

15 June 2020

Attention: Panel Secretariat
Sydney South Planning Panel

Re: DA19/0786 – Health Services Facility at 398-402 Kingsway & 27 Flide St Caringbah

I represent the applicant, Irwin Medical Developments.

In July 2019, along with our architect, we met with Sutherland Council Director of Planning Peter Barber to discuss development of a 100% Health Services Facility which would house larger corporate medical businesses in the Caringbah Medical Precinct. Following that meeting our architect also engaged with Mark Carlon, Manager - Strategic Planning. We were encouraged by the positive responses received.

Council confirmed that the over-riding principle for the precinct is to attract health services. However, as were the times 6 years ago, Council decided that to attract health services this precinct allow activation of a residential bonus zoning if development contains at least 25% FSR as health services, ie mixed-use development.

At this level, Council were unequivocal in their support for a 100% health services building, referring us to LEP clause 6.21(3) – “Despite any other provisions of this Plan relating to the purposes for which development may be carried out, development consent may be granted for development for the purposes of a health services facility on land to which this clause applies.” In other words, it can replace clause 6.21(1)(a).

Our design approach was to ensure compliance with the statutory controls of FSR, Height and Landscape area, while also achieving the Precinct objectives set out in clause 6.21(1)(b) to (f). We responded promptly to council through our consultants during the assessment process, providing additional drawings and ancillary reports whenever an ‘impact’ issue was raised. Many of the reports are not referenced by Council in their assessment. I have asked Jeff Mead from Planning Ingenuity to provide his planning advice provided to Council dated 24 April showing (by example) the extent of analysis we were undertaking, as an annexure to the submission he is offering to today’s Panel meeting.

Council asked me to provide a response to the DRF after the panel (3), which included the ‘council architect’ undertook their assessment and applicant meeting considerably ill-prepared to review the application. They had to be properly briefed about 100% health services buildings by the strategic planning manager after their assessment and the applicant meeting. My response is attached, only on the basis that Council’s assessment uses selective DRF responses for its argument in part 9. However, it should be noted that the planning response presented to the Panel by Jeff Mead is entirely more comprehensive. My point is, I consider the DRF assessment to be flawed.

The inclusion of Draft Deferred Commencement Conditions by Council is encouraging and Jeff will speak in more detail to those, suffice to say, Council’s position of proposing a landscape setback and a building separated all-round by approx. 3m of nothing over a basement car park is not an ‘efficient use of land’ in relation to Land-use Planning.

Also, in the Part 2 – general Conditions of Consent:

- In relation to condition 19 A.viii) there is no statutory requirement for us to provide Communal Open Space on the roof. The space is for L5 or it can be removed? This condition will require rewording, as previously discussed and agreed with M. Alach.
- In relation to 21 A.iii) to be amended to include trees in approved landscape design.

All that said, this is an important and exciting infrastructure project for the 'Caringbah Medical Precinct', Sutherland Shire and the period of economic uncertainty NSW is now facing. There has been no take-up of health services space in the Precinct currently (after 5 years). That is basically for 2 reasons:

- i) Medical operators do not want be in a residential flat strata building; and
- ii) Some large corporate operators are required to attract smaller or medium size operators.

Our proposed facility will attract the large corporate operators into a purpose-built facility (not a strata flat building), to provide important/vital currently deficient or non-existent health services into the Sutherland Shire. Such larger corporate enterprises rely on proximity to a Public Hospital, such as anticipated by this Precinct. Over 200 jobs will be created in the facility, not to mention myriad jobs for ancillary businesses required to service the facility. Another 500 jobs will be created during the facility construction process. This project will be a boon to economic growth in Caringbah.

The project can commence within 3-6 months of Development Approval. There are currently 8 interested parties, across a number of disciplines, wanting to be in the building. All are under-provided or non-existent services in Sutherland LGA and environs. This is more interest than the precinct has experienced in last 5 years, since inception, because we have the right product to offer. The larger operators want whole floor plates.

Public benefit – there are no such significant infrastructure or commercial projects happening in Caringbah. This will be a robust economic opportunity and catalytic for the revitalisation of both Caringbah and the Caringbah Medical Precinct.

Our proposed health services building faces Kingsway, a 6 lane road running right through the Shire from Sutherland to Cronulla Beach. There are many better residential flat locations in the Shire, but not larger corporate medical operator locations within close proximity to a Public Hospital.

Yours faithfully,



Craig Irwin
Irwin Medical Developments – Applicant
Mobile: 0418 260 563

14 April 2020

Attention: Meredith Alach
Sutherland Shire Council
4-20 Eton Street
Sutherland. NSW 2232

Dear Meredith,

RE: DA19/0786 – Caringbah Health Services Facility

Further to your correspondence of 4 April, please find our written response addressing matters raised by Design Review Forum (DRF) as follows:

1. It was noted that council assessment officers Elias & Alach were unable to attend.
2. By starting from the 'planning' perspective that *'the proposal should be considered in relation to the Design Quality Principles of SEPP 65'* (preamble twice?) and that *'The site does not follow the amalgamation pattern (sic) in the DCP, with the south-western tail of the site on Flide St being too narrow to effectively build on, thus necessitating the concentration of allowable GFA on the north-eastern portion of the site fronting Kingsway'* (comment 1), the DRF misses the mark with their analysis and completely ignores the design rationale our team presented at the meeting;
3. Their 2nd paragraph in comment 2 states the site is in a *'residential precinct'* and that a proponent should *'assume ... adjacent sites are developed with residential components'* (no health services)
4. The DRF did not clearly understand the objectives and/or purpose of LEP Clause 6.21 and, therefore, by logical extension, proper application of the DCP.

We note the site is in *'Caringbah Medical Precinct'*; and

- this precinct allows activation of a residential bonus zoning if development contains at least 25% FSR as health services; but
 - as we explained to the DRF, the purpose described in LEP cl. 6.21(3) is the overriding principle for the precinct, ie to attract health services;
 - a health services facility can have a 2:1 FSR and 20m height without a residential component, however, residential flats can only be developed in a mixed use configuration containing 25% health services to achieve the 2:1 FSR and 20m height;
 - Such a significant upswing in development density (4 times) must be construed as strong encouragement to provide medical services in the precinct in all development. Any description of the precinct as residential is simply not correct.
5. It should be noted, the DCP devotes most analysis towards the residential bonus application. If the proponent proposes a mixed use (part residential) development, then, that part of the building defined as residential flats must be assessed against SEPP 65 and the Apartment Design Guide 2015 (ADG).

There is no requirement in the DCP for any health services component of a proposal to be assessed against SEPP 65, nor the ADG. The SEPP (and ADG) simply do not apply and to apply them would legally be in error.

6. The DRF were appraised of how the 4 available lots in Site 14 are proposed to be developed. Firstly, that the DCP intent is to allow larger building forms to be located on the Kingsway and smaller building forms with generous landscaping provided to Flide St. Secondly and consequently 27 Flide St would be left without built form FSR/GFA to emulate the condition identified by the BEP, then the site FSR distributed between a taller building on the Kingsway (our site), as anticipated by the BEP and a lower building (now a separate development site).

In relation to our proposal, the DCP Building Envelope Plan, cl. 7.2.2 and cl. 11.2.1b:

- Along Kingsway the first 2 storeys are identified as health services with 4m side setbacks. We have achieved this configuration as a minimum (5m in some places for articulation), yet DRF comment 3 says this configuration is '*not applicable*' due to '*different amalgamation pattern, functional mix and ... envelope*'. No aspect of the DCP allows the DRF to make such a judgment, as we are not seeking to vary this aspect of the BEP.
- Above the first 2 storeys, the south-east side setback, for the full height and length is also anticipated at 4m on the BEP, which we have achieved as a minimum (5m in some places for articulation). It is the responsibility of the adjoining site (no. 15) to set back 14m on their side if mixed use development (ie including residential flats) is preferred. Once again the DRF stated this configuration is '*not applicable*'. No aspect of the DCP allows them to make such a judgment, as we are not seeking to vary this aspect of the BEP.
- Along the north-west elevation from level 3, the BEP anticipates mixed use (residential flat configuration), requiring a greater setback for solar access and other SEPP 65 and ADG compliance issues. Our proposal varies this aspect of the BEP as it does not include residential flats, so the SEPP 65 and ADG issues are not relevant. A 4m (and part 5m) setback is maintained full-height with no over-looking or loss of other amenity to next door. All living areas and amenity on the adjoining site DA are on the other side of their building, to achieve optimum solar orientation.
- Rather than maintain a wall along Kingsway/Flide adjoining property boundaries (as shown on the BEP), our proposal reduces the building envelope depth along the now rear boundary to create a setback of 3 – 6m, provided to accord with the landscape setback control in DCP cl. 12.2.1b. Planting beds shall be 3m wide with a depth to support substantial landscaping, including screening trees, over the state-of-the-art cancer treatment centre. These services, required to be located in Basement 1, do not currently exist in Sutherland Shire and would draw patients from both Illawarra and Liverpool regions.
The rear setback landscape design will include canopy trees in accordance with cl. 12.2.2, planting rates considerably in excess of the minimum stipulated in cl. 12.2.4, contribute to cl. 12.2.13 achieving a 90% coverage, while also meeting the requirements of cl. 12.2.15 and cl. 12.2.17.
- The controls in cl. 8.2 are not applicable as we are not proposing a mixed use development.

7. In relation to DRF comment 6:
- The 'building would be visually intrusive ...' statement is not supported by any evidence. The facts are:
 - a) The building is under the prescriptive height;
 - b) The building does not exceed the prescriptive FSR;
 - c) The development meets the prescriptive landscape requirement plus includes considerably more landscaping on the structure;
 - d) The building appearance accords with the BEP along the S-E boundary;
 - e) The building appearance 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;
 - f) The building appearance generally accords with the anticipated BEP height and bulk when viewed from the rear, but with the added advantage of being setback a further 3m approx.
8. The DRF were advised that, the BEP variation proposed is related to the specific purpose/use of the building. Given that the DCP controls concentrate on mixed use development (rather than health services development in its entirety), it is not surprising that there may be some change required to the BEP. After all, the DCP controls must be applied flexibly per EPA Part 4.15 (cf previous 79C) (3A) where the objectives of the controls are met.
9. Also in comment 6 – the DRF comments on landscape are made without professional rigour and should be viewed as such.

In summary, the DRF misses the point that 'a variation' to a 'plan' does not render the entire 'plan' inoperative in any aspect of the planning, design, building or overall development process. Rather, a variation must be justified in an application, which is the case here, and a consent authority must flexibly apply the DCP in light of its objectives.

Yours faithfully,



Craig Irwin
Irwin Medical Developments – Applicant
Mobile: 0418 260 563