

DATE OF DETERMINATION	7 June 2021
PANEL MEMBERS	Clare Brown (Chair), Susan Budd, Julie Savet Ward, Jack Boyd, Peter Scaysbrook
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on Friday, 28 May 2021, opened at 2.35pm and closed at 3:32pm.

MATTER DETERMINED

PPSSSH-47 – SUTHERLAND SHIRE – RA20/0010 at 398-402 Kingsway and 27 Flide Street, Caringbah – Demolition of existing structures and construction of a health services facility (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters listed at item 8 in Schedule 1.

Development application

The Panel determined to:

1. Pursuant to Section 8.4 of the *Environmental Planning and Assessment Act, 1979*, change the determination of Development Application No. DA19/0786 (for demolition of existing structures and construction of a medical centre at Lots 7, 8, 9 and 37 DP 8147, 398-402 Kingsway and 27 Flide Street, Caringbah) from the decision made by the Sydney South Planning Panel of 17 June 2020.
2. Approve the Development Application No. DA19/0786 subject to conditions pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel was satisfied that the amended application the subject of the review under Section 8.2 of the *Environmental Planning and Assessment Act 1979* is for substantially the same development as that considered by the Sydney South Planning Panel in its decision of 17 June 2020.

The Panel was satisfied that the reasons of refusal of Development Application No. DA19/0786 as set out in the Notice of Determination have been addressed by:

- The material presented in the application for review submitted under section 8.2 of the *Environmental Planning and Assessment Act, 1979*, and
- The amended plans and details submitted in response to the Council's request for additional information.

The Panel determined to approve the application for the reasons outlined in the Council assessment report subject to the amendments to conditions identified below.

The Panel in reaching this decision noted the error on page 11 of the Council's assessment Report which refers to the suitability of the site for residential use in the context of an assessment under State Environmental Planning Policy 55. The Panel is satisfied that the site is suitable for the proposed use of the site for a health services facility.

In reaching this decision the Panel considered the relevant provisions of Sutherland Local Environmental Plan 2015 and Sutherland Development Control Plan 2015 including the requirements of clause 6.21, 6.16, and 6.18 and is satisfied that the proposal subject to the proposed conditions is a suitable development for the site and within the Caringbah Medical Precinct and demonstrates a high quality design and development outcome.

CONDITIONS

The development application was approved subject to the conditions in the Council assessment report with the following amendments.

- Condition 6 to be amended to read as follows:

6. Health Services Facility Use

This consent approves the use of the building for the purpose of a Health Services Facility only and does not approve any form of non-residential accommodation in association with or ancillary to the Health Services Facility. Separate development consent must be obtained for the fit out of the building and associated medical use(s). Occupation of the building shall not occur until the development has received final Occupation Certification and development consent for fit out of the internal spaces.

- Insertion of a new Condition 9B to provide for the long term use and maintenance of translucent film on windows in the north-western and south-east facades to protect privacy.

9B. Before Occupation and Ongoing

The translucent film indicated in 'A', (both on the north-western elevation and as depicted on the south-east elevation) on the approved plans must be installed prior to occupation and is to be maintained in place, and replaced where damaged, to maintain privacy to neighbouring development. The treatment will be permitted to be removed only at such time that non-residential or medical development is completed upon the adjoining properties and directly faces the relevant elevation.

- Insertion of new condition 26C to require the installation and maintenance of a green roof within the development.

26C. Ongoing

All works and obligations indicated within the maintenance plan required by 'B' above are to be carried out in perpetuity. Any plants found faulty, damaged, diseased or dead shall be replaced with the same species in the same sized container within one month with all costs borne by the owner.

Note: The green roof as approved is not to be used for habitable/entertainment purposes, and access is only for maintenance.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition, an additional submission provided to the Panel on 27 May 2021, a copy of a letter to the Council's Ombudsman dated 21 May 2021 and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Break of the Council's Site Amalgamation pattern
- Potential to create isolated sites unable to achieve full development potential under the Sutherland LEP 2015
- Non-residential accommodation within the development
- Excessive height and bulk and consequent non-compliance with height of building and floor space ratio controls
- Poor urban design outcome
- Failure to notify amended plans submitted in response to Council's request for information






The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and the conditions as amended and that no new issues requiring assessment were raised during the public meeting.

The Panel considers that the application and the applicant have addressed the planning principle for site consolidation in *Karavellas* and that a variation to the Caringbah Medical Precinct Preferred Amalgamation Plan is appropriate in this instance.

In relation to the concerns raised that the Council failed to exhibit the amended plans the subject of the Council assessment report the Panel notes that the Council assessment report states that during assessment of the application, the assessing officer requested the applicant provide further information including a response to neighbour submissions. On 20 April 2021, the applicant lodged amended plans indicating further articulation to the external façade facing Kingsway, inclusion of vertical tinted glazing Panels to the rear elevation, replacing clear glazing with tinted Panels in the north-western elevation, and the application of translucent film to levels 2, 3 and 4 along the south-eastern elevation to 1.8m in height, and refinements of the landscape treatment.

The Panel considers that the physical changes to the built form result in an improvement in the external treatment of windows to reduce potential for overlooking into neighbouring properties, to increase built form relief (north-western corner), and to introduce further variation in façade materials and colours.

The Panel notes that the amended plans and additional information were not notified as the changes being sought did not, in the Council's opinion, intensify or change the external impact of the development to warrant the renotification consistent with the Sutherland DCP provisions on re-notification.

PANEL MEMBERS	
 Clare Brown (Chair)	 Susan Budd
 Julie Savet Ward	 Jack Boyd
 Peter Scaysbrook	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSSH-47 – SUTHERLAND SHIRE – RA20/0010
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of a health services facility
3	STREET ADDRESS	398-402 Kingsway and 27 Flide Street, Caringbah Lots 7, 8, 9 and 37, DP 8147
4	APPLICANT/OWNER	Irwin Medical Developments Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	CIV > \$5M - Private infrastructure and community facilities
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No. 55 – Remediation of Land State Environmental Planning Policy (State and Regional Development) 2011. State Environmental Planning Policy (Infrastructure) 2007 Sutherland Shire Local Environmental Plan 2015 Section 7.11 and 7.12 Development Contribution Plans 2016 - Sutherland Shire. Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Sutherland Shire Development Control Plan 2015 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 23 April 2021 Letter to the Council's Ombudsman: 21 May 2021. Written submissions during public exhibition: 18 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Stephen Weinstein, Blake Dyer - on behalf of the owner's corporation for SP 89831 at 531 Kingsway & Mr. Terry Shepard of 23 Flide Street, Caringbah, Elaine Secco Pam Woodside Council assessment officer – David Sheehan, Carine Elias, Mark Adamson On behalf of the applicant – Craig Irwin, Jeff Mead, Frank Statistic Total number of unique submissions received by way of objection: 19 plus one submission provided to the Panel dated 27 May 2021 and a copy of a submission to the Council's Ombudsman from a submitter dated 21 May 2021.
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: Thursday, 25 March 2021 <ul style="list-style-type: none"> Panel members: Clare Brown (Chair), Susan Budd, Julie Savet Ward, Jack Boyd, Peter Scaysbrook

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: David Sheehan, Carine Elias, Mark Adamson • Final briefing to discuss council's recommendation: Friday, 28 May 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Clare Brown (Chair), Susan Budd, Julie Savet Ward, Jack Boyd, Peter Scaysbrook ○ <u>Council assessment staff</u>: David Sheehan, Carine Elias, Mark Adamson ○ <u>Applicant representatives</u>: Craig Irwin, Jeff Mead, Frank Statistic
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report subject to amendment to condition 6 and new conditions 9B and 26C.