boundary to Nos. 23 and 25 Flide Street. The proposal does not include those properties and provides a minimum 3m setback to this boundary.

Accordingly, the proposal varies the BEP to the north-western and south-western (rear) boundaries.

Clause 11.3 Assessment Principles of the DCP states that:

1. Where a variation to Map 3 Caringbah Medical Precinct Building Envelope Plan is sought, assessment will be in accordance with the SEPP 65 and Apartment Design Guide building separation distances. Where the neighbouring site is not yet developed, habitable rooms should be assumed when calculating separation distances.



This assessment need only be undertaken in relation to the north-western and south-western elevations from Level 3 upwards because the proposal otherwise meets the BEP. The assessment report sets out on pages 26 and 27, our assessment of the proposal against the ADG separation requirement. It is our position that the requirements are met but for articulation screens on the rear elevation which could be removed were the Panel to raise issue with these, noting that the sill heights to windows on this elevation at 1.8m perform the necessary privacy purpose.

At the outset, we do note that it is quite unusual to slavishly apply ADG separation requirements to an entirely different building typology, a health services building, being one which is expressly encouraged by the precinct specific controls. In any case, the development proposal responds well to the controls. The only applicable test for the ADG separation requirements is visual and acoustic privacy. Council have been provided consultant reports confirming there are no visual or acoustic privacy issues in our design.

North-western side

In relation to this setback, Council does not disagree that the wall has been treated as non-habitable, recognising that it is treated with translucent glazing and privacy screening. This is a common approach to the ADG whereby, with visual privacy being the objective of the separation distances, mitigation can be used to treat facades as non-habitable. The Report however goes on to say that bulk and scale is an issue due to insufficient separation. The separation must be assessed against the controls and in this regard, the habitable to non-habitable separation requirement under the ADG is met by the proposal. An alternative way of meeting the requirement could have been to provide solid (perhaps masonry) walls to each side however the proposed outcome is considered to be far superior architecturally.

In any case, to avoid this further debate and to comply even with the habitable to habitable separation requirement, our client has commissioned revised architectural plans to apply a 6m setback, in lieu of the current 4m setback, to the upper three levels, for 22m along this elevation to meet the separation requirement that would apply to a residential flat building with habitable rooms facing this boundary. The small 5m setback section would remain for articulation for a part of the building which has a “non-habitable to non-habitable” relationship with the approved development on the neighbouring site. In our opinion, that elevation would then strictly comply with the DCP requirements regardless of



façade treatment and it follows must be considered acceptable in bulk and scale terms where the building complies with FSR, height and setback controls.

South-western side (rear)

Given the BEP is varied at the rear, the ADG separation requirements have been used as a guide to siting. The rear elevation is again treated as a non-habitable façade incorporating solid aluminium panels to create a blank wall condition and only highlight glazing, with 50% light reducing, tinted glass and privacy screens fitted, designed to avoid downward viewing (ie no visual privacy issue). In our opinion, a 3m setback requirement should be applied to this condition and the proposal is compliant.

As indicated, it is requested that the deferred commencement condition be modified to require a 3m setback to Basement Level 1 which enables planting of 11 trees in deep soil that will grow to provide a significant vegetated separation to the sites to the south. In spatial terms, the BEP always envisaged building on this part of the site and therefore in overall urban design and contextual terms, the outcome is acceptable. The proposed fifth level is setback further from the levels below to further assist with minimising building bulk.

We note that the Assessment Report in relation to side and rear setbacks (in addressing Clause 11.3) states that *“the building design includes a variety of glazed finishes, stepping of the façade and screening to break up the bulk and scale of the building.”* We agree with that assessment and provide a brief response from the Project Architect, Stanistic Architects, in relation to architecture, bulk and scale set against the context of Clause 11.3 of the DCP (see Annexure G).

In summary, with regard to setbacks:

- The DCP has been formulated to assume mixed use development with health service facilities at ground and first floor levels, with residential above. That is in addition to the LEP dedicating the precinct as a “medical precinct”, strongly encouraging medical use and incentivising provision of medical uses.
- The ADG should prevail over the DCP only where it relates to a residential component of a building. The ADG should not place more onerous requirements on a development to which it does not apply.
- The Building Envelope Plans (BEP) are site specific and provide the optimum built form for mixed use buildings as envisaged by the DCP. The proposal generally follows these with the most significant variation being to the rear which is a product of a different site assembly to that envisaged.
- The proposed development does not contain a residential component, it is infrastructure which will be used solely as a health service facility. Despite being within a designated ‘Medical Precinct’, and permissible under Clause 6.21(3) of the LEP, the DCP fails to envisage buildings being used solely as health service facilities.
- The BEP envisages a 4m boundary setback from the south east boundary from ground up to a height of six storeys. The proposed development complies with this. Therefore, more onerous requirements cannot be placed upon the development.
- The BEP envisages a 4m boundary setback at ground and first floor level from the north west boundary. The proposed development complies with this.
- The BEP envisages a 14m setback above second floor level at the north west boundary. The proposed development varies this setback as it does not propose a residential component.
- The DCP provides guidance for variations to the BEP and recommends ADG building compliance.
- The DCP recommends that for adjoining undeveloped sites an assumption is made that they will contain habitable rooms facing the boundary of the subject site.

- The proposed development is designed to have no windows at the north western boundary, which effectively creates a blank wall.
- The building separation distances pursuant to the ADG would be those which relate to 'Habitable Rooms to Non-Habitable Rooms'. The development complies with this.
- The proposed setbacks will not burden any adjoining site with onerous setback requirements.
- Notwithstanding the above, the proposed variations to the BEP are consistent with the objectives of the control, as has been addressed in our SEE, lodged with the application.

Therefore, the proposed setbacks are compliant with the Assessment Principles at 11.3 of Chapter 9 of the DCP, which seeks consistency with the ADG building separation distances.

Landscaping

The proposal complies with the 30% landscape area development standard which in effect is a deep soil requirement. In our opinion, the application should not be subject to a more onerous standard. Notwithstanding, the applicant accepts the deferred commencement condition in relation the rear setback subject to minor modification. It is requested that the condition be modified to require that the basement be setback 3m to Basement Level 1 only. This setback will enable a soil depth of between 3.5m and 5m along the rear boundary. This area will accommodate 11 trees (within 25m) which will provide for a dense vegetated buffer at the boundary. We attach a letter, at **Annexure C**, prepared by Mr Guy Sturt, a well-respected arborist and landscape architect who indicates that this will provide a substantial volume for the trees nominated to grow and provide an excellent screen for privacy and that indeed 90% of any tree roots are generally found in the top 1m of soil. In our opinion, given compliance with the LEP landscape area requirement and compliance with the DCP basement setback requirement to a depth of minimum 3.5m below surface level, that this landscape and deep soil outcome is acceptable.

Amalgamation

In our opinion, the Assessment Report takes an incorrect approach to the consideration of the amalgamation plan. The assessment contained in Section 10.2 of the report appears to proceed with an assessment against the *Karavellas* LEC Planning Principle on the basis that the proposal will "isolate" adjoining lots but does not first consider the question as to whether those lots are in fact isolated. We note that the DCP in Clause 5.2(4) requires a demonstration of how adjoining lots may be developed in the case of residential flat building development however that requirement does not apply to the proposed health services building. In any case, the development application includes documentation to show the way in which the adjoining two sites at Nos. 23 and 25 Flide Street could be developed (either together or each individually) to density at or close to the maximum allowed (whilst the actual density possibly achieved is not a test in *Karavellas* in any case). Contrary to what the Assessment Report says, development of these sites would not necessitate a five storey height to achieve reasonable densities. On this basis those properties are not isolated.

The test in the DCP is a different one to *Karavellas*. It sets controls which apply where development varies the amalgamation pattern, which the proposal does. That invokes Clause 5.2(3) which essentially requires that *"if an application proposes a development that does not comply with the amalgamation plan, a minimum street frontage of 26 metres should be achieved"*. The proposal will retain more than 26m frontage for Nos. 23 and 25 Flide Street for future development should they amalgamate. Whilst the entrance to the proposed development on No. 27 is less than 26m, that lot contains no development other than the driveway entrance to the site and landscaping. The DCP mandates driveway access from Flide Street and therefore it is entirely consistent with the DCP to expect a driveway entrance from that frontage. The lesser frontage to No. 27 does not have any amenity impacts for the proposal or adjoining future development and in fact provides for a spatial break between potential future building forms. Accordingly 5.2(3) is met and the amalgamation plan can be varied.



Page 20 of the Assessment Report sets out a summary of the engagement our client has had with adjoining owners at Nos. 23 and 25 Flide Street. The Report suggests that certain documentation has not been provided to Council. We do not agree that this is the case. The summary set out in the report is accurate and is based on the documents provided by the applicant throughout the assessment process (that summary has come from the documents). For completeness, we attach these records at **Annexure D** including Statutory Declarations from the agents acting for the applicant which respond to unfounded claims made in the Assessment Report as to the contact that was made with adjoining land owners.

In addition, our client has obtained legal advice from Pikes and Verekers Lawyers in relation to whether process set out in the DCP has been met. That is included at **Annexure E**. It concludes:

“In the circumstances, particularly having regard to the approvals on immediately adjacent land, it is unreasonable and improper to slavishly require adherence to the preferred amalgamation plan. The proper question is whether the development achieves the intent of the Caringbah Medical Precinct, and does not prevent development on the unobtained sites from also achieving that intent.

It is clear from the work done by your architects and Planning Ingenuity that that intent is and will be achieved. Even were it necessary to explore acquisition of the other sites (and we say it is not), that has been sufficiently done and evidence provided to Council.

The amalgamation provisions of the DCP should not, in our view, be a bar to the grant of development consent.”

Finally, we note that the proposed development only varies the amalgamation pattern by way of not seeking to include Nos. 23 and 25 Flide Street. This does not affect the main BEP applicable to the site fronting Kingsway.

Further, the amalgamation pattern envisaged by the DCP has already been varied by a number of applications, both at the subject site and within its immediate vicinity. Nos.396-402 Kingsway & 21- 25 Flide Street have an approval for the demolition of all structures and construction of a mixed use development comprising health services and residential apartments (this includes the subject site). This was approved under DA15/1401 on 11/11/2015, it significantly altered the proposed amalgamation pattern within the DCP and nonetheless was considered acceptable to Council. Other approvals which also vary the amalgamation plan include No.21 Flide Street (DA17/1888) and at No.404-406 Kingsway & 29-31 Flide Street (DA16/0456).

Varying the amalgamation plan on the southern part of the site is not a reason to warrant refusal of the development application.

Conclusion

Based on the foregoing, it is respectfully requested that the Panel approve the proposed development subject to the amended Deferred Commencement conditions set out in this submission. The proposed development is entirely consistent with the very specific purpose for development in this precinct and should be encouraged and facilitated.





Yours faithfully,
Planning Ingenuity Pty Ltd

J. Mead

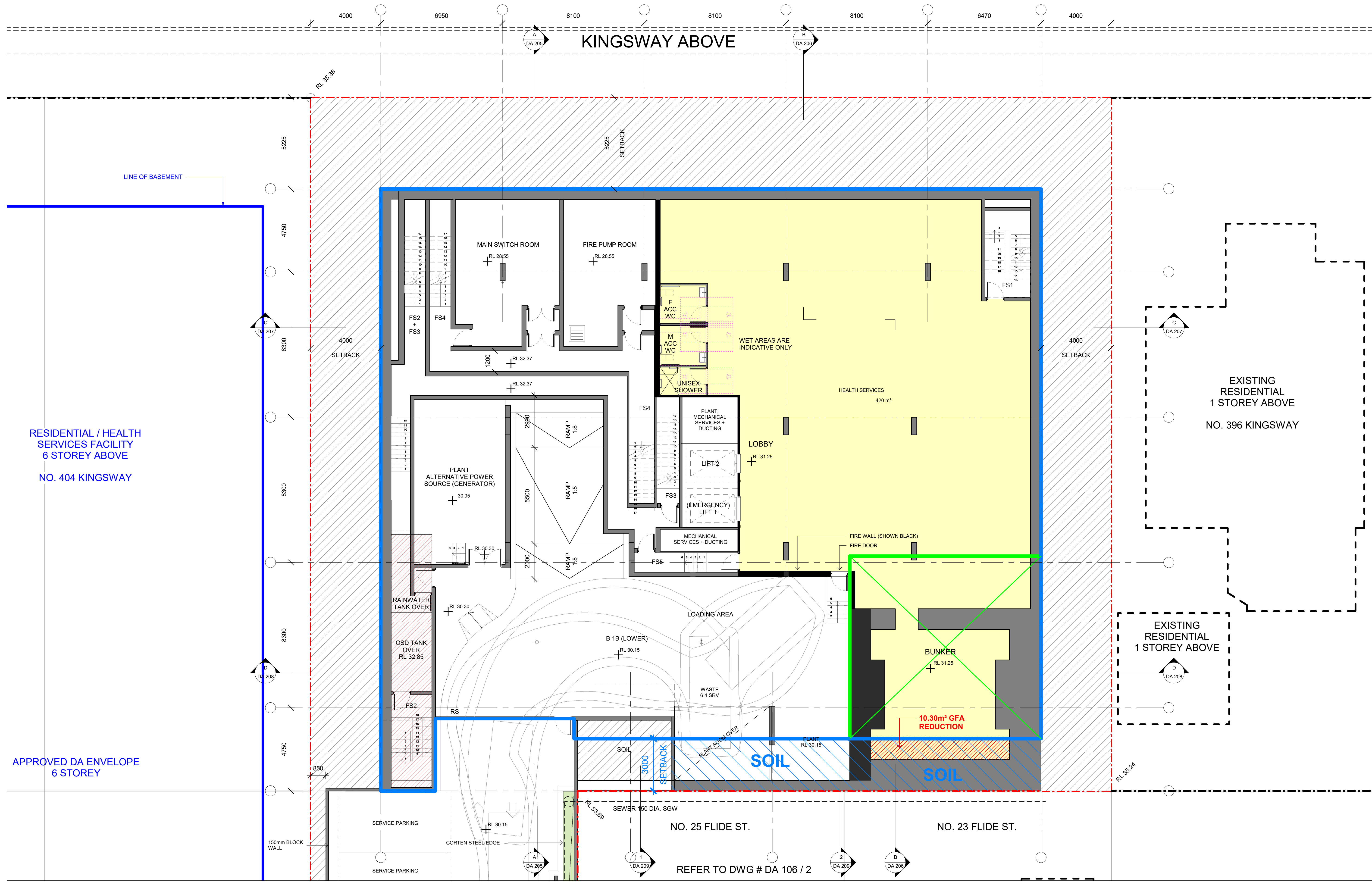
Jeff Mead
MANAGING DIRECTOR





ANNEXURE A – PLANS DEMONSTRATING REQUESTED AMENDMENTS TO DEFERRED COMMENCEMENT CONDITIONS





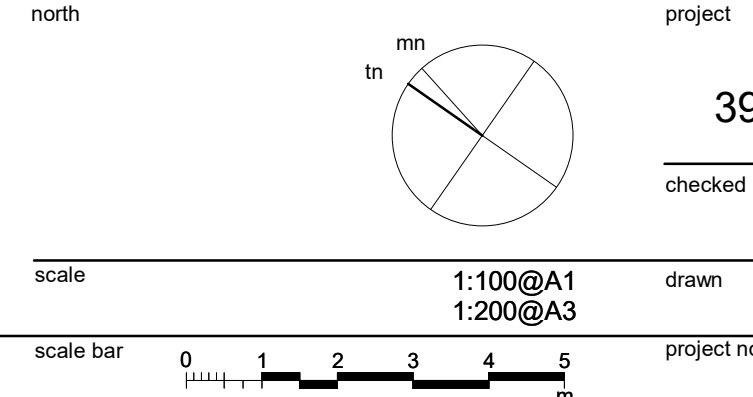
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A	ISSUE FOR DEVELOPMENT APPLICATION	04.10.19
B	PRELIMINARY RESPONSE TO ISSUES FROM COUNCIL	02.03.20
C	FINAL RESPONSE TO ISSUES FROM COUNCIL	24.04.20
1	WITHOUT PREJUDICE ISSUE	12.06.20

legend	
ACC	ACCESSIBLE
B	BED
BA	BALCONY
C	COMMUNICATIONS
CPE	CARPARK EXHAUST
E	ELECTRICAL
F	FEMALE
FHR	FIRE HOSE REEL
FSx	FIRE STAIR
M	MALE
MB	MOTORBIKE
SP	STAIR PRESSURISATION

the layout shown and the areas noted on this drawing are indicative only. layouts are to be read in conjunction with floor plans, elevations + sections.

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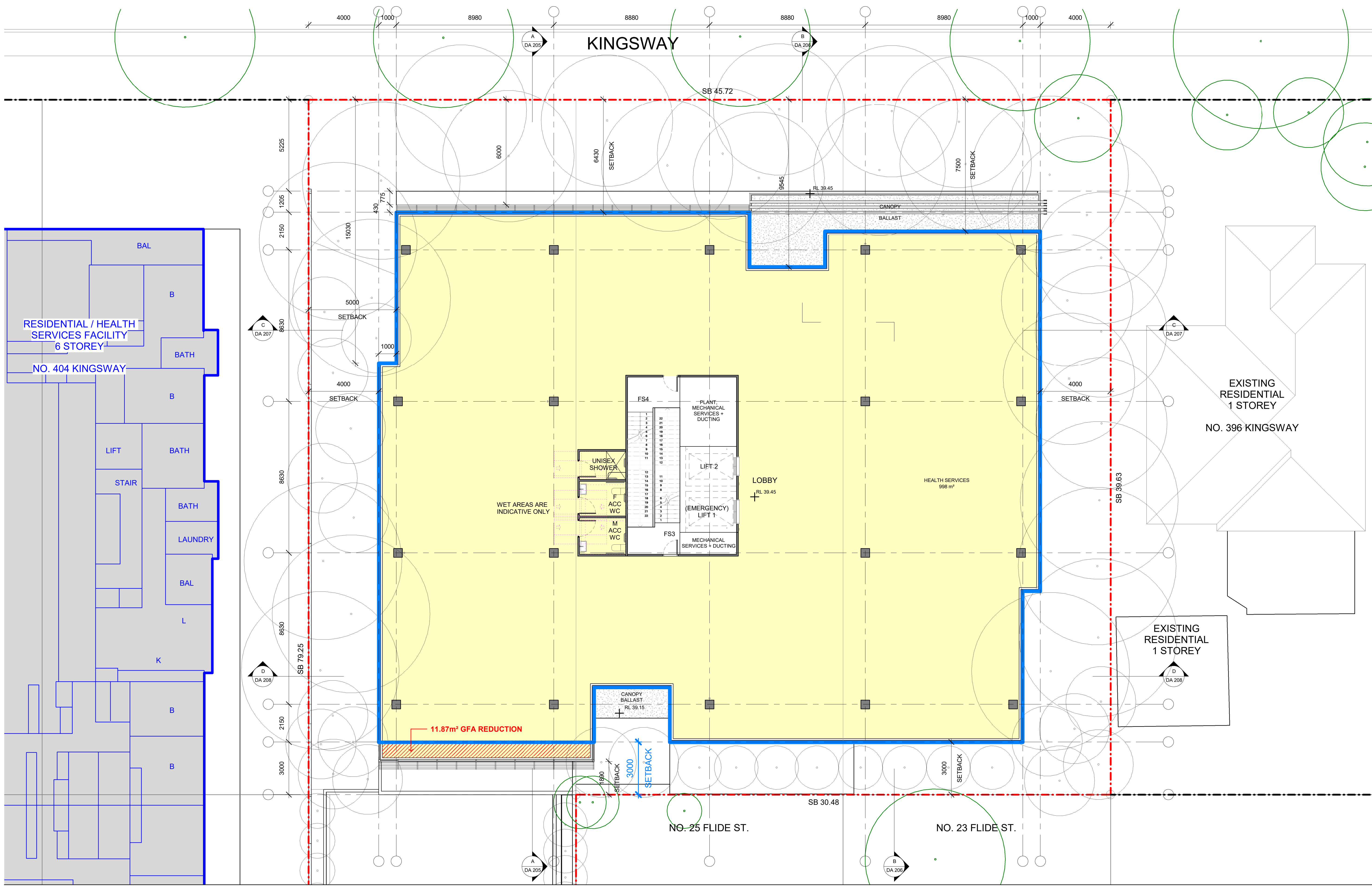


HEALTH SERVICES FACILITY
398-402 KINGSWAY + 27 FLIDE STREET CARINGBAH NSW 2229

checked JN drawing
drawn JK issue
project no 17 031 drawing no

BASEMENT 01 (LOWER GROUND)
PLAN / 1
1

DA 106 / 1



issue	amendment	date
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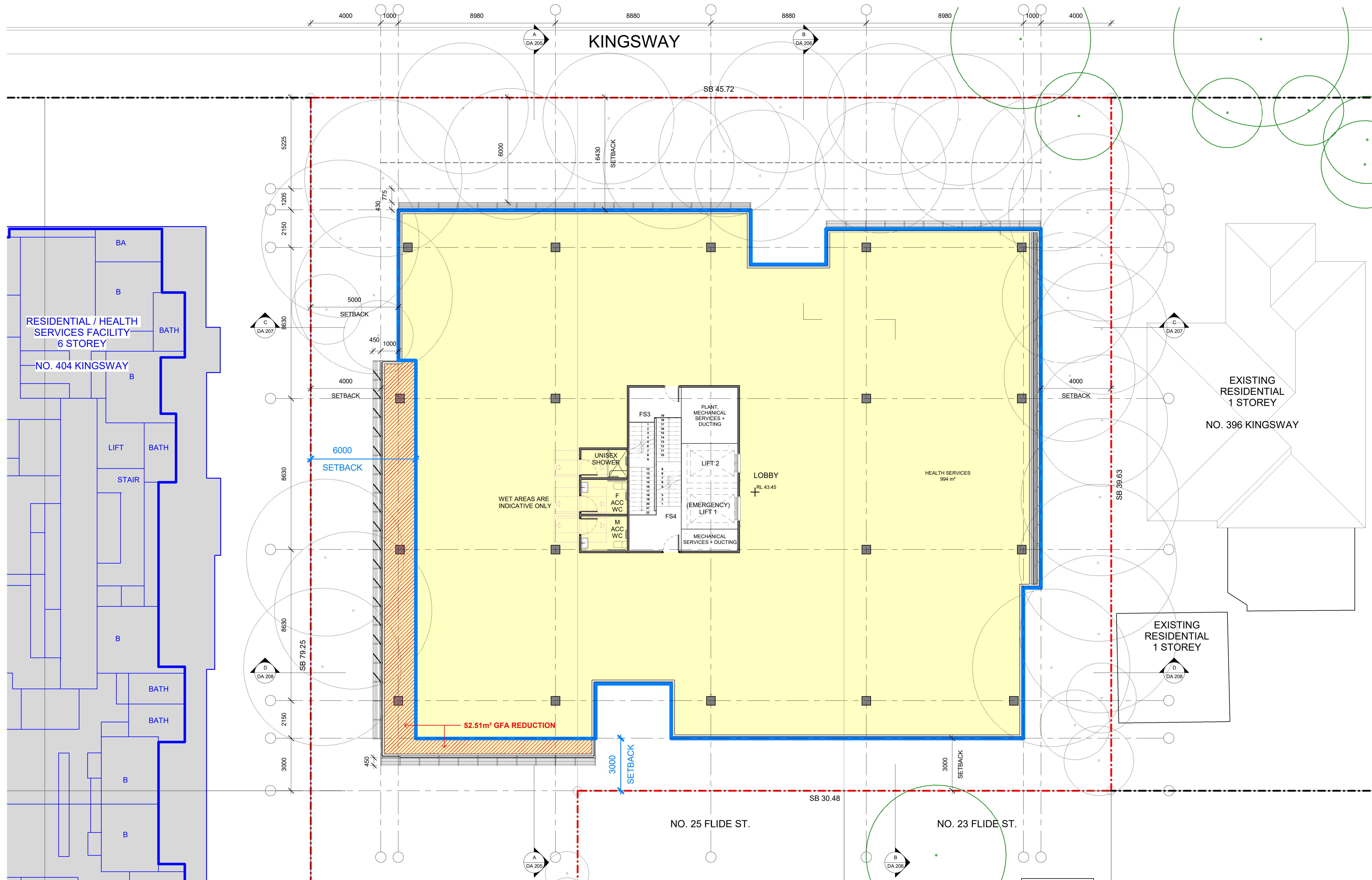
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drawn JK / NK issue
project no 17 031 drawing no

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scale bar
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north

DA 108



issue	amendment	date
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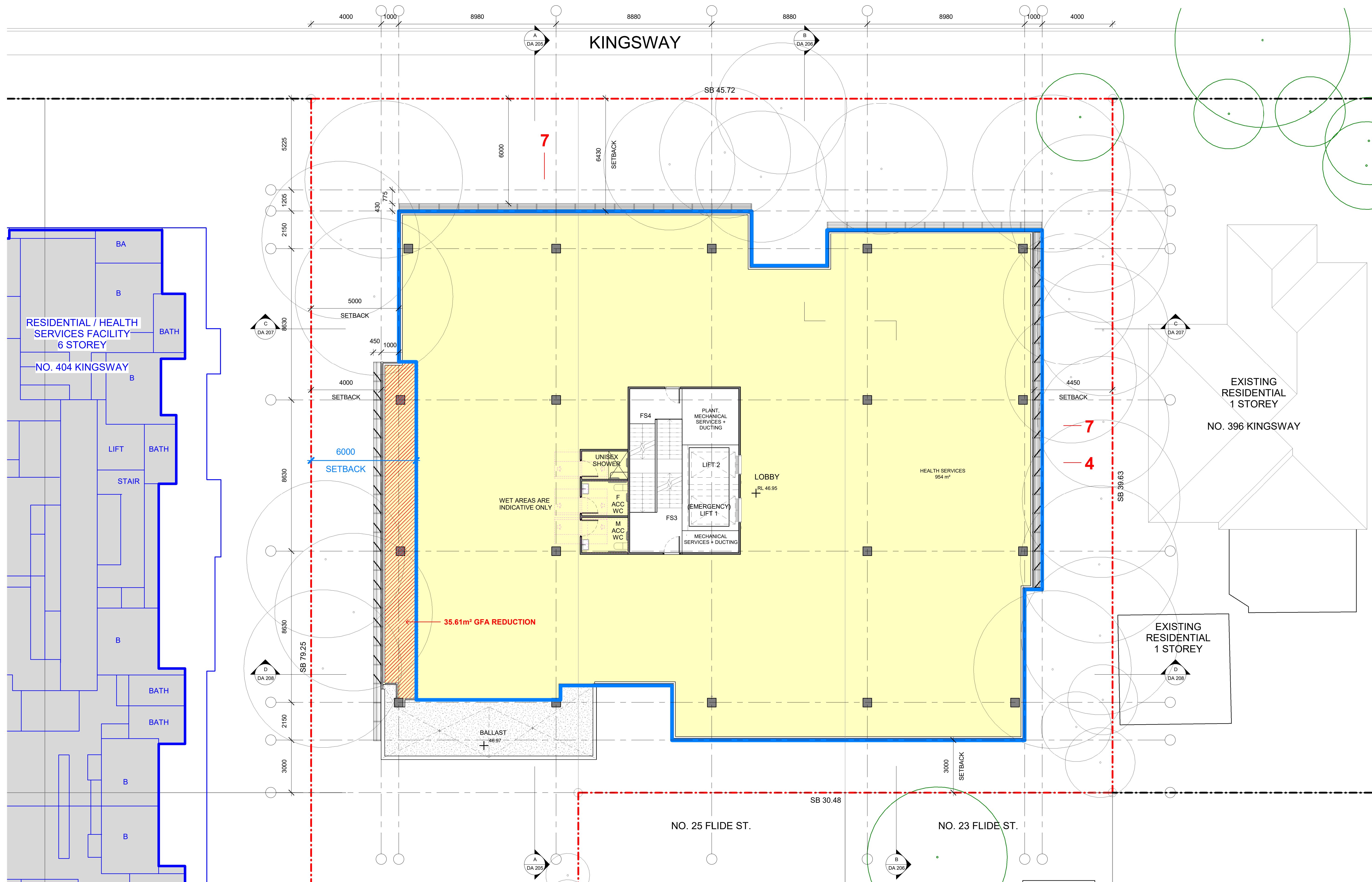
project
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drawing JK / NK
issue
project no 17 031
drawing no

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LEVEL 03 PLAN

1

DA 109



issue	amendment	date
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scale bar
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north

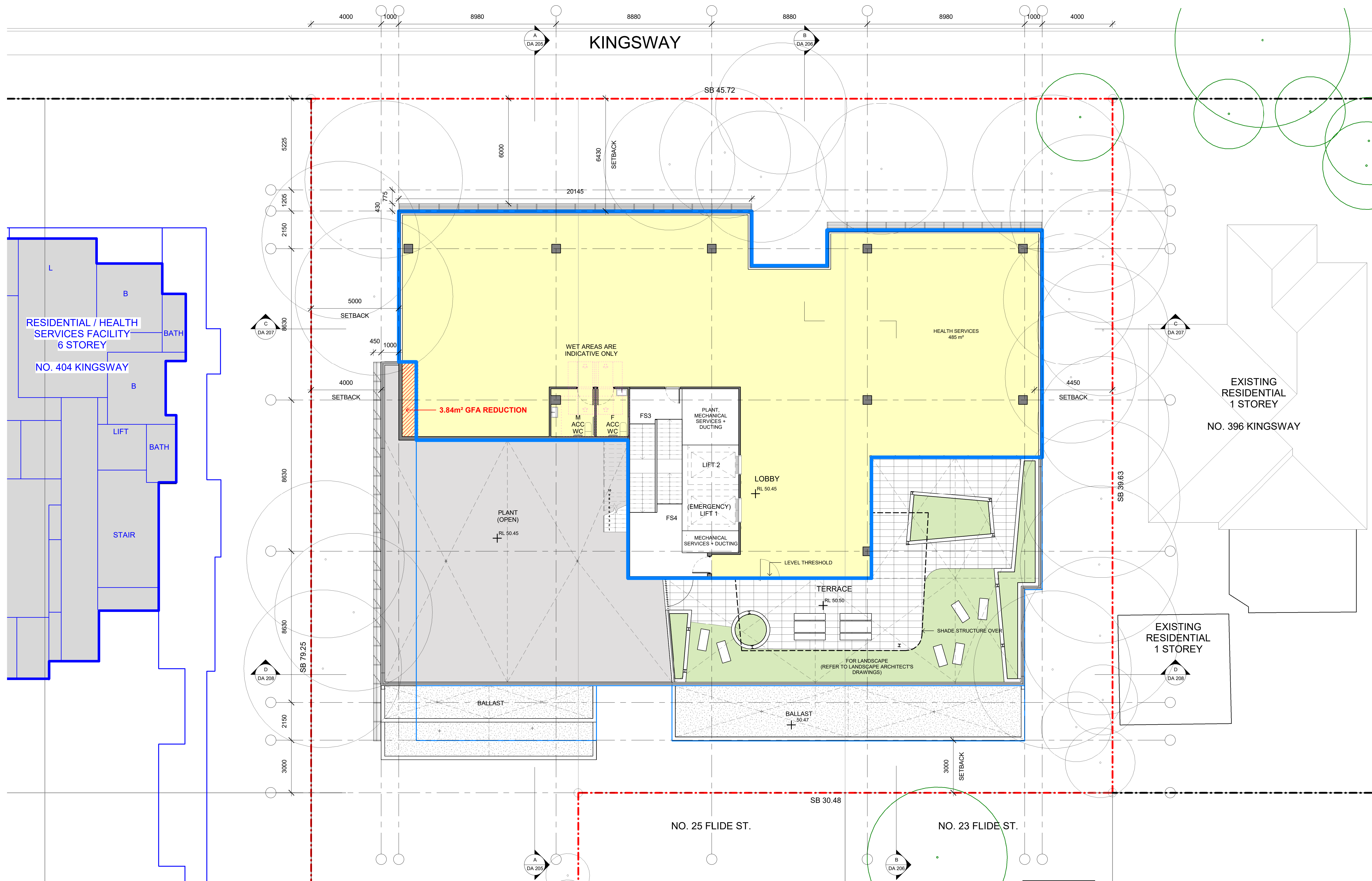
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398-402 KINGSWAY + 27 FLIDE STREET CARINGBAH NSW 2229

LEVEL 04 PLAN

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DA 110



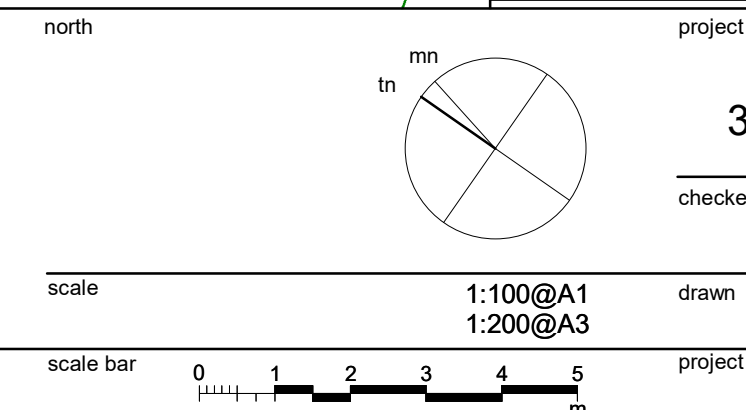
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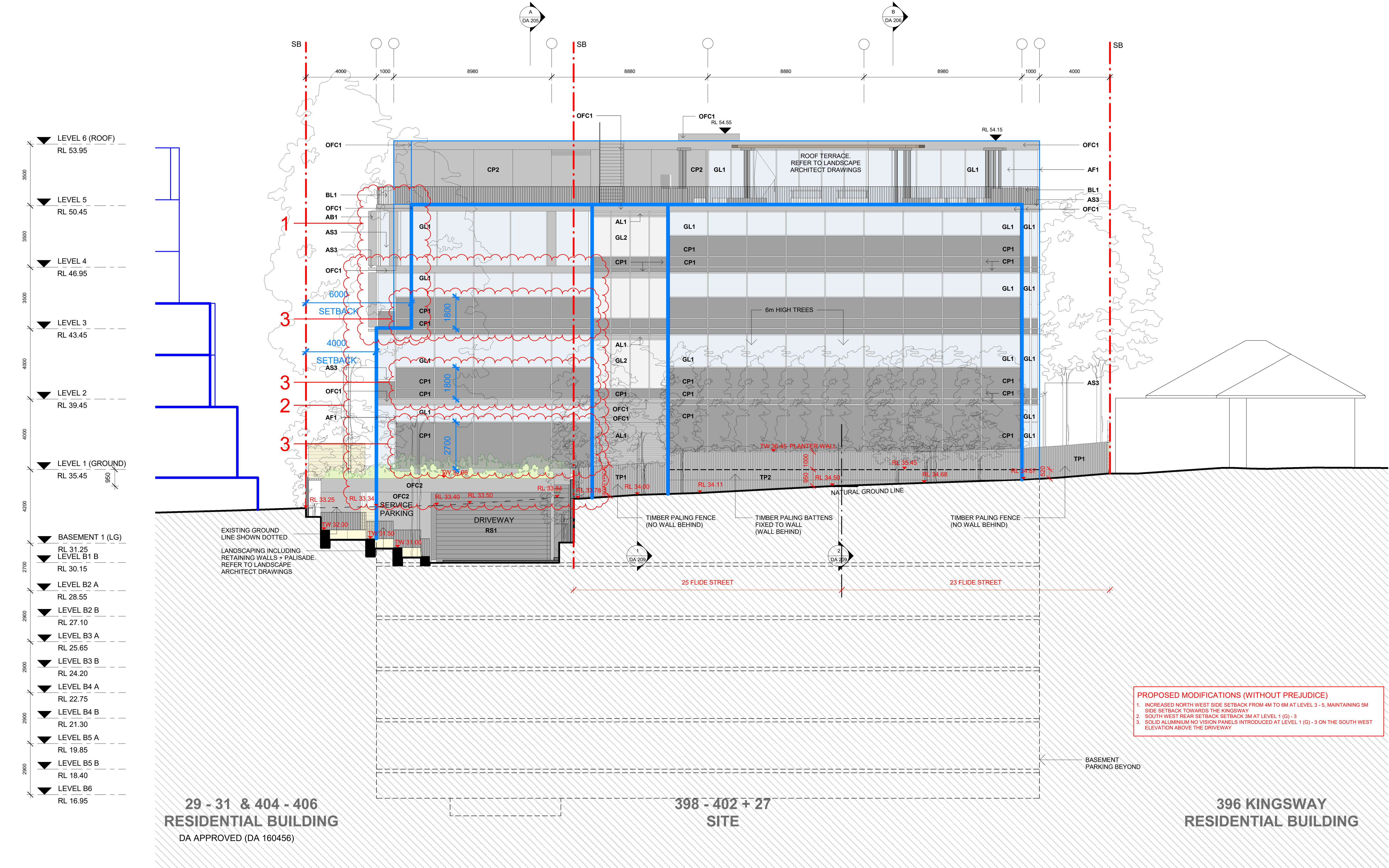
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checked	JN	drawing	LEVEL 05 PLAN
drawn	JK / NK	issue	1
project no.	17 031	drawing no.	DA 111



PROPOSED MODIFICATIONS (WITHOUT PREJUDICE)

1. INCREASED NORTH WEST SIDE SETBACK FROM 4M TO 6M AT LEVEL 3 - 5, MAINTAINING 5M SIDE SETBACK TOWARDS THE KINGSWAY.
2. SOUTH WEST REAR SETBACK SETBACK 3M AT LEVEL 1 (G) - 3
3. SOLID ALUMINIUM NO VISION PANELS INTRODUCED AT LEVEL 1 (G) - 3 ON THE SOUTH WEST ELEVATION ABOVE THE DRIVEWAY

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legend
AB1 ALUMINIUM BLADES, VERTICAL, POWDERCOAT FINISH SILVER
AF1 ALUMINIUM WINDOW & DOOR FRAMES, POWDERCOAT FINISH, DARK
AL1 ALUMINIUM LOUVER, POWDERCOAT FINISH, SILVER
AS1 ALUMINIUM SCREEN, HORIZONTAL, POWDERCOAT FINISH, SILVER
AS2 ALUMINIUM SCREEN, VERTICAL, POWDERCOAT FINISH, SILVER
AS3 ALUMINIUM SCREEN, HORIZONTAL BAR, POWDERCOAT FINISH, SILVER
AS4 ALUMINIUM SCREEN PALISADE, VERTICAL, POWDERCOAT FINISH, DARK
AW1 OFF FORM CONCRETE AWNING
BL1 ALUMINIUM PALISADE, POWDERCOAT FINISH, SILVER
CP1 ALUMINIUM CLADDING PANEL, POWDERCOAT FINISH, SILVER
CP2 FIBRE CEMENT CLADDING PANEL, PAINT FINISH, SILVER
CP3 ALUMINIUM CLADDING PANEL, POWDERCOAT FINISH, BRONZE
GL1 GLASS WINDOWS, DGL, TINTED, AIR SPACE
GL2 GLASS WINDOWS, DGL, TINTED, AIR SPACE
GL3 GLASS PANEL, DGL, TRANSLUCENT, AIR SPACE
GL4 GLASS PANEL, OPAQUE, DARK

GL5 GLASS PANEL, DGL, TINTED, NO VISION, AIR SPACE
OFC1 OFF FORM CONCRETE, PAINT FINISH, SILVER
OFC2 OFF FORM CONCRETE, PAINT FINISH, NATURAL
RS1 STEEL ROLLER SHUTTER, PERFORATED COLORBOND, DARK FINISH
TB1 NON-COMBUSTIBLE TIMBER-LOOK BATTENS
TP1 TIMBER PALING FENCE
TP2 TIMBER PALING BATTENS
20M MAXIMUM HOB (AT BUILDING FACE)

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client
IRWIN MEDICAL DEVELOPMENTS

project
HEALTH SERVICES FACILITY
398-402 KINGSWAY + 27 FLIDE STREET CARINGBAH NSW 2229

checked
FS

scale
1:100@A1
1:200@A3

scale bar
0 1 2 3 4 5 m

project no
17 031

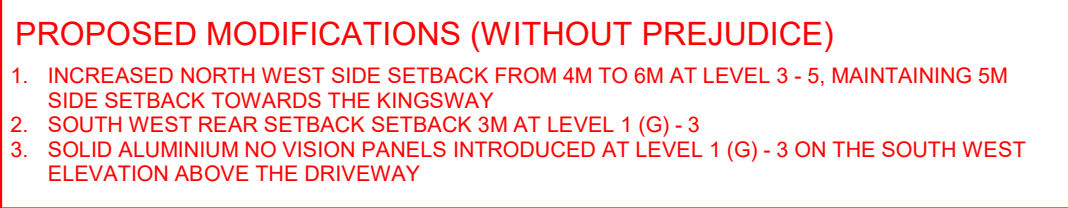
drawing
SOUTH WEST ELEVATION – FLIDE ST








issue
1

drawing no
DA 202

12-Jun-20 11:27:45 AM

do not scale from drawings. the layout shown and the areas noted on this drawing are indicative only. layouts are to be read in conjunction with floor plans, elevations + sections.



	TINTED GLASS WINDOW (GL1)
	DARKER TINTED GLASS WINDOW (GL2)
	TRANSLUCENT NO VISION GLASS PANEL (GL3)
	OPAQUE COLOURBACK NO VISION GLASS PANEL (GL4)
	SOLID ALUMINIUM NO VISION PANEL, SILVER (CP1)
	VERTICAL LOUVRE BLADE SCREEN PROJECTING 450mm (AS2)
	HORIZONTAL BAR GRILLE SCREEN PROJECTING 450mm (AS3), 430mm ALONG KINGSWAY

legend

AB1	ALUMINUM BLADES, VERTICAL, POWDERCOAT FINISH SILVER
AF1	ALUMINUM WINDOW & DOOR FRAMES, POWDERCOAT FINISH, DARK
AL1	ALUMINUM CURVES, POWDERCOAT FINISH SILVER
AS1	ALUMINUM SCREEN, HORIZONTAL, POWDERCOAT FINISH, SILVER
AS2	ALUMINUM SCREEN, VERTICAL, POWDERCOAT FINISH, SILVER
AS3	ALUMINUM SCREEN, HORIZONTAL, BAR, POWDERCOAT FINISH, SILVER
AS4	ALUMINUM SCREEN, VERTICAL, BAR, POWDERCOAT FINISH, DARK
AW1	OFF FORM CONCRETE AWNING
CP1	ALUMINUM PALLS, POWDERCOAT FINISH SILVER
CP2	ALUMINUM CLADDING PANEL, POWDERCOAT FINISH SILVER
BP1	FIBRE CEMENT CLADDING PANEL, PAINT FINISH, SILVER
CP3	ALUMINUM CLADDING PANEL, POWDERCOAT FINISH BRONZE
GL1	GLASS WINDOWS, DOG, TINTED, AIR SPACE
GL2	GLASS WINDOWS, DOG, TINTED, AIR SPACE
GL3	GLASS PANEL, DOG, TRANSLUCENT, AIR SPACE
GL4	GLASS PANEL, OPAQUE, DARK

the layout shown and the areas noted on this drawing are indicative only. layouts are to be read in conjunction with floor plans, elevations + sections.

GL5	GLASS PANEL, DGU, TINTED, NO VISION, AIR SPACE
OCF1	OFF FORM CONCRETE, PAINT FINISH SILVER
OCF2	OFF FORM CONCRETE, PAINT FINISH NATURAL
RS1	STEEL ROLLER SHUTTER, PERFORATED COLORBOND, DARK FINISH
TB1	NON-COMBUSTIBLE 'TIMBER-LOOK' BATTENS
TP1	TIMBER PALING FENCE
TP2	TIMBER PALING BATTENS
—	20M MAXIMUM HOB (AT BUILDING FACE)

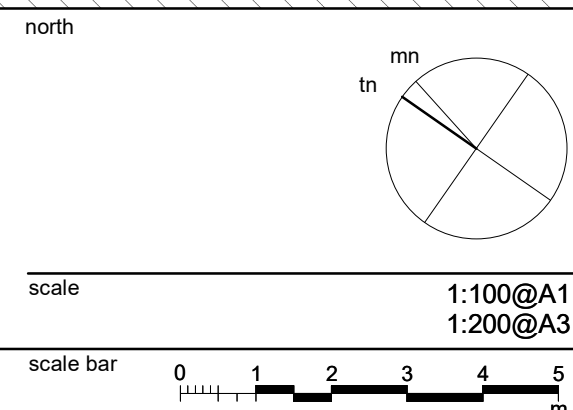
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client

IRWIN MEDICAL DEVELOPMENTS



project	HEALTH SERVICES FACILITY		
398-402 KINGSWAY + 27 FLIDE STREET CARINGBAH NSW 2229			
checked	drawing	SOUTH WEST ELEVATION – FLIDE ST - GLASS TYPES	
	JN		
drawn	issue		1
	JK		
project no	drawing no	DA 202-1	
	17 031		



ANNEXURE B – SUBMISSION IN RELATION TO SETBACKS AND OTHER MATTERS MADE TO COUNCIL IN APRIL 2020



Our Ref: M180368
Council Ref: DA19/0786

24 April 2020

The General Manager
Sutherland Shire Council
Locked Bag 17
SUTHERLAND NSW 1490

Attention: Ms Meredith Alach

Dear Meredith,

**RESPONSE IN RELATION TO BUILDING ENVELOPE COMMENTS
398-402 Kingsway & 27 Flide Street, Caringbah**

We act as town planning consultants to the proponent of the above property. We note that a number of issues have been raised during the assessment process relating to, amongst other things, setbacks, design, lot amalgamation, landscape area, FSR and waste. Some of these issues have been resolved.

The aim of this letter is to provide a response to issues raised, where possible, but to specifically address the setbacks issues, raised in your latest email dated 2 April, 2020. This issue requires detailed attention given that it remains as the primary item of debate in relation to this Development Application.

Prior to dealing with that matter, we wish to confirm that in relation to FSR being the other primary issue not resolved in the opinion of Council, that minor amendments will be made to the architectural plans in relation to core design which will ensure that the FSR meets Council's compliance requirements. Subject to that amendment, we note that the proposal will comply with maximum building height, FSR and landscaped area requirements under the LEP.

Side Setbacks (and Building Envelope Plan)

Chapter 9 of Sutherland Shire DCP 2015 is specific to the Caringbah Medical Precinct and contains preferred lot amalgamation patterns, building envelope plans and setback requirements for development within the medical precinct. The site is within this Precinct and therefore these are the setback controls that must be applied.

The precinct specific DCP contains mapped building envelope plans (BEPs) at Section 8 (Building Envelopes). Objective 8.1 states that the building envelopes '*ensure that developments are designed to an appropriate height, mass and building separation to protect solar access potential for adjacent future residential flat development...*'

Map 3 in Chapter 9 includes a depiction of required side setbacks for the precinct. For the subject site, the requirement is a 4m side setback to the south-eastern boundary to a height of 6 storeys and 4m to the north-western boundary for a two storey building, with the upper 4 levels setback an additional 10m.

The proposed development complies with the required side setbacks under the BEP, with the exception of the upper three levels as set out in the following table:



PLANNING INGENUITY

Suite 210, 531-533 Kingsway
Miranda NSW 2228
P 02 9531 2555

Suite 6, 65-67 Burelli St
Wollongong NSW 2500
P 02 4254 5319



	BEP recommended Setback from south east (side) boundary	Proposal	BEP recommended Setback from north west (side) boundary	Proposal
Levels 1 and 2	4m	4m-5m (complies)	4m	4m-5m (complies)
Levels 3 and 4	4m	4.m – 5m (complies)	14m	4m-5m (does not comply)
Level 5	4m	4.5m (complies)	14m	4m-5m (does not comply)

The BEPs have been predicated on an optimum built form arrangement, to meet the residential bonus provisions contained within the LEP and defined under Control 8.2(1), as containing a minimum 25% Health Service Facilities. As such, the BEP has been designed with a series of mixed use developments in mind, containing health services facility use at ground and first floor level, with residential uses above. This is supported by Map 3 of Chapter 9 of the DCP. As discussed below, it is our opinion that the BEP needs to be reconsidered in light of a sole health service facility building, as the premise for the additional side setback is not relevant.

Later, the DCP, at Control 11.2 provides setback requirements as follows:

1. *Side and rear setbacks should be in accordance with Caringbah Medical Precinct Building Envelope Plan as follows:*
 - b. For sites in the block between the Kingsway and Flide Street:*
 - i. The minimum side setback at ground level is 4m.*
 - ii. Floors above 2 storeys up to a height of 4 storeys (12m) are to be set back to achieve the required ADG building separation.*
 - iii. Floors above 4 storeys are to be set back a further 10m, or sufficient to achieve the required ADG building separation.*

Firstly, these controls are in our opinion inconsistent with the more specific BEP.

Secondly, the ADG is not applicable to this development as it does not fall under the development categories to which the ADG can be used (being residential flat buildings, shop top housing and the residential component of mixed use buildings). This development does not contain any residential component. Accordingly, the BEP controls should be given weight in assessment.

As indicated, the proposal varies the BEP in part at the upper three levels adjacent the north-western boundary.

Clause 11.3 states the following in relation to variations to the BEP:

1. *Where a variation to Map 3 Caringbah Medical Precinct Building Envelope Plan is sought, assessment will be in accordance with the SEPP 65 and Apartment Design Guide building separation distances. Where the neighbouring site is not yet developed, habitable rooms should be assumed when calculating separation distances:*
 - a) Up to four storeys (12m):*

- i. 12 metres between habitable rooms/balconies
 - ii. 9 metres between habitable rooms and non-habitable rooms
 - iv. 6 metres between non-habitable rooms.
- b) Above four storeys (up to 25m)
- i. 18 metres between habitable rooms/balconies
 - ii. 13 metres between habitable rooms and non-habitable rooms
 - iii. 9 metres between non-habitable rooms.

From this, again it is clear that the BEP has been predicated on delivering mixed used developments containing health service facilities at ground and first floor with residential components above. That is why the ADG is relied upon. In our opinion, it is important to consider the objectives of these controls and to consider the circumstances, primarily use type, for the proposal.

The wording of the above clause must also be carefully interpreted. Where a neighbouring 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. This allows for both sites to be developed to their full potential, it does not place additional onerous requirements on the subject site.

In the current case, a setback of 4m-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). The north-western façade is carefully treated with privacy devices and presents no clear glazing to the boundary, to ensure that it acts as a non-habitable interface at the boundary. On this basis, whilst the ADG does not apply to the proposal, it would be complied with as follows:

	ADG building separation – Habitable to non-habitable rooms recommendation	Proposed development at the north west boundary (assuming 6m or 9m setback on adjoining site – dependant on building height)	Complies?
Levels 1 and 2	9m	10m-11m	Yes
Levels 3 and 4	9m	10m-11m	Yes
Level 5	12m <i>N.B. The DCP states this as 13m which is inconsistent with the ADG</i>	13m-14m	Yes

Further, it is considered that the BEP approach of providing 14m side setback to the upper levels is predicated on providing for ADG compliant solar access to upper level residential apartments which are situated south-east of the BEP to the north-west that allows 6 storeys to a 4m setback. In the current case, that solar access protection is not required because the proposal is non-residential.

The assessment principles at part 8.3 of the DCP applies where the BEP is varied and states:

Where an alternative building envelope is proposed, the alternative may be considered provided the design achieves good residential amenity for future residents of the development and future developments on neighbouring sites. To support alternative building envelopes, the applicant must demonstrate that adjacent sites can be developed with mixed use development including 25% Health Services Facilities, to their full development potential with satisfactory daylight access and compliance with SEPP 65 and the ADG, assuming the remaining 75% of the development is residential flats.

The development does not contain a residential component, as such it does not need to consider residential amenity for future residents of the development site.

Given that the BEP is complied with at the south eastern side boundary, neighbouring amenity to that adjoining site will be as envisaged by the DCP. The onus will be on the adjoining developer to comply with the 14m BEP building separation distance should they propose a mixed use building with a residential component.

Rear setback

Regarding the rear setback, a 3m setback from Nos.23 and 25 Flide Street is proposed from ground to fourth floor level, and a 9m setback is proposed above. The BEP envisages that those sites on Flide Street will be amalgamated and built on. Therefore, the BEP is not strictly applicable in this instance, rather Section 11 (Side and Rear Setbacks) of the DCP will be relevant.

Nos. 23 and 25 Flide Street are undeveloped. As such, it should be assumed that habitable rooms will face the rear boundary. As with the side boundaries, a 'Habitable Room to Non-Habitable Room' building separation should be assumed. That is, a 9m building separation from ground to fourth floor and 12m above. The development will allow for these building separation distances.

Summary of side and rear setbacks

As such, the proposed development will comply with the assessment principles at Section 8.3(1) and 11.3(1). These, together with the objectives of each associated control have been addressed in detail within our Statement of Environmental Effects, lodged with the application.

The above can be summarised as follows:

- The DCP has been formulated to assume mixed use development with health service facilities at ground and first floor levels, with residential above. That is despite the LEP dedicating the precinct as a "medical precinct", strongly encouraging medical use and incentivising provision of medical uses.
- The ADG prevails over the DCP where it relates to a residential component of a building. The ADG cannot place onerous requirements on a development to which it does not apply.
- The EP&A Act requires that if a development complies with numerical controls within a DCP the Council cannot require more onerous standards with respect to that aspect of the development.
- The Building Envelope Plans (BEP) are site specific and provide the optimum built form for mixed use buildings as envisaged by the DCP.
- The proposed development does not contain a residential component, it is infrastructure which will be used solely as a health service facility. Despite being within a designated 'Medical Precinct', and permissible under Clause 6.21(3) of the LEP, the DCP fails to envisage buildings being used solely as health service facilities.

- The BEP envisages a 4m boundary setback from the south east boundary from ground up to a height of six storeys. The proposed development complies with this. Therefore, more onerous requirements cannot be placed upon the development.
- The BEP envisages a 4m boundary setback at ground and first floor level from the north west boundary. The proposed development complies with this.
- The BEP envisages a 14m setback above second floor level at the north west boundary. The proposed development varies this setback as it does not propose a residential component.
- The DCP provides guidance for variations to the BEP and recommends ADG building compliance.
- The DCP recommends that for adjoining undeveloped sites an assumption is made that they will contain habitable rooms facing the boundary of the subject site.
- The proposed development is designed to have no windows at the north western boundary, which effectively creates a blank wall.
- The building separation distances pursuant to the ADG would be those which relate to 'Habitable Rooms to Non-Habitable Rooms'. The development complies with this.
- The proposed setbacks will not burden any adjoining site with onerous setback requirements.
- Notwithstanding the above, the proposed variations to the BEP are consistent with the objectives of the control, as has been addressed in our SEE, lodged with the application.

The proposed setbacks are compliant with the Assessment Principles at 11.3 of Chapter 9 of the DCP, which seeks consistency with the ADG building separation distances.

Front Setback

Council has raised concern in relation to the articulation of the front setback, stating that a large portion of the façade sits within the articulation zone with screening sitting forward of the façade.

The design concept for the project is a freestanding, tempered glass pavilion within a landscaped setting that provides a flexible framework for occupation as a health services facility. The building is an articulated free-standing form that is seen-in-the-round with dual frontages to the Kingsway and Flide Street. It maintains a unified composition by adopting a 'monkey grip' form, where the opposing corners are the same.

The site specific DCP for the Caringbah Medical Precinct anticipates a mixed use development comprising, 25% health services facility, 75% residential apartments - the DCP does not anticipate a 100% health service facility development as proposed.

The DCP, however, does include objectives for the streetscape and built form in Section 9 – Streetscape and Built Form:

9.1 Objectives

- 1. Ensure that all elements of development visible from the street and/or public domain make a positive contribution to the streetscape.*
- 2. Create entrances which provide a desirable and safe identity for the development and which assist in visitor orientation.*
- 3. Minimize conflicts between different uses in the development by providing functional and visual separation of the different uses in mixed use developments.*
- 4. Activate the Kingsway street frontage with entrances to Health Service Facilities in new developments.*

5. Ensure that vehicle access and parking areas do not dominate the streetscape and allow for the safe passage of pedestrians along the street and into the development.

6. Improve the visual amenity of the public domain.

7. Establish a barrier free environment for all people who live, work and visit Sutherland Shire

The proposed built form makes a positive contribution to the existing and future streetscape along the Kingsway. The primary address for the site is to Kingsway which is marked by stone entry wall that has been angled to direct pedestrians to the entry lobby which activates the street frontage. Vehicle access to the development is from Flide Street.

The lightweight metal features, deep recesses and articulated front and side elevations are all important architectural devices that create an appropriate bulk and scale to the street that is clearly distinguished as a health service facility within an anticipated future mixed-use context. Importantly, these architectural devices reflect the use, internal design and structure of the development. The external expression has been skilfully designed to accommodate a range of different tenancies while maintaining the integrity of the design.

The DCP only provides guidance for front façade articulation for a mixed use building with residential above, that is, it anticipates balconies and bay windows at upper levels as a mechanism to articulate the façade. It is inappropriate to include balconies and bay windows in a health service facility development as it is not a residential development.

The design achieves a strong image as a 'healthy building' which will set a high standard of architectural design quality in this precinct and makes a positive contribution to the streetscape.

The specific objectives in the DCP regarding the street setback to the Kingsway in Section 10 – Street Setbacks are:

10.1 Objectives

1. Establish the desired spatial proportions of the street and define the street edge.

2. Create a clear threshold by providing a transition between public and private space.

3. Create opportunities for the planting of canopy trees and landscaping.

4. Ensure new development contributes to the desired future streetscape character.

5. Encourage design with good façade articulation.

The proposed built form achieves the desired spatial proportions and an appropriate bulk and scale to the street which includes significant tree planting within the front setback zone.

In the interim, the built form will be visible, but in the longer term, when the trees achieve their mature heights, the façade will be screened significantly. The front setback zone contains endemic trees, sandstone block sculptures, steel structure supporting flowering native vines on the entry awning and an informal seating area at the entry.

Architectural devices that encroach into the articulation zone improve the design quality of the development by creating light and shade on the façade, which together with the deep recesses, achieve good façade articulation.



The DCP permits an encroachment in to the front setback zone by 1.5m for 1/3 of the area of the front façade which is illustrated in Figure 1: Illustration showing one possible scenario with one third of the façade as articulation zone.

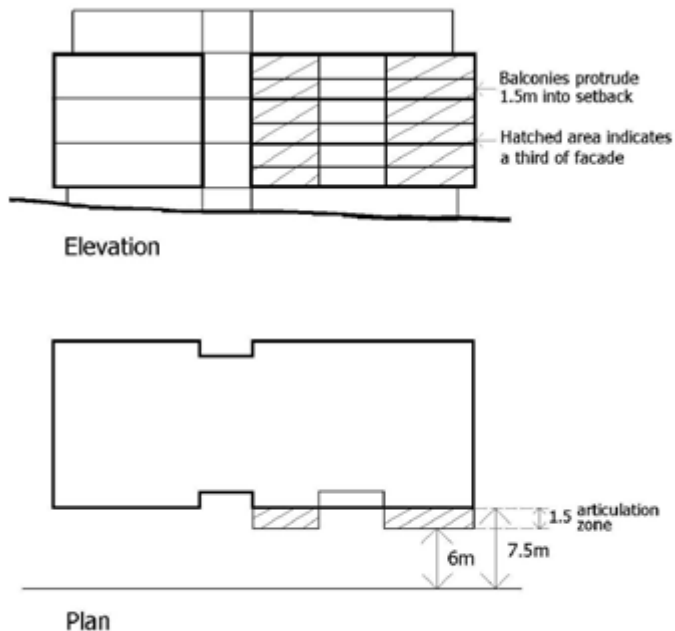


Figure 1: Illustration showing one possible scenario with one third of façade as articulation zone.

Spatial proportions are experienced in three dimensions or as a volume, not as a plan or elevation. The front setback articulation zone diagram (DA 605) illustrates that 408.287m³ (38.6%) of the front facade contains built form, horizontal screens and a canopy that encroach within the front setback zone, exceeding the numeric requirement by 55.367m² (5.3%). This is a minor exceedance that would not register in your experience of spatial proportions from the public domain.

Importantly, a minimum 6m setback is maintained with no elements (other than the ground floor entrance canopy) extending into that setback. The building utilises projecting louvres at each level which are considered to be more lightweight and softer in appearance than balcony balustrades or bay windows would be.

The front façade includes two full height recesses that assist in breaking down the bulk and scale of the building to create proportions that will be consistent with future developments along the Kingsway. It is possible to strictly comply with the 7.5m numeric requirement by 'filling in' these recesses which would smooth or 'average out' the façade. However, it is considered that this would create inferior façade articulation and would not achieve the objectives of the development controls.

Visual Intrusion

Council have raised concerns with 'visual intrusion'. The relevant test for this is contained at Assessment Principle 11.3.2(a), which states:

2. 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?

To ascertain whether there is 'excessive' visual intrusion it is reasonable to consider the development against the various controls and standards applicable, in which case it is not considered that there is demonstrable 'excessive' visual intrusion, as follows:

- a) The building is under the LEP height standard;
- b) The building does not exceed the LEP FSR standard;
- c) The development meets the LEP landscape requirement plus includes considerably more landscaping on the structure;
- d) A compliant front setback is proposed;
- e) The building setback accords with the BEP along the S-E boundary;
- f) The building setback along the N-W boundary only varies from the BEP on upper levels as a consequence of no requirement for a residential flat component. The variation creates no over-looking or other loss of amenity for the adjoining property;
- g) The building appearance generally accords with the contemplated BEP height and bulk when viewed from the rear, but with the added advantage of being setback a further 3m.
- h) When viewed from the rear the building is set back behind the lots of Flide Street and reduced in height where it relates to the rear boundaries of Nos.23 and 25 Flide Street.
- i) At the rear boundary of Nos.23 and 25 Flide Street the basement wall and planters are screened behind the timber boundary fence. This addresses Assessment Principle 11.3.2(c).
- j) The development contains in excess of 100 trees which act as a visual screen for the building and provide softening on the streetscape.

The DCP anticipates variations to the BEP and provides a series of Assessment Criteria which are to be addressed where a variation is proposed. These criteria have been thoroughly addressed in detail in our SEE, variation correspondence and this response.

It cannot, therefore, be reasonably considered that the proposed development results in 'excessive' visual intrusion when viewed from the adjoining properties.

Visual Privacy and Neighbouring Amenity

Council has raised issues of visual privacy, light and noise spillage and acoustic privacy from the site.

Visual Privacy

In regard to visual privacy each elevation must be considered individually.

- i. At the south east side elevation the development is consistent with the BEP in terms of setback requirements. The BEP permits a 4m setback for the full height of the building at this boundary. It then seeks a 14m setback on the adjoining site above level 2. This provides an 18m building separation distance above level 2. This is considered more than sufficient to mitigate against any perceived loss of privacy. Should the owner of the adjoining site seek to vary the BEP they will need to demonstrate that they meet the assessment criteria within the DCP, as we have done. However, as we comply with the BEP at the south east boundary, more onerous requirements may not be placed on the subject development in accordance with Clause 4.15(3A) of the EP&A Act.

- ii. In regard to the north west side elevation, the proposal contains no windows and a range of translucent and opaque glazing, and solid panels which do not allow any vision though, in effect creating a blank wall.
- iii. The rear elevation, where it faces the adjoining sites at Flide Street contains high level windows, which are 1.8m above floor level which removes the possibility for overlooking of future development on those adjoining sites. Which provides 100% visual privacy.

Windows and glazed panels shown on elevations are a minimum of double glazed, gas filled units with a darker tint. This greatly reduces both light, heat and noise transmission.

Acoustic Privacy

A review by White Noise acoustic consultants, included with this submission, considers the noise emanating from the building at full operation will be inaudible.

Light Spill

A review by Altura Consulting, included with this submission, concludes there will be no 'unacceptable light spill impacts on the adjoining properties'.

Solar Access

It should also be noted that the development does not result in significant overshadowing of the adjoining properties (Assessment Principle 11.3.2(b)). This has been explained extensively in our SEE, specifically at section 4.3.6. Solar access diagrams are provided which demonstrate the shadow impacts of the development. Given that the development is consistent with the building envelope plan at the southern most parts of the site (i.e. below the 6 storey height limit at lot Nos. 398 & 400) there will be no additional overshadowing on sites to the south east and south of the development than has otherwise been anticipated by the controls. The non-compliant part (where the two storey limit is varied at No.402 Kingsway) is at the north-western part of the site, therefore any additional shadow cast will fall over landscape/driveway parts of the subject site or be absorbed by the building itself.

As the development is compliant with the BEP at the south east boundary, any overshadowing is as envisaged by the BEP and the onus is on the adjoining site developer to comply with the BEP setback requirement on their site.

Other

Lot Amalgamation and adjoining site to the north west

The proposed development only varies the amalgamation pattern by way of not seeking to include Nos.23 and 25 Flide Street. This does not affect the main BEP applicable to the site fronting Kingsway.

It should also be noted that the amalgamation pattern envisaged by the DCP has already been varied by a number of applications, both at the subject site within its immediate vicinity. Nos.396-402 Kingsway & 21- 25 Flide Street have an approval for the demolition of all structures and construction of a mixed use development comprising health services and residential apartments (this includes the subject site). This was approved under DA15/1401 on 11/11/2015, it significantly altered the proposed amalgamation pattern within the DCP and nonetheless considered acceptable to



Council. Other approvals which also vary the amalgamation plan include No.21 Flide Street (DA17/1888) and at No.404-406 Kingsway & 29-31 Flide Street (DA16/0456).

An approved development at the site to the north west at No.404-406 Kingsway & 29-31 Flide Street (DA16/0456) not only varies the BEP and amalgamation plan, but also provides setbacks ranging from 6m to 9m (to habitable rooms) from the shared side boundary. If this is constructed it results in building separation from the proposed development of 9m-12.55m (to habitable rooms at the adjoining site), which is compliant with ADG requirements.

The site, No.404-406 Kingsway & 29-31 Flide Street, has been irreversibly altered by way of ownership and the approved DA and cannot therefore ever comply with the amalgamation plan. The approved DA demonstrates that the lots can be developed in an orderly and economic manner. Nonetheless, given that lot amalgamation cannot ever be achieved in future it is not reasonable to assume that any future DA may rely on the 4m BEP setback for anything other than health services facilities at the lower levels. Any future development will therefore be a variation of the amalgamation plan, and the BEP and must therefore assume a 6m habitable room setback, if it seeks habitable rooms facing the common boundary. As we have thoroughly detailed (and is demonstrated by the approval of a DA with 6m setbacks) this is achievable on the adjoining site in full compliance with the ADG.

SEPP (Infrastructure) 2007

The SEPP seeks to facilitate the effective delivery of infrastructure across the State by, amongst other things, providing greater flexibility in the location of infrastructure and service facilities.

The SEPP considers that Health Services Facilities are important forms of infrastructure of State importance and permits their development with consent within a broad range of zones, including the R4 High Density Residential Zone. The proposed provision of Health Services Infrastructure is why 'Caringbah Medical Precinct' was established.

The development seeks to provide important infrastructure and has been designed to address all relevant LEP and DCP controls which are applicable to the site and the building. It does not impose any significant adverse amenity impacts on adjoining sites which have not already been anticipated and it permits ADG compliant development to be constructed on adjoining sites.

FSR and Lot Frontage

DCP Clause 5.3(3) states that where a proposal does not comply with the amalgamation plan 'a minimum street frontage of 26m should be achieved...developments with site frontage width less than 26m may not allow for the full FSR to be realised'.

Flide Street lot has no built form GFA/FSR and is used only for landscaping and access. The proposed health service facility fronts Kingsway. This frontage is 45.72m wide, as such this satisfies control 5.2.3.

Summary

In relation to the development as a whole, issues regarding FSR, Building Design and Landscaping have been resolved or are in the process of being resolved.

In regard to the proposed setbacks, the development varies the BEP only at the north-western boundary. Where this occurs, the DCP building separation distances for the adjoining site (404-406 Kingsway) comply with the ADG requirements.





The ADG does not apply to the subject development as it does not contain a residential component. It therefore cannot be used to require onerous setbacks which are beyond those of the DCP.

The DCP reasonably assumes that on neighbouring undeveloped sites habitable rooms will face the boundary. This would allow such neighbouring sites to achieve equitable building separation if seeking to prefer residential flat components in a mixed use configuration.

As the proposed development does not contain a residential component and the north west elevation contains no windows it is in effect a blank wall or a non-habitable portion of the building.

Therefore, the only reasonable requirements which could be imposed on the development, as a non-residential building, is to achieve habitable to non-habitable ADG building separation distances while complying with Clause 11.2.1(b)(i), on the predication that the adjoining site is developed with a habitable room setback (being 6m or 9m depending on the building height). The burden of providing any increased habitable setback cannot be applied to the subject site. That is, a 'habitable to non-habitable' building separation does not need to be shared equally between sites, in the same way that 'habitable to habitable' building separation should be.

The proposed setbacks at the north-west boundary are fully compliant with the ADG habitable to non-habitable room separation distances providing a minimum of 9m up to the fourth floor and 12m above. The burden of each setback is proportionate and consistent with what the ADG envisages.

The development does not impose any significant adverse amenity impacts on neighbours and is not visually intrusive. It seeks to provide important infrastructure, encouraged by the SEPP (Infrastructure) 2007 and will provide a range of important services, which are not currently provided in Sutherland Shire, to meet the needs of the local community and beyond.

We trust that this addresses Council's concerns with specific regard to the side and rear setbacks.

Yours faithfully,
Planning Ingenuity Pty Ltd

Jeff Mead
MANAGING DIRECTOR





ANNEXURE C – ARBORIST/LANDSCAPE LETTER PREPARED BY MR GUY STURT IN RELATION TO DEEP SOIL AREA





11th June 2020

Irwin Medical Developments Pty. Ltd.
craig@kpoint.com.au
ATTENTION: Craig Irwin

Dear Craig

RE: 398-402 KINGSWAY & 27 FLIDE STREET, CARINGBAH

I enclose our comments in response to Landscape matters to be addressed regarding soil depths and potential for optimal tree growth in the rear boundary setback.

I note I am both a practising Landscape Architect with 35 years' experience and a qualified consulting Arborist (AQF Level 5).

A rear boundary setback between 3-4m is provided to the rear of 23/25 Flide Street

One planter is 5.5m long by 4m wide by 3.5m deep. This provides more than adequate soil volume for 2 large trees proposed.

The other planter provides a 3m setback. This was previously a 1m deep planter box for approximately 19.5m along the rest of the boundary. I understand this has now been increased to a full story in depth (approx. 4-5m deep). This; in my opinion as a consulting Arborist provides a substantial volume for the trees nominated to grow. Indeed 90% of any tree roots are generally found in the top 1m of soil.

It is my opinion that the 11 trees planted along this 25m boundary will provide an excellent screen for privacy and will grow to their full capacity and will have a mature life expectancy. I note Acacias are shorter lived trees and if Council so wishes we are happy to change the species to a longer living species.

We consider screening more than adequately provided for with the trees indicated.

We would be more than happy to discuss any of these items with Council's Landscape Officer.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Guy J. Sturt".

GUY J. STURT
BLARCH AILA Registered Landscape Architect Dip. Arb. (AQF Level 5)
Consulting Arborist.



ANNEXURE D – “PAPER TRAIL” IN RELATION TO OFFERS MADE TO ADJOINING LAND OWNERS



Fergus Freeney

From: Justin Ressler <justin@ressler.com.au>
Sent: Wednesday, 18 September 2019 10:25 AM
To: Craig Irwin
Subject: 23 & 25 Flide Street, caringbah

Dear Craig,

Under your instructions I have now submitted offers on your behalf to both 23 Flide Street, Caringbah (Mr Shepherd) and 25 Flide Street, Caringbah (Mr Woodside)

The offer of \$1,300,000 for each property were quickly rejected.
Both Mr Woodside and Mr Shepherd said they would only sell if the offer was \$3 million for each property.

The offers were submitted in person on the 16th and 17th of September 2019 and witnessed by Kristy Calleja from our office.

--

Kind regards,

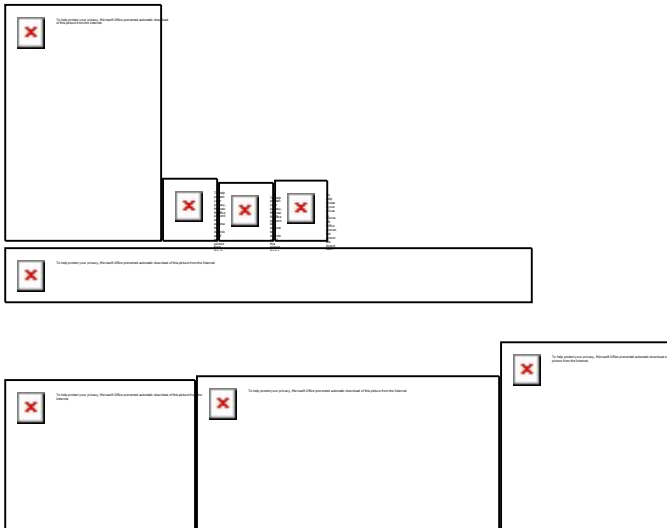
Justin Ressler | Licensed Real Estate Agent & Registered Valuer

E: justin@ressler.com.au

P: 02 9531 1077

M: 0407 774 344

W: ressler.com.au



**PROUD SPONSOR
OF THE SHARKS**



Virus-free. www.avast.com

15th November 2019

Mr and Mrs Shepard
23 Flide Street,
Caringbah 2229

Dear Mr and Mrs Shepherd,

Further to my offer submitted to you on September 17th 2019. I have been down to the house to discuss 3 times this week, and have not been able to contact you. Could you please contact me on 0407 774 344 to discuss my clients interest in your property.

Regards

Justin Ressler
Director

Fergus Freeney

From: Justin Ressler <justin@ressler.com.au>
Sent: Friday, 15 November 2019 3:22 PM
To: Craig Irwin
Subject: 25 Flide Street, Caringbah

Hi Craig,

Kristy and I went down to 25 Flide Street again on Wednesday to resubmit your offer to purchase the property at \$1.3 million.

The owner Rob Woodside was out the front, I identified myself and submitted the offer of \$1.3 mill. He again said that there is no way that they would sell for that and he would consider selling for \$3 million.

Kind regards,

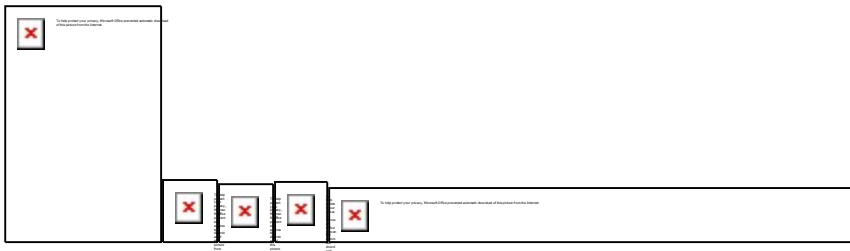
Justin Ressler | Licensed Real Estate Agent & Registered Valuer

E: justin@ressler.com.au

P: [02 9531 1077](tel:0295311077)

M: [0407 774 344](tel:0407774344)

W: ressler.com.au



**PROUD SPONSOR
OF THE SHARKS**

Fergus Freeney

From: Justin Ressler <justin@ressler.com.au>
Sent: Monday, 18 November 2019 7:02 PM
To: Craig Irwin
Subject: 23 Flide St. Caringbah

Hi Craig,

I went down to the property again on Friday 15 November with Kristy, (for the 3rd time that week)

I saw Mr Shepherd come home form work and then 5 minutes after that we knocked on the door. Mr Shepherd was clearly home but avoiding me (window was open)

I left a letter in his letterbox asking me to call him re: property.
See attached photo for proof.



Kind regards,

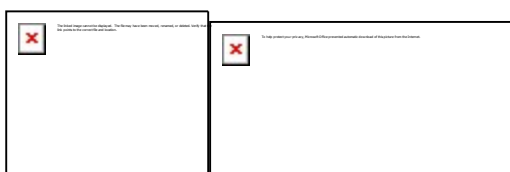
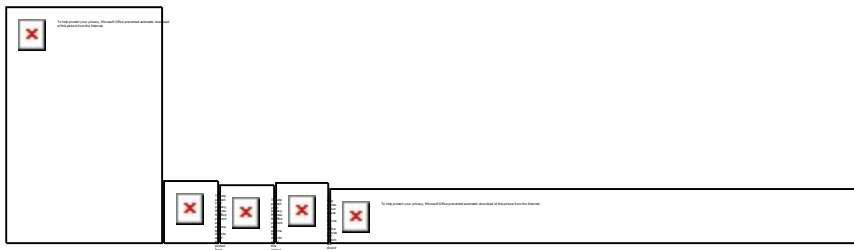
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W: ressler.com.au



**PROUD SPONSOR
OF THE SHARKS**

Statutory Declaration

OATHS ACT 1900, NSW, NINTH SCHEDULE

I, Kristy Calleja of 10/4-8 madeira St, Sylvan ia
[name of declarant] [Residence]

do hereby solemnly declare and affirm that:

1. I am a Property Manager at Ressler Property. Ressler Property is a 2nd generation family agency established in Caringbah for over 40 years. We operate across the Sutherland Shire in all aspects of property sales and management. We have an intimate knowledge of the Caringbah Medical Precinct.
2. On 16 September 2019, I went with Justin Ressler, the Managing Director of Ressler Property, in person to 25 Flide Street. I remember this date as I put in my diary that Justin and I attended the property on this date (see Annexure A). Justin spoke with the owners of 25 Flide Street (Mr Woodside and Mrs Woodside) and said words to the effects that "my name is Justin, I am a local agent, would you consider an offer of \$1,300,000 for your property". Mr Woodside's responded in words to the effect that he "would only sell if the offer was at least \$3,000,000". Justin and I left after this interaction.
3. On 17 September 2019, I went with Justin Ressler in person to 23 Flide Street. I remember this date as I put in my diary that Justin and I attended the property on this day (see Annexure A). Justin spoke with the owner of 23 Flide Street (Mr Shepherd) and said words to the effects that "my name is Justin, I am a local agent, would you consider an offer of \$1,300,000 for your property". Mr Shepherd responded in words to the effect that "I reject that offer and would only consider selling if the offer was at least \$3,000,000". Mr Shepherd was quite friendly at this time, discussing with Justin the previous history of the site and said words to the effect that "my property is worth at \$3-3.3 million and there

was no way I would take a lower offer than that" Justin and I left the property after this interaction.

4. On 14 November 2019, I went with Justin Ressler again to 25 Flide Street. Justin said words to the effect of "Hello, I am here again to see if you would consider selling your property for \$1,300,000". Mr Woodside responded to him in words to the effect that "there is no way I would sell for that amount but would consider selling for at least \$3,000,000". I remember this dates as I out in my diary that Justin and I attended the property (see Annexure B).
5. After visiting 25 Flide Street, Justin and I attended 23 Flide Street, however no one answered when Justin knocked on the door. I also put this interaction in my diary (see Annexure B).
6. On 15 November 2019, at approximately 5pm, I went again to 23 Flide Street. It was the 3rd time that week Justin and I had attended the property without speaking with Mr Shepherd. I remember these dates as I wrote down that Justin and I would be attending the property in my diary (see Annexure B). I remember that I had the impression Mr Shepherd was at home the previous times Justin had knocked on the door because the front window was open each time.
7. On the occasion detailed in paragraph 5, I took a photo of Justin with a letter he had written of Justin putting the letter in the mail box of 23 Flide Street (see Annexure C).

And I make this solemn declaration, as to the matter (or matters) aforesaid, according to the law in this behalf made – and subject to the punishment by law provided for any wilfully false statement in any such declaration.

Declared at: Caringbah on 12.6.2020
[place] [date]

[Signature]
[signature of declarant]

in the presence of an authorised witness, who states:

I, JENNIFER ROBYN PALMER, NSW JP. 227614,
[name of authorised witness] [qualification of authorised witness]

certify the following matters concerning the making of this statutory declaration by the person who made it: [* please cross out any text that does not apply]

1. ~~*I saw the face of the person OR *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification¹ for not removing the covering, and~~
2. ~~*I have known the person for at least 12 months OR *I have confirmed the person's identity using an identification document and the document I relied on was~~
NSW DL. 14292556

[describe identification document relied on]

[Signature]
[signature of authorised witness]

12 JUNE 2020
[date]

¹ The only "special justification" for not removing a face covering is a legitimate medical reason (at September 2018)

Annexure A

Calendar (This computer only) - rents@rentslee.com.au - Outlook

16 - 21 September 2019

Send email from

My Calendar (This computer only)

17 To north west arm rd routine

18 To north west arm rd routine

19 To north west arm rd routine

20 To north west arm rd routine

21 To north west arm rd routine

22 To north west arm rd routine

23 To north west arm rd routine

24 To north west arm rd routine

25 To north west arm rd routine

26 To north west arm rd routine

27 To north west arm rd routine

28 To north west arm rd routine

29 To north west arm rd routine

30 To north west arm rd routine

31 To north west arm rd routine

Mail Calendar People Tasks

12:19 PM 12/06/2020

me m

Calendar (This computer only) | zentals@eseller.com.au | Outlook

Annexure B

11 - 16 November 2019

1/18 Review of timeline - 11:30

21/18 Review of timeline - attend with Pauline to discuss with James at 11:30 - earlier

21/18 Review of timeline - attend on door no answer

22/18 Review of timeline - knocked on door several times no answer

Steph's birthday tomorrow

personal compliance for RS Therapies stores December

Review Meeting - Date/Time Saturday 16th Nov 1:00 PM - 2:00 PM

done card

23/18 Review of timeline - knocked on door no answer, left notes in mailbox

Mail | Calendar | People | Tasks

12:23 PM 12/06/2020

10/11



12/11/21

Statutory Declaration

OATHS ACT 1900, NSW, NINTH SCHEDULE

I, JUSTIN RESSLER of 4/25 COMO RD, OYSTER BAY
[name of declarant] [Residence]

do hereby solemnly declare and affirm that:

1. I am the Managing Director of Ressler Property. Ressler Property is a 2nd generation family agency established in Caringbah for over 40 years. We operate across the Sutherland Shire in all aspects of property sales and management. We have an intimate knowledge of the Caringbah Medical Precinct.
2. Sometime in August 2019 Craig Irwin of Irwin Medical Developments (IMD) asked me in words to the effect "I am looking to amalgamate my development in Flide Street to satisfy Council requirements, what do you think are the prospects of purchasing 23 and 25 Flide Street?". I responded in words to the effect that "a representative from my office has previously approached the owners of 23 and Flide Street about their interest in selling and that during those discussions had sought to ascertain, if we found an interested buyer, at what price they would sell. Both owners had said they might be interested at around \$3,000,000".
3. The representative I was discussing in paragraph 2 was Dax De Traubenberg, a past employee. In about 2015-2016 Dax informed me that he spoke to the property owners of 23 (Mr Shepherd) and 25 Flide Street (Mr and Mrs Woodside) to see if they would be interested in selling and both 23 and 25 Flide Street owners wanted \$3.3 million at that time.
4. On instructions from IMD, I produced individual Valuation Reports for 23 Flide Street and 25 Flide Street. I valued each property at \$1,150,000 (see Annexures A and B).
5. On 16 September 2019, under instructions from IMD, myself and my colleague Kristy Calleja, went in person to 25 Flide Street to make an offer for the property of \$1,300,000. When introducing myself to the property owners (Mr and Mrs Woodside) I said words to the effect that "my name is Justin, I am a local agent, I am representing a buyer/developer who is looking to purchase your property for their development site, would you consider an offer of \$1,300,000 for your property". Mr Woodside's responded in words to the effect that he "would only sell if the offer was at least

\$3,000,000". Ms Calleja and I then left the property (see attached email at Annexure C).


6. On 17 September 2019, again under instructions from IMD, myself and Ms Calleja went in person to 23 Flide Street to make an offer for the property of \$1,300,000. When introducing myself to the property owner (Mr Shepherd) I said words to the effect that "my name is Justin, I am a local agent, I am representing a buyer/developer who is looking to purchase your property for their development site, would you consider an offer of \$1,300,000 for your property". Mr Shepherd responded in words to the effect that "I reject that offer and would only consider selling if the offer was at least \$3,000,000". I found Mr Shepherd to be quite friendly, discussing with me the previous history of the site and said words to the effect that "my property is worth at \$3-3.3 million and there was no way I would take a lower offer than that" (see attached email at Annexure C).
7. Although in my Valuation Reports for IMD I had valued 23 Flide Street and 25 Flide Street at \$1,150,000, I offered both 23 Flide Street and 25 Flide Street \$1,300,000 as it is common practice to add a premium for sale of houses zoned for development and in discussion with Craig Irwin, he felt this was necessary.
8. On 18 September 2019, I emailed Craig Irwin and informed him I had submitted both offers detailed in paragraphs 6 and 7, and that both the owner of 23 and 25 Flide Street rejected the offers and advised that each owner would only sell if the offer was at least \$3,000,000 for their property (see Annexure D).
9. In November 2019, Sutherland Shire Council hosted an information session for local home owners on Craig Irwin's development application for the area. It started around 5pm. Roughly ten minutes in to the session, Mr Shepherd said words to the effect that he had "never been approached by developer for purchase of his property". I stood up and said words to the effect "that's not true, I have visited your property to see if you would sell".
10. At this point, Mrs Woodside of 25 Flide St stood up and said words to the effect that "I recognised Mr Ressler as having been the local agent who had visited my home previously".
11. Mr Shepherd said words to the effect that "I have never met Justin Ressler". I cannot recall the rest of what he said but it was very aggressive, to the point of shouting.

12. On 14 November 2019, Ms Calleja and I again visited Mr and Mrs Woodside's house at 25 Flide Street to see confirm whether or not they would be interested in selling their property. I said words to the effect of "Hello, I am here again to see if you would consider selling your property for \$1,300,000". Mr Woodside responded in words to the effect that "there is no way I would sell for that amount but would consider selling for at least \$3,000,000". Ms Calleja and I then left the property.
13. On 15 November 2019, I emailed Craig Irwin, informing him of the interaction I had with Mr Woodside on 13 November 2019 (see Annexure D).
14. On 15 November 2019 I also wrote a letter to Mr Shepherd of 23 Flide Street, noting the 17 September 2019 offer and that I had been to his property 3 times that week and had been unable to contact him and to confirm whether or not he would be interested in selling his property (see Annexure E).
15. On 15 November 2019, at approximately 5pm, Ms Calleja and I visited 23 Flide Street for the 3rd time that week to attempt to make contact with Mr Shepherd. I remember that I had the impression he was at home the previous times we had knocked on the door that week because the front window was open each time, this gave me the impression he was trying to avoid me.
16. On the occasion detailed in paragraph 15, I saw Mr Shepherd (wearing a backpack) walk into 23 Flide Street from the street. When I knocked on the door Mr Shepherd would not answer. I left the letter noted in paragraph 14 in Mr Shepherd's mailbox and asked Ms Calleja to take a photo of me doing so (see Annexure F).
17. After I left 23 Flide Street I rang Craig Irwin and said to him in words to the effect of "in my opinion, there was no prospect of a sale with either property unless you want to commence negotiations at almost 3 times higher than their value".
18. On 18 November 2019, I emailed Craig Irwin of IMD, following up that I had been unsuccessful in making contact with Mr Shepherd, and included the photo of myself holding the letter I had left at Mr Shepherd's house on 15 November 2019 (see Annexure G).
19. During each interaction I had with the owners of 23 and 25 Flide Street I was not, and I am still not, retained by IMD in any financial manner, ie Ressler Property was not acting as a buyer's agent.

20. To the best of my recollection, at no time have I received any communication from either the owner of the 23 Flide Street or the owner of 25 Flide Street, outside of what is in this document.

And I make this solemn declaration, as to the matter (or matters) aforesaid, according to the law in this behalf made – and subject to the punishment by law provided for any wilfully false statement in any such declaration.

Declared at: CARINGBAH on 12/6/2020
[place] [date]


[signature of declarant]

in the presence of an authorised witness, who states:

I, JENNIFER ROBYN PALMER, a NSW JP. 227614,
[name of authorised witness] [qualification of authorised witness]

certify the following matters concerning the making of this statutory declaration by the person who made it: [** please cross out any text that does not apply*]

1. ~~*I saw the face of the person OR *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification¹ for not removing the covering, and~~
2. *I have known the person for at least 12 months OR ~~*I have confirmed the person's identity using an identification document and the document I relied on was~~

[describe identification document relied on]


[signature of authorised witness]

12 June 2020
[date]

¹ The only "special justification" for not removing a face covering is a legitimate medical reason (at September 2018)

RESSLER PROPERTY VALUATIONS

(J & N PTY LTD)
ABN 81 056 342 093

REAL ESTATE VALUERS AND CONSULTANTS

Mobile: 0407 774 344

Fax: (02) 9531 5288

Phone: (02) 9531 1077

Email: justin@ressler.com.au

4/379 Port Hacking Road

Caringbah NSW 2229

Valuation and Report

Of

Residential Property

Within the Sutherland Shire



23 FLI DESTREET, CARINGBAH

27

VALUATION REPORT

Property

23 Flide Street, Caringbah NSW 2229

Instructed By

I confirm receiving instructions from Craig Irwin (Irwin Medical Developments Pty Ltd).

Purpose of Report

To determine the 'current market value' of the freehold of the subject property.

Definition

Market value may best be defined as the best price at which the interest in the asset being valued might be expected to be sold at the date of valuation, assuming:-

- a) a willing but not anxious vendor and purchaser;
- b) a reasonable period in which to negotiate the sale, taking into consideration the nature of the property and the state of the market;
- c) the value will remain static throughout the period;
- d) the property will be freely exposed to the market, and

Date of Inspection/Valuation

30 August 2019

JP

Location

The subject property is located on the Northern side on Flide Street, Caringbah.

Local services are handy, while the Caringbah retail and commercial centre is located within 500 metres. The Caringbah train station is also just 500 metres away.

The Cronulla ocean beaches and tourism areas are located 5km to the East.

The Sydney Central Business District is located approximately 26 kilometres North by road, 31 kilometres by train, while the Sydney airport is approximately 19km by road, also to the North.

Zoning

Zoning and land use under the relevant LEPs.

(a) the name and number of the zone:

Sutherland Shire Local Environmental Plan 2015

DCP R4 Medical Precinct

The Land

The land parcel is rectangular in shape, is relatively level and appears to offer a sound foundation.

Dimensions and/or Area

The subject land is: 610 sqm

Title Details

Lot 35 in Deposited Plan 8147

Registered Owners

A title search reveals the registered proprietor to be SHEPHERD.

Improvements

The subject property consists of a fibro and timber constructed house.

Age and Condition

The house was built circa 1950, appears to be in average condition.

This is not a structural report, on a cursory observation made during the property inspection. For a professional opinion on the structural adequacy of the improvements, it is recommended to obtain a report from a practicing structural engineer.

Environmental Comments

Whilst the land appears suitable for the existing use, no soil tests or environmental studies have been made available.

Comments on all areas of environmental concern, based upon superficial inspection, have been endeavored. From my superficial inspection of the subject property, I was unable to locate any obvious environmental problem. An environmental audit may reveal matter that may have an effect on this valuation herein that were not discernable at the time of inspection. Should any environmental consultant's report indicate otherwise, then this valuation report is to be requisitioned for comment. This valuation has been cast on the basis that the property is not affected by any hazardous or unsafe materials or condition that adversely affects the existing utility or reduces its marketability.

Services Connected

All normal services such as electricity, telephone, water; sewer and drainage are all available and are connected to the property.

Market Comments

Property values within the Sydney area have decreased substantially over the period since late 2017.

The current market conditions would be considered to be okay.

7/10

General Remarks

The subject property is located in a position close to arterial roads and shops.

Valuation Procedure**Basis of Valuation**

Freehold – “Vacant Possession”.

Valuation Rationale

This valuation has been assessed on the basis that the use of the land is the ‘highest and best use.’

This valuation has been assessed on a comparable sales basis, by comparing recent sales of similar properties within the surrounding area and within the current time frame. Adjustments have been made to reflect the similarities and differences.

Valuation

Having regard to the matters referred to herein, I am of the opinion that the current market value of the subject property, known as 23 Flide Street, Caringbah as at 30 August 2019 is:

\$1,150,000

Comments and Qualifications

Overall, the house appears to be in average condition. We have carried out a drive by inspection, therefore unable to certify the structural soundness of the improvements. Reader of this report should make their own enquiries regarding the building and the possibility for signs of pest infection.

This valuation has been prepared on specific instructions from Mr Irwin, to determine the current market value of the subject property. We accept no liability to third parties nor do we contemplate that this report will be relied upon by third parties.

This valuation is current at the date of valuation only. The value assessed herein may change significantly and unexpectedly over a relatively short period (including as a result of general market movements or factors specific to the particular property). We do not accept liability or losses arising from such subsequent changes in value.

Without limiting the generality of the above comment, we do not assume any responsibility or accept any liability where this valuation is relied on after the expiration of three months from the date of valuation, or such earlier date if you become aware of any factors that have any effect on the valuation.

Neither the whole nor part of the valuation nor any reference thereto may be included in any published document, circular or statement or published in any way without my written approval of the form and context in which it may appear.

Comment relating to zoning, heritage conservation orders/classification, road widening or realignment proposal or any Council policy restricting the development of the land by reason of likelihood of landslip, flooding or drainage issues are based on verbal advice or records available to the public and have not been confirmed by review of Section 149 Certificate under the Environmental Planning and Assessment Act 1979

I hereby certify that I do not have any direct, indirect or financial interest in the property describe herein.

Justin Ressler
Registered Valuer No. 6666
30 August 2019

Comparable Sales Evidence

17 Flide Street, Caringbah NSW 2229

Sale Price \$1,020,000.00


Sale Date March 2019

Land size 604m²


General comments: I believe this to be an excellent comparison to the subject property, it is a similar size block and the zoning is the same. There is no other recent sales evidence in the immediate precinct to compare the subject property.

78

Folio Identifiers



**LAND
REGISTRY
SERVICES**



LegalServices Australia Pty Ltd
An Approved NSW LRS Information Provider
ABN: 30 002 801 406

NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 35/9147

SEARCH DATE	TIME	EDITION NO	DATE
26/3/2013	8:21 AM	2	3/9/2013

NO CERTIFICATE OF TITLE HAS ISSUED FOR THE CURRENT EDITION OF THIS FOLIO.
CONTROL OF THE RIGHT TO DEAL IS HELD BY WESTPAC BANKING CORPORATION.

LAND

LOT 35 IN DEPOSITED PLAN 8147
AT CARRINGBAR
LOCAL GOVERNMENT AREA SUTHERLAND SHIRE
PARISH OF SUTHERLAND COUNTY OF CUMBERLAND
TITLE DIAGRAM DP8147

FIRST SCHEDULE

TERRY RICHARD SHEPHERD (T 3505746)

SECOND SCHEDULE (4 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 1125556 LAND EXCLUDES MINERALS AND IS SUBJECT TO RIGHTS TO MINE
- 3 8868021 COVENANT
- 4 9505747 MORTGAGE TO WESTPAC BANKING CORPORATION

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***



23 Flide Street Caringbah, NSW, 2229

Mapping

Google Aerial Map



RESSLER PROPERTY VALUATIONS

(J & N PTY LTD)
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Phone: (02) 9531 1077

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4/379 Port Hacking Road
Caringbah NSW 2229

Valuation and Report

Of

Residential Property

Within the Sutherland Shire



25 FLIDE STREET, CARINGBAH

VALUATION REPORT

Property

25 Flide Street, Caringbah NSW 2229

Instructed By

I confirm receiving instructions from Craig Irwin (Irwin Medical Developments Pty Ltd).

Purpose of Report

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Definition

Market value may best be defined as the best price at which the interest in the asset being valued might be expected to be sold at the date of valuation, assuming:-

- a) a willing but not anxious vendor and purchaser;
- b) a reasonable period in which to negotiate the sale, taking into consideration the nature of the property and the state of the market;
- c) the value will remain static throughout the period;
- d) the property will be freely exposed to the market, and

Date of Inspection/Valuation

30 August 2019

Location

The subject property is located on the Northern side on Flide Street, Caringbah.

Local services are handy, while the Caringbah retail and commercial centre is located within 500 metres. The Caringbah train station is also just 500 metres away.

The Cronulla ocean beaches and tourism areas are located 5km to the East.

The Sydney Central Business District is located approximately 26 kilometres North by road, 31 kilometres by train, while the Sydney airport is approximately 19km by road, also to the North.

Zoning

Zoning and land use under the relevant LEPs.

(a) the name and number of the zone:

Sutherland Shire Local Environmental Plan 2015

DCP R4 Medical Precinct

The Land

The land parcel is rectangular in shape, is relatively level and appears to offer a sound foundation.

Dimensions and/or Area

The subject land is: 597 sqm

Title Details

Lot 36 in Deposited Plan 8147

Registered Owners

A title search reveals the registered proprietor to be RD WOODSIDE & P WOODSIDE.

Improvements

The subject property consists of a brick constructed house.

Age and Condition

The house was built circa 1950, appears to be in average condition.

This is not a structural report, on a cursory observation made during the property inspection. For a professional opinion on the structural adequacy of the improvements, it is recommended to obtain a report from a practicing structural engineer.

Environmental Comments

Whilst the land appears suitable for the existing use, no soil tests or environmental studies have been made available.

Comments on all areas of environmental concern, based upon superficial inspection, have been endeavored. From my superficial inspection of the subject property, I was unable to locate any obvious environmental problem. An environmental audit may reveal matter that may have an effect on this valuation herein that were not discernable at the time of inspection. Should any environmental consultant's report indicate otherwise, then this valuation report is to be requisitioned for comment. This valuation has been cast on the basis that the property is not affected by any hazardous or unsafe materials or condition that adversely affects the existing utility or reduces its marketability.

Services Connected

All normal services such as electricity, telephone, water; sewer and drainage are all available and are connected to the property.

NP

Market Comments

Property values within the Sydney area have decreased substantially over the period since late 2017

The current market conditions would be considered to be okay.

General Remarks

The subject property is located in a position close to arterial roads and shops.

Valuation Procedure

Basis of Valuation

Freehold. – “Vacant Possession”.

Valuation Rationale

This valuation has been assessed on the basis that the use of the land is the 'highest and best use.'

This valuation has been assessed on a comparable sales basis, by comparing recent sales of similar properties within the surrounding area and within the current time frame. Adjustments have been made to reflect the similarities and differences.

Valuation

Having regard to the matters referred to herein, I am of the opinion that the current market value of the subject property, known as 25 Flide Street, Caringbah as at 30 August 2019 is:

\$1,150,000

Comments and Qualifications

Overall, the house appears to be in average condition. We have carried out a drive by inspection, therefore unable to certify the structural soundness of the improvements. Reader of this report should make their own enquiries regarding the building and the possibility for signs of pest infection.

This valuation has been prepared on specific instructions from Mr Irwin, to determine the current market value of the subject property. We accept no liability to third parties nor do we contemplate that this report will be relied upon by third parties.

This valuation is current at the date of valuation only. The value assessed herein may change significantly and unexpectedly over a relatively short period (including as a result of general market movements or factors specific to the particular property). We do not accept liability or losses arising from such subsequent changes in value.

Without limiting the generality of the above comment, we do not assume any responsibility or accept any liability where this valuation is relied on after the expiration of three months from the date of valuation, or such earlier date if you become aware of any factors that have any effect on the valuation.

Neither the whole nor part of the valuation nor any reference thereto may be included in any published document, circular or statement or published in any way without my written approval of the form and context in which it may appear.

Comment relating to zoning, heritage conservation orders/classification, road widening or realignment proposal or any Council policy restricting the development of the land by reason of likelihood of landslip, flooding or drainage issues are based on verbal advice or records available to the public and have not been confirmed by review of Section 149 Certificate under the Environmental Planning and Assessment Act 1979

I hereby certify that I do not have any direct, indirect or financial interest in the property describe herein.

Justin Ressler
Registered Valuer No. 6666
30 August 2019

Comparable Sales Evidence

17 Flide Street, Caringbah NSW 2229

Sale Price \$1,020,000.00

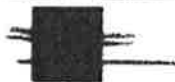
Sale Date March 2019

Land size 604m2

General comments: I believe this to be an excellent comparison to the subject property, it is a similar size block and the zoning is the same. There is no other recent sales evidence in the immediate precinct to compare the subject property.



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NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 36/8147

SEARCH DATE	TIME	EDITION NO	DATE
26/3/2013	3:21 AM	2	23/6/2013

LAND

LOT 16 IN DEPOSITED PLAN 3147
AT CARINGBAH
LOCAL GOVERNMENT AREA SUTHERLAND SHIRE
PARISH OF SUTHERLAND COUNTY OF CUMBERLAND
TITLE DIAGRAM DP8147

FIRST SCHEDULE

ROBERT DAVID WOODSIDE
PAMELA WOODSIDE
AS JOINT TENANTS

(T 5588962)

SECOND SCHEDULE (3 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 A195556 LAND EXCLUDES MINERALS AND IS SUBJECT TO RIGHTS TO MINE
- 3 E4113 COVENANT

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***



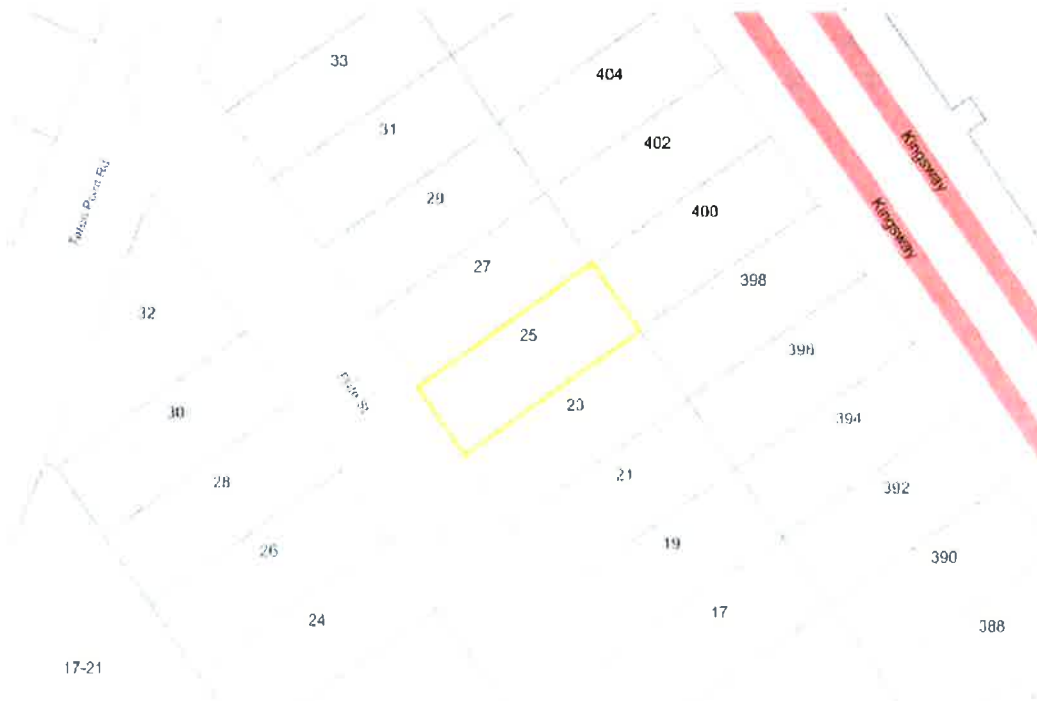
25 Flide Street Caringbah, NSW, 2229

Mapping

Google Aerial Map



Road Map



nr

Annexure C

Shannon Peters

From: Justin Ressler <justin@ressler.com.au>
Sent: Wednesday, 18 September 2019 10:25 AM
To: Craig Irwin
Subject: 23 & 25 Flide Street, caringbah

Dear Craig,

Under your instructions I have now submitted offers on your behalf to both 23 Flide Street, Caringbah (Mr Shepherd) and 25 Flide Street, Caringbah (Mr Woodside)

The offer of \$1,300,000 for each property were quickly rejected.
Both Mr Woodside and Mr Shepherd said they would only sell if the offer was \$3 million for each property.

The offers were submitted in person on the 16th and 17th of September 2019 and witnessed by Kristy Calleja from our office.

--
Kind regards,

Justin Ressler | Licensed Real Estate Agent & Registered Valuer

E: justin@ressler.com.au

P: 02 9531 1077

M: 0407 774 344

W: ressler.com.au



RESSLER PROPERTY

R



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Real Estate Agency

Finalist

RESSLER PROPERTY



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Annexure D

Shannon Peters

From: Justin Ressler <justin@ressler.com.au>
Sent: Friday, 15 November 2019 3:22 PM
To: Craig Irwin
Subject: 25 Flide Street, Caringbah

Hi Craig,

Kristy and I went down to 25 Flide Street again on Wednesday to resubmit your offer to purchase the property at \$1.3 million.

The owner Rob Woodside was out the front, I identified myself and submitted the offer of \$1.3 mill. He again said that there is no way that they would sell for that and he would consider selling for \$3 million.

Kind regards,

Justin Ressler | Licensed Real Estate Agent & Registered Valuer

E: justin@ressler.com.au

P: [02 9531 1077](tel:0295311077)

M: [0407 774 344](tel:0407774344)

W: ressler.com.au



RESSLER PROPERTY



Outstanding
Real Estate Agency

Finalist

RESSLER PROPERTY

**PROUD SPONSOR
OF THE SHARKS**

78

15th November 2019

Mr and Mrs Shepard
23 Flide Street,
Caringbah 2229

Dear Mr and Mrs Shepherd,

Further to my offer submitted to you on September 17th 2019. I have been down to the house to discuss 3 times this week, and have not been able to contact you. Could you please contact me on 0407 774 344 to discuss my clients interest in your property.

Regards

Justin Ressler
Director



Annexure G



Shannon Peters

From: Justin Ressler <justin@ressler.com.au>
Sent: Monday, 18 November 2019 7:02 PM
To: Craig Irwin
Subject: 23 Flide St. Caringbah

Hi Craig,

I went down to the property again on Friday 15 November with Kristy, (for the 3rd time that week)

I saw Mr Shepherd come home form work and then 5 minutes after that we knocked on the door. Mr Shepherd was clearly home but avoiding me (window was open)

I left a letter in his letterbox asking me to call him re: property.
See attached photo for proof.



ANNEXURE E – LEGAL OPINION BY PIKES & VEREKERS IN RELATION TO AMALGAMATION PLAN VARIATION AND PROCESS FOLLOWED



Level 2 Postal address: **T** 02 9262 6188 **E** info@pvlaw.com.au
50 King Street GPO Box 164 **F** 02 9262 6175 **W** www.pvlaw.com.au
Sydney 2000 Sydney 2001 **DX** 521 Sydney **ABN** 77 357 538 421



PIKES & VEREKERS
LAWYERS

4 May 2020

Mr Craig Irwin
Irwin Medical Developments
7 Kangaroo Point Road
SYLVANIA NSW 2224

BY EMAIL craig@kpoint.com.au

Dear Mr Irwin

DEVELOPMENT APPLICATION DA 19/0786
398-402 KINGSWAY AND 27 FLIDE ST CARINGBAH
Our ref MG:JRP:180434
Your ref Craig Irwin

We are instructed to advise with respect to DA 19/0786 ("the DA"), lodged with Sutherland Shire Council ("Council") on 11 October 2018 and seeking approval for the erection of a part 4- part 5-storey medical centre on land known as 398-402 Kingsway and 27 Flide St, Caringbah ("the subject site").

Specifically, we are instructed to advise as to whether you are obliged to provide further material to Council demonstrating endeavours to acquire 23 and 25 Flide St, Caringbah, having regard in particular to the provisions of Section 5 of Chapter 9 – Caringbah Medical Precinct – of Sutherland Development Control Plan 2015 ("the DCP").

In preparing this advice we have reviewed the DCP and Sutherland Local Environmental Plan 2015 ("the LEP"), together with the following documents provided to Council in conjunction with the DA:

- Statement of Environmental Effects prepared by Planning Ingenuity, dated 4 October 2019 ("SEE");
- the architectural plans (including revised architectural plans);
- Further submission to Council by Planning Ingenuity dated 24 April 2020 ("Planning Ingenuity Letter");
- Chain of email correspondence between you and Council's Meredith Alach;
- Letter from you to Council dated 24 March 2020;
- Valuations for 23 and 25 Flide St prepared by each of:
 - Mangioni Property Valuations and Consultancy;
 - LMW Property Valuers; and
 - Ressler Property Valuations;
- Correspondence between you and Justin Ressler confirming attempts to make offers to and engage with the owners of 23 and 25 Flide St.

We understand Council to be in receipt of all of the above information.

EXECUTIVE SUMMARY

On the basis of the information we have to hand, we are not of the view that it is necessary nor is it feasible to amalgamate the subject site with 23 and 25 Flide St, and that Council has to hand sufficient information to be confident of same.

The DCP is required by s4.15(3A) of the Environmental Planning and Assessment Act 1979 ("the Act) to be applied flexibly. The section further permits reasonable alternative solutions which achieve the object of a given control.

In circumstances where the Council has walked away from the amalgamation plan for lots immediately adjoining the subject site, and given that 23 and 25 Flide St can comfortably achieve the outcomes contemplated by the LEP and DCP, the obligation to amalgamate cannot reasonably be imposed.

In any event, reasonable attempts to acquire those parcels have been made and rejected. Amalgamation is unfeasible.

BACKGROUND

By way of background, we note that the subject site is identified in the LEP as being within the Caringbah Medical Precinct ("the Precinct"), pursuant to cl 6.21. This clause makes development for the purposes of health services facilities (which is defined to include medical centres) permissible on the subject site with development consent. The clause then affords an uplift in permissible height and FSR subject to a proposed building containing a health services facility (as well as transitional height and deep soil landscaping requirements).

The proposed development complies with the requirements of cl 6.21, and hence has the benefit of the uplift provisions. It is noted that the uplift provisions in the LEP are not linked to any requirement for site amalgamation.

The DCP, at Chapter 9, contains specific provisions for the Precinct. A section 5, the DCP identifies the strategy for the precinct being to develop a cluster of new medical facilities in close proximity to Sutherland Hospital and Kareena Private Hospital.

At Section 5, provision is made for site amalgamation for the precinct. The DCP states that:

"amalgamation will be essential if a mixed use redevelopment including residential flats is to be developed up to the maximum floor space ratio and height, whilst also complying with the design requirements of SEPP 65 and the streetscape and vehicle access strategy for this precinct. Individual developments must also allow for adjacent sites in the precinct to develop to their maximum potential. The site amalgamation plan allows for an arrangement of buildings – shown in the Building Envelope Plan – which can achieve this."

This overarching approach is reflected in the objectives for the section.

It is of note, however, that the proposed development is not a mixed use development (nor is it anywhere required to be), and so not required to comply with SEPP 65.

As demonstrated in the SEE and Planning Ingenuity letter, the development achieves the streetscape outcomes sought by Council's controls, and meets the vehicle access strategy by access being provided from Flide St. It is also of note that the proposal is generally reflective of the Building Envelope Plan by having all built form to the Kingsway, with the Flide St portion of the subject site being occupied by landscaping and access only.

Relevantly, the controls at section 5.2 provide:

2. *Development of land in the Caringbah Medical Precinct where the bonus height and FSR is sought shall be in accordance with the Caringbah Medical Precinct Preferred Amalgamation Plan.*
3. *If an application proposes a development that does not comply with the amalgamation plan, a minimum street frontage of 26 metres should be achieved. This width will accommodate a development that:*
 - a. *provides for safe and appropriate access and servicing facilities – vehicular parking, access, storage and waste management areas.*
 - b. *provides for a high standard of resident amenity- including privacy, solar access, ventilation, and landscaped setbacks.*
 - c. *responds to the local context, including providing adequate separation from existing and future adjoining development.*

Development sites with site frontage width less than 26m may not allow for the full FSR to be realised.

4. *Development must be carried out in an orderly manner.*

If an application proposes a residential flat development that does not comply with the amalgamation plan, the applicant must demonstrate that development of an alternative amalgamation pattern can be achieved where all sites can achieve their full development potential.

A schematic design must show that development of land under an alternative amalgamation pattern complies with SEPP 65 and the Apartment Design Guide standards, and allows for building forms of varied height across the precinct, as shown in the Building Envelope Plan.

The assessment of any proposal to vary the amalgamation pattern will include consideration of the impact of the proposed development on the future capacity of lots left isolated.

COMPLIANCE WITH THE PREFERRED AMALGAMATION PLAN IS NOT REQUIRED

Whilst it is accepted that the DCP is a relevant consideration and a focal point for the assessment of the DA, it does not and cannot have the effect of prohibiting development (*Zhang v Canterbury City Council* (2001) 115 LGERA 373 @386-387).

This is given statutory force by s4.15(3A) of the Act which provides:

Development control plans If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority—

- (a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and*
- (b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and*
- (c) may consider those provisions only in connection with the assessment of that development application.*

In this subsection, standards include performance criteria.

A DCP provision must be applied flexibly, so as to give effect to its objectives.

The DCP itself implicitly acknowledges this: the amalgamation plan is described as a “preferred” amalgamation plan which “can” achieve the intent of section 5, implying that it is not the only solution. Further, controls 5.2.3 and 5.2.4 both expressly contemplate a scenario where the preferred amalgamation pattern is not achieved.

Whilst the DCP is a focal point, the particular provisions here in question are entitled to less weight than would ordinarily be the case. As outlined in the SEE and Planning Ingenuity letter, 3 approvals have been granted in the immediate vicinity of the site which do not adhere to either the Preferred Amalgamation Plan or the Building Envelope Plan (“BEP”): DA15/1401 relating to 396-402 Kingsway and 21-25 Flide St; DA17/1888 relating to 21 Flide St; and DA 16/0456 relating to 404-406 Kingsway and 29-31 Flide St.

Neither Council, nor the South Sydney Joint Regional Planning Panel, nor the Land and Environment Court, has regarded itself as bound by the amalgamation plan.

The DCP provision requiring amalgamation in accordance with the plan has not been applied consistently, and hence is entitled to less weight in the assessment process (*Stockland Development Pty Ltd v Manly Council* (2004) 136 LGERA 254 @ [87]).

A practical effect of the failure to require the preferred amalgamation pattern to be adhered to is that the preferred amalgamation pattern can no longer be achieved. DA 17/1888 prevents the realisation of amalgamated site 15 (and places built form where the BEP contemplates open space) and DA 16/0456 prevents the achievement of amalgamated Site 13.

Nevertheless each of the approved DA's achieves the objectives of the zone and the precinct (otherwise consent would not have been granted), despite breaking the amalgamation pattern.

In circumstances where the amalgamation pattern has not been consistently applied and has in fact been broken it is not reasonable to demand strict adherence for the subject DA.

Rather the approach must be to determine whether the proposed development achieves the objectives of the zone and the Precinct, and allows 23 and 25 Flide St to do the same.

This approach is entirely consistent with that taken by Molesworth J in 680-682 *Kingsway Caringbah Pty Ltd v Sutherland Shire Council* [2017] NSWLEC 99, a matter dealing with an amalgamation in a different precinct under the DCP, albeit with similar objectives and controls to subject Precinct.

There, rather than the amalgamation pattern being broken by the consent authorities the amalgamation pattern was broken by the applicant acquiring additional land not marked to be amalgamated by the DCP. In the circumstances it was reasonable to permit the applicant to vary the amalgamation pattern and not incorporate two additional lots not available to it.

The test for the Court, however, was not whether offers to acquire had been made and accepted, but rather whether some supervening event (there the acquisition of additional land, here the breaking of the amalgamation pattern by earlier consents immediately adjacent) made it reasonable to apply the DCP flexibly.

The question then becomes whether the proposed development can achieve the objectives of the amalgamation provision, and whether the sites not amalgamated can be developed to achieve those objectives (which is precisely what is contemplated by the DCP).

If the proposed development meets the objective of ensuring health services facilities on the land, and achieving a yield commensurate with that permitted by

the LEP controls on the subject site and enables the achievement of such a yield on the unamalgamated sites, as the DA does, the matter ends there.

The critical element for Molesworth J was whether the remaining sites could be developed in a manner consistent with the expectations of the DCP ([124] and [133]). It was not reasonable to require fully detailed plans, or that every design detail be resolved against Council's controls. It was not even necessary that each site individually be able to be so developed. What is required is a schematic that demonstrates that development generally in accordance with the objectives of the DCP can be achieved (see [119], [128]-[133]).

This is ably demonstrated by the SEE, the concept sketches for 23 and 25 Flide St in the architectural plans, and the Planning Ingenuity letter. Of note, the two sites can achieve the minimum frontage required by the DCP provisions if amalgamated (noting that it is only necessary to show that such an amalgamation is feasible, not that it is close to fruition (680-682 Kingsway @ [118])).

SUFFICIENT OFFERS HAVE BEEN MADE

In any event, reasonable offers have been made to the owners of 23 and 25 Flide St. Valuations have been obtained, and the records of Mr Ressler demonstrate that those offers above those valuations have been made.

Whilst the DCP calls for correspondence "between" applicant and owner, such a requirement is only practical only where the owner is prepared to engage in correspondence. The owners of 23 and 25 Flide St have, on the reports of Mr Ressler, clearly demonstrated that they are not prepared to engage.

Further, whilst written correspondence is helpful from an evidentiary perspective, it is not a formal requirement of the relevant planning principle in *Karavellas v Sutherland Shire Council* [2004] NSWLEC 251. An application should include details of offers made and any response, as well as the valuation evidence on which offers are based, but there is no requirement for offers to be in writing or for a response to have been received.

Whilst the Note to Section 5 of Chapter 9 of the DCP calls for "copies of correspondence" it is only a Note, and should not be elevated so as to be a part of the DCP proper. It is no more than a guide as to how evidence of offers and responses might be provided. Here that evidence is provided through the records of Mr Ressler demonstrating that offers were made and that the lot owners declined to engage,

It is reasonable to then conclude that the lots are not available for purchase, and that amalgamation with those lots is not feasible.

CONCLUSION

In the circumstances, particularly having regard to the approvals on immediately adjacent land, it is unreasonable and improper to slavishly require adherence to the preferred amalgamation plan. The proper question is whether the development achieves the intent of the Caringbah Medical Precinct, and does not prevent development on the unobtained sites from also achieving that intent.

It is clear from the work done by your architects and Planning Ingenuity that that intent is and will be achieved.

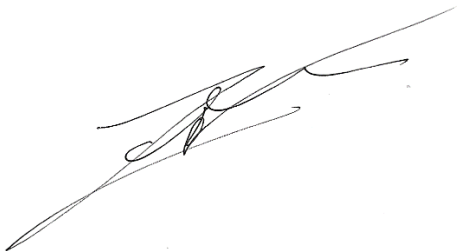
Even were it necessary to explore acquisition of the other sites (and we say it is not), that has been sufficiently done and evidence provided to Council.

The amalgamation provisions of the DCP should not, in our view, be a bar to the grant of development consent.

Should you have any queries regarding any of the above, please do not hesitate to contact the undersigned.

We would be happy for you to provide a copy of this letter to the Council.

Yours faithfully

A handwritten signature in black ink, appearing to read 'J. Palmer', with a long, sweeping horizontal line extending to the left.

Joshua Palmer
Partner
Accredited Specialist Local Government and Planning Law



ANNEXURE F – RESPONSE FROM BCA CONSULTANT IN RELATION TO FIRE EGRESS CORRIDORS



Jeff Mead

Subject: IZ #1h0lr0whg#s dwdjhz d|v

From: Jarryd Beckman [<mailto:jbeckman@bcalogic.com.au>]

Sent: Friday, 12 June 2020 3:49 PM

To: Craig Irwin <craig@kpoint.com.au>

Subject: Fire-isolated passageways

Hi Craig,

In Review of the proposed fire-isolated passageways located on the lower ground floor, the following comments have been provided.

Fire isolated passageway 2 & 3:

This fire-isolated passageway connects the basement level fire stairs (2), the upper level fire stairs (3) and the exit door in the lower ground floor lobby. It is noted that there are more than 2 access doorways into the fire-isolated passageway on the lower ground floor, however as the stairway/passageway requires pressurisation under Clause E2.2, more than 2 access doorways are permitted under D1.7 (ii).

It is considered that there is no direct connection between the rising and descending stairs (Clause D2.4) as there is a doorway located at the top of the fire stairs (2). This doorway/wall will need to be a smoke wall in accordance with Specification C2.5, however this can be addressed at CC stage.

The BCA does not provide any limitations with regards to the maximum length of a fire-isolated passageway, however the passageways will need to be construction in accordance with the relevant FRL's of Specification C1.1. This can be dealt with at CC stage.

Fire-isolated passageway 4:

This fire-isolated passageway provides access to the Main Switch room and Fire Pump room. The passageway also provides egress from Fire stair 4 to the discharge point being Kingsway. The walls and doors of the main switch room will need to be constructed in accordance with C2.13, however this can be addressed at CC stage. In accordance with AS2419.1, Fire pump rooms are required to be accessed via a fire-isolated passageway. There is no rising stair from the basement connecting into this passageway, therefore D2.4 of the BCA is not applicable. This passageway/stair will require pressurisation under E2.2, however this can be addressed at CC stage.

The BCA does not provide any limitations with regards to the maximum length of a fire-isolated passageway, however the passageways will need to be construction in accordance with the relevant FRL's of Specification C1.1. This can be dealt with at CC stage.

In an effort to keep our staff and clients safe during this critical period, BCA Logic will be implementing remote working processes. Please contact staff directly via their email, direct line or mobile.

If you have any queries or require any further information, please do not hesitate to contact me.

Jarryd Beckman | Building Regulations Consultant

d 8484 4094 **p** 9411 5360 **m** 0421 084 336

e jbeckman@bcalogic.com.au

PO Box Q1440, Queen Victoria Building NSW 1230
Level 6, 210 Clarence Street, Sydney NSW 2000



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ANNEXURE G – STANISIC ARCHITECTS RESPONSE TO BULK/SCALE/ARCHITECTURE



stanisic architects

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Australia 2000

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info@stanisic.com.au

**398 – 402 KINGSWAY + 27 FLIDE STREET, CARINGBAH
HEALTH SERVICES FACILITY
response by Frank Stanisic, Stanisic Architects**

Bulk and scale of the building form and visual intrusion

Jeff Mead has addressed building setbacks which he has shown comply with the Caringbah Medical Precinct Building Envelope Plan (BEP) and DCP Chapter 9, Section 11.3 – Site and Rear Setbacks.

I would like to address the issue of bulk and scale of the building form and visual intrusion in relation to the design changes requested by Council in their proposed Deferred Commencement Conditions (dot point 3).

The Sutherland Shire LEP 2015 (SSLEP2015) contains clear urban design objectives for non-residential buildings in a residential precinct. The Sutherland Shire DCP 2015 (SSDCP2015) incorporates these objectives to identify appropriate controls for this specific site. Where a variation is sought, it also outlines assessment principles for these variations.

The assessment principles in SSDCP CI 11.3 note that 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 bulk and scale of a building is defined by its volume, materiality, articulation and facade detail. While the proposed façade area is approx. 11% greater than the BEP on the street frontage, the overall volume of the proposed building is significantly less than the volume of the maximum building envelope. There is no increase in mass and bulk due to proposed building envelope. The proposed GFA complies with the maximum GFA permitted for the amalgamated development site.

The proposed building is designed as a screened 'building-in-the round', a tempered glass pavilion sitting within a landscape setting that projects the image of healthy environment through the integration of form, materiality and landscape. The building is screened by over 100 trees, lightweight metal attachments and glass shading technology. As a result, there is no excessive visual intrusion when viewed from an adjoining development or a public area outside of the site.

The architectural aesthetic of the building focuses on environmental performance, site specific response, maintenance free materials, thoughtful detailing and simplified expression to reduce the visual impact of the building, in order to achieve design excellence and building sustainability.

A key statutory control of the SSLEP2015 is that the site achieves 30% landscape area (deep soil). This has been achieved around the perimeter of the site and will comprise extensive tree planting with mature heights up to 20m (4 storeys). This is a defining characteristic of this development and is a relevant consideration when assessing the proposed bulk and scale.

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

Shadow diagrams submitted with the application, indicate that the adjoining sites receive sunlight in excess of 2 hours at mid-winter and will not be impacted by the additional built form along the north west boundary.

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

The Applicant has agreed to setback the first basement 3m from the rear boundary increasing soil depth for screening with trees planted into 4-5 metre deep soil – consequently ensuring **no** excessive visual intrusion caused by a podium wall when viewed from outside the site.

Importantly, we agree with Council's assessment, Appendix B, Side and rear setbacks, Cl. 3 (p. 7) as concluded in the assessment table excerpt below:

Required	Proposed	Complies
Walls are to be articulated to prevent continuous linear walls and promote variation and interest to setback areas and these walls.	The building design includes a variety of glazed finishes, stepping of the façade and screening to break up the bulk and scale of the building.	Yes

In my view, the proposed variation to the BEP clearly satisfies Council's DCP assessment principles for bulk and scale.