



16 June 2025

2230200

Ms Clare Phelan
Chief Executive Officer
Sutherland Shire Council
4-20 Eton Street
Sutherland NSW 2232

Attention: David Sheehan, Senior Development Planner

Dear David,

**DA Amendments and Draft Condition Amendments Covering Statement – DA23/0721
13 Endeavour Road, Caringbah**

On behalf of Aliro Trusco 1 Pty Limited atf Endeavour Shore Trust ("Aliro") (the Applicant), we provide the following additional information relating to the development application, DA23/0721, at 13 Endeavour Road, Caringbah.

On 3 June 2025, the South Sydney Planning Panel (SSPP) agreed to defer determination of the DA until 30 June 2025 to enable Sutherland Shire Council (Council) and the Applicant to hold further discussions with the view to resolving outstanding matters, and providing additional information and assessment. Council issued responses to the Applicant's submission relating to the draft conditions of consent, and a subsequent meeting was held between the Applicant and Council on 30 May 2025 to discuss potential resolutions to outstanding matters.

In response, several amendments have been made to the proposal, submitted to Council pursuant to clause 37 of the Environmental Planning and Assessment Regulation 2021. The nature of these changes is in keeping with the intent of the proposed development and do not result in any additional adverse environmental impact but are necessary to resolve several draft conditions of consent, particularly to enable removal of several draft deferred commencement conditions. These changes were discussed with Council on 16 June 2025.

The key change is the additional retention of 17 trees (1 x high retention value, 6 x medium retention value, 10 x low retention value) achieved through the following design changes:

- Reduced Building 8 footprint allowing additional retention of 6 trees.
- Reduction of car parking, and rearrangement car parking and landscaping blisters along the Captain Cook Drive frontage allowing additional retention of 8 trees. The reduction of car parking is facilitated by commensurate reduction in gross floor area within Building 8.
- Rearrangement of car parking and landscaping blisters near the entry of the Building 5 internal access road allowing for additional retention of 3 trees, including 1 tree with high retention value.

Additional information relating to the following matters is also provided to facilitate further assessment by Council and subsequent removal/alteration of several draft conditions of consent:

- Additional stormwater modelling and assessment to enable removal of draft deferred commencement condition 2.
- Amended landscape plans and commentary to reflect the amended design and confirm feasibility of additional tree retention.
- Additional information relating to the proposed childcare centre to enable removal of draft condition 5, including amended and additional architectural drawings, an amended childcare Plan of Management, and additional BCA/Access, traffic, waste and fire safety assessments specific to the proposed childcare centre.
- Amended and additional Civil Engineering Drawings to address draft conditions related to staging and provide further information relating to erosion and sediment control.
- Amended Preliminary Staging Plan to delineate proposed staging of landscaping in accordance with staging of buildings.

This letter should be read in conjunction with the Mark-up of the Draft Conditions of Consent at **Attachment A** and the following supporting documentation:

Table 1 Attachments

Attachment	Document	Consultant
A	Mark-up of the Draft Conditions of Consent	Ethos Urban
B	<p>Amended Architectural Drawings – the following drawings have been amended:</p> <ul style="list-style-type: none"> • Drawing 005 – Estate Masterplan – Rev G • Drawing 006 – Access Masterplan – Rev E • Drawing 007 – Wayfinding & Signage – Rev E • Drawing 008 – Shadow Diagrams – Rev C • Drawing 020 – Overall Master Elevations – Rev D • Drawing 600 – Buildings 6, 7 & 8 Site Plan – Rev D • Drawing 601 – Buildings 6, 7 & 8 Mezzanine Floor Plan – Rev C • Drawing 602 – Buildings 6, 7 & 8 Roof Plan – Rev C • Drawing 610 – Buildings 6, 7 & 8 Sections – Rev C • Drawing 621 – Buildings 6, 7 & 8 Elevations – Rev B • Drawing 650 – Buildings 6, 7 & 8 Area Plans (GFA) – Rev C <p>The following drawing has been added to demonstrate landscape percentage excluding existing Buildings 1 & 2 and land to be dedicated to Council –</p> <ul style="list-style-type: none"> • Drawing 050 – Landscaping Masterplan – Rev A <p>The following drawings have been amended to provide additional detail regarding the proposed childcare centre, so that its detailed fitout is approved:</p> <ul style="list-style-type: none"> • Drawing 505 – Building 5 Commercial Ground Floor – Rev D • Drawing 506 – Building 5 Commercial First Floor – Rev C • Drawing 522 – Building 5 Commercial Elevations – Rev C <p>The following drawings has been added to provide additional detail regarding the proposed childcare centre, so that its detailed fitout is approved:</p> <ul style="list-style-type: none"> • Drawing 507 – Building 5 Commercial Roof Plan – Rev A 	Watson Young
C	Amended Preliminary Staging Plan – Rev B	Watson Young
D	Childcare Solar Analysis	Watson Young
E	Childcare Landscape Plan	Aarons Playscapes
F	Updated NSW Childcare Planning Guideline Assessment	Ethos Urban
G	Updated Childcare Operational Plan of Management	Ethos Urban
H	Amended Landscape Plans	Habit8
I	<p>Amended Civil Engineering Drawings – the following drawings have been amended:</p> <ul style="list-style-type: none"> • DA1501 – Construction Management Plan Sheet 1 – Rev D • DA2101 – Concept Sediment & Control Plan Sheet 1 – Rev D • DA2102 – Concept Sediment & Control Plan Sheet 2 – Rev D • DA2103 – Concept Sediment & Control Plan Sheet 3 – Rev D • DA4101 – Concept Stormwater & Grading Plan Sheet 1 – Rev D • DA4102 – Concept Stormwater & Grading Plan Sheet 2 – Rev B • DA4151 – Concept Stormwater & Grading Plan Sheet 1 – Rev D • DA4152 – Concept Stormwater & Grading Plan Sheet 2 – Rev D • DA4161 – Concept Stormwater & Grading Plans Sheet 1 – Rev D • DA4301 – Concept Stormwater Catchment Plan General – Rev D 	Sparks + Partners

	The following drawings have been removed: <ul style="list-style-type: none"> DA1502 – Construction Management Plan Sheet 2 – Rev C DA1503 – Construction Management Plan Sheet 3 – Rev C 	
J	Updated Traffic and Parking Impact Assessment	McLaren
K	Childcare Traffic and Parking Statement	McLaren
L	Childcare BCA and Access Statement	BM+G
M	Childcare Fire Safety Strategy	Core Engineering5
N	Childcare Operational Waste Management Plan	Waste Audit
O	Landscape Tree Retention Statement	Habit8

1.0 Amended Proposal

1.1 Updated Description of Development

This amended DA seeks approval for a mixed-use warehouse and distribution, light industrial, industrial retail outlet, commercial, child care and café development known as TripleTwoNine, 13 Endeavour Road, operating 24 hours 7 days a week. The works involve demolition of some existing buildings and propose construction of eight new buildings in a staged manner. Amendments to the Description of Development as provided in the first RFI response dated 4 November 2024 are identified in **bold strikethrough** for words deleted, and **bold italics** for words proposed.

Specifically, this development proposes the following:

- Retention of existing Building 1 and Building 2.
- Staged early works for ~~each proposed new building the site~~, including:
 - Demolition of existing structures, buildings, and hardstand including removal of trees
 - Site establishment and preparation including earthworks, construction of stormwater and services infrastructure, and augmentation of utilities as required
- Staged construction of each proposed new building.**
- Use of the site for the following land uses:
 - Warehouse and distribution centres with ancillary office space.
 - Light industrial use with ancillary office space up to a maximum GFA of ~~20,329m²~~ **20,075m²** across the site.
 - Industrial retail outlet.
 - Commercial office.
 - Centre-based child care centre.
 - Café.
- Staged construction and operation of the following proposed buildings, with a total gross floor area of ~~38,108m²~~ **37,726m²**:
 - Building 3.
 - Building 4.
 - Building 5 Block 1.
 - Building 5 Block 2.
 - Building 5 Commercial, comprising:
 - Commercial premises uses including office premises and a food and drink premises (café).
 - 68-place centre-based child care centre operating 6am-8pm Monday to Friday.
 - Building 6.
 - Building 7.
 - Building 8.

- Provision of a total of **562 559** car parking spaces in a stage manner, comprised of 190 retained car parking spaces and **373 369** new car parking spaces across the site. Provision of 20 Motorcycle parking spots.
- Operation of the site 24 hours per day, 7 days a week.
- Landscaping works and estate domain works including estate roads and footpaths.
- Estate wayfinding signage and building identification/business identification signage zones.
- Dedication of land relating to the Captain Cook Drive roundabout and Solander Fields access road through a Planning Agreement with Council.
- Offer for Aliro to undertake the signalisation of the Endeavour Road and Captain Cook Drive intersection through a Planning Agreement with Council.

The original site plan is provided at Error! Reference source not found., and the updated proposed site plan is provided at **Figure 1**.



Figure 1 *Previously Proposed Site Plan*

Source: Watson Young



Figure 2 Proposed Amended Site Plan

Source: Watson Young

1.2 Comparison of original proposal and amended proposal

A comparison of the key numeric development information of the original proposal and amended proposal is summarised in **Table 2**.

Table 2 Key development information

Component	Original Proposal	RFI Amended Proposal	Amended Proposal
Site area	123,898m ²	123,898m ² (no change)	123,898m ² (no change)
GFA (new buildings)	Building 3: 4,942m ² Building 4: 8,925m ² Building 5 Block 1: 7,449m ² Building 5 Block 2: 5,570m ² Building 5 Commercial: 1,884m ² Building 6: 2,960 m ² Building 7: 4,671m ² Building 8: 1,647m ² Total: 38,048m ²	Building 3: 4,900m ² (-42m ²) Building 4: 9,042m ² (+117m ²) Building 5 Block 1: 7,449m ² (no change) Building 5 Block 2: 5,570m ² (no change) Building 5 Commercial: 1,885m ² (+1m ²) Building 6: 2,942m ² (-18m ²) Building 7: 4,673m ² (+2m ²) Building 8: 1,646m ² (-1m ²) Total: 38,108m ² (+60m ²)	Building 3: 4,900m ² (no change) Building 4: 9,042m ² (no change) Building 5 Block 1: 7,449m ² (no change) Building 5 Block 2: 5,570m ² (no change) Building 5 Commercial: 1,883m ² (-2m ²) Building 6: 2,942m ² (-18m ²) Building 7: 4,673m ² (+2m ²) Building 8: 1,266m ² (-380m ²) Total: 37,726m ² (-382m ²)
GFA (total including existing Buildings 1 and 2)	66,345m ²	66,404m ² (+60m ²)	66,022m ² (-382m ²)
Proposed FSR	0.54:1 (Note: permissible FSR is 1.5:1)	0.54:1 (unchanged) (Note: permissible FSR is 1.5:1)	0.53:1 (-0.01:1) (Note: permissible FSR is 1.5:1)
Maximum Height	Building 3: 14.1m Building 4: 16m Building 5 Block 1: 14.6m Building 5 Block 2: 14.9m Building 5 Commercial: 8.6m	No proposed change	No proposed change

Component	Original Proposal	RFI Amended Proposal	Amended Proposal
	Building 6: 11.9m Building 7: 12.1m Building 8: 12.1m		
Effective Height from New Ground Level	Building 3: 11.95m Building 4: 14.05m Building 5 Block 1: 13.7m Building 5 Block 2: 13.7m Building 5 Commercial 8.6m Building 6: 10.2m Building 7: 10m Building 8: 10.5m	No proposed change	No proposed change
Boundary Setbacks			
<ul style="list-style-type: none"> • South-west (Primary setback to Captain Cook Drive) • South-east (setback to public reserve) • North-east (rear side setback to Woollooware Bay) • North-west (side setback to Endeavour Road) 	<ul style="list-style-type: none"> • 9m (to Building 8) – 22.3m (to Building 1) • 3m • 18.4m • 3m 	<ul style="list-style-type: none"> • Unchanged • Minimum 6m • Unchanged • Unchanged 	<ul style="list-style-type: none"> • 12m (to Building 8) – 22.3m (to Building 1) • Unchanged • Unchanged • Unchanged
Building Footprints			
<ul style="list-style-type: none"> • Buildings 1 & 2 (No change) • Buildings 3-8 (proposed) • Total Building Footprint 	<ul style="list-style-type: none"> • 27,878m² (approximate) • 31,903m² • 59,781 m² 	<ul style="list-style-type: none"> • Unchanged • 32,206m² • 60,084m² 	<ul style="list-style-type: none"> • Unchanged • 31,901m² (-305m²) • 59,779m² (-305m²)
Site Coverage	48.25%	48.49%	48.25% (-0.24%)
Car parking spaces			
<ul style="list-style-type: none"> • Proposed Car Parking Spaces (for Buildings 2-8) • Retained Car Parking Spaces (for Building 1) • Total Car Parking Spaces 	<ul style="list-style-type: none"> • 374 • 189 • 563 	<ul style="list-style-type: none"> • 373 • Unchanged • 562 	<ul style="list-style-type: none"> • 369 (-4) • 190 (+1) • 559 (-3)
Landscaped Area (total including existing landscaping)	15,878m ² (12.81%)	16,416m ² (13.25%)	17,222m ² (13.9%) (+806m ² , +0.65%)
Tree Removal	458	No change	440 (-18)
Total Number of Proposed Trees	337	387	380 (planting of new trees reduced in areas where additional trees are retained)

1.3 Car Parking

Car parking along the Captain Cook Drive boundary, near the Building 5 internal access road and near Building 8 has been rearranged and overall been reduced. The rearrangement of car parking has been driven by relocation of tree blisters amongst the car parking. This has directly enabled retention of 11 additional trees. The reduction in car parking is driven by a reduction in overall GFA. Changes to car parking are clouded on the Architectural Drawings (**Attachment B**). The additional car parking spaces adjacent to Building 1 do not interfere with any existing structural root zones as shown within the original Arboricultural Report.

Overall, the proposed development has a surplus of 1 car parking space for the buildings subject to this DA – Buildings 3-8. Refer to the Updated Traffic and Parking Impact Assessment (**Attachment J**) for a detailed car parking assessment.

The following paragraphs reiterate Council's approval of DA21/0777 which required 190 spaces for Building 1 only which cannot be replaced by landscaping or tree planting.

On 17 August 2022, Sutherland Shire Council approved DA21/0777 for alterations and additions to the main warehouse building known as Building 1 at 13 Endeavour Road, Caringbah. Condition 37 of the approval required 190 car parking spaces to be provided for the sole use of occupants and visitors of Building 1, this was to meet the tenant demands within Building 1:

- 37. Car parking Areas**
A. Ongoing
To ensure that the car parking area satisfies the demands of the development:
- i) 190 car parking spaces are to be provided in close proximity to the E1 warehouse building, generally as indicated on approved plans, for the sole use of the occupants and visitors of that warehouse building.
 - ii) it must be made available on an unrestricted basis and free of charge at all times for employees' and visitors' vehicles
 - iii) any parking nominated as visitor parking or common property must be continually available as common property.

By virtue of its approval, Council has formed the opinion and concluded that Building 1 requires 190 car parking spaces.

Aliro have since constructed the approved alterations and additions, and fully leased Building 1 and its associated 190 spaces to multiple tenants including Australia Post and Woolworths, on the basis of Council's approval of 190 car parking spaces solely being for Building 1.

It is not orderly development, and is unreasonable and inappropriate for Council to resile from its previous assessment and now require those 190 spaces to be subsumed by the car parking demand of the proposed Buildings 3 to 8. This approach is fundamentally incorrect, and also will require Aliro to break its existing leases entered into on the basis of DA21/0777's approval.

In summary, the 190 existing car parking spaces on the site are not available to be used for Buildings 3 to 8 because, as Council concluded when determining DA21/0777, that number of spaces was required to satisfy the parking demand generated by Building 1.

Refer to page 23 of McLaren's Updated Traffic Impact Assessment at **Attachment J** for the current parking analysis which reflects a maximum light industrial GFA of 20,075m².

A summary of car parking supply for Buildings 3 to 8 (see **Table 1**) demonstrates that the buildings generally comply with the minimum car parking rates for their respective uses, resulting in a minor surplus of one space.

Table 3 Summary of car parking supply

Building	Required Car Parking	Indicative proposed car parking	Surplus / Shortfall
Building 3	24	24	0
Building 4	121	121	0
Building 5	93	93	0
Building 6	38	38	0
Building 7	61	62	+ 1

Building 8	16	16	0
Total Demand for this DA	353	354	+ 1
Building 1	190 (DA21/0777)	190	0
Building 2	7	12*	+5
Total	550	556	+6

*We note that Building 2, which is not subject to this DA, has an existing lease providing 12 car parking spaces.

Accordingly, there is no meaningful surplus of car parking. This means that any proposal to remove carparking to accommodate landscaping will be inconsistent with development and leasing undertaken in response to Council's approval of 190 spaces for Building 1, and the parking rates set by the RTA and Council's DCP.

2.0 Proposed amendments to draft conditions and responses to Council comments

Following issue of a response to Council's draft conditions of consent on 23 May 2025, Council issued a response to the Applicant's comments on 29 May 2025. Those responses were discussed in a meeting with Council on 30 May 2025.


This section outlines the proposed amendments to draft conditions as a result of the above correspondence and meeting, and further refinement of the proposed development by the Applicant. The changes to the proposed development are discussed further within the context of the proposed amendments to the draft conditions of consent. Cross-references to additional drawings and consultant reports is included where relevant.

We note that a number of the requested amendments to conditions relate to a general lack of clear timing for works associated with particular construction certificates (CC) and occupation certificates (OC). In some instances, conditions do not clearly reflect the proposed staging which Council has agreed to, which allows the construction of buildings to be staged in any order. In other instances, it is unreasonable for certain works to be required prior to issue of the first CC or OC. We have included a marked-up version of the Draft Conditions (**Attachment A**) which seeks to remove these ambiguities by tying some conditions to the "relevant" construction or occupation certificate.

Table 4 *Proposed amendments to draft conditions and justification*

Draft Condition	Council Response	Proposed Amendment	Justification
Deferred Commencement Conditions			
<p>(A) DESIGN MODIFICATION</p> <p>The design is to be amended to remove 113 parking spaces in order to improve existing tree retention and associated landscaping on site. Changes required to the design include:</p> <ul style="list-style-type: none"> (a) Amending the footprint of Building 8 to retain the existing mature trees along the southern and south-western edges of the building; (b) Removal of 13 parking spaces and the shared space adjacent Building 8 and relocation of this building to the north so that existing mature trees to the south of Building 8 can be retained. Arborist advice will be required alongside the amendments and is to detail measures to ensure that these trees are able to be retained. The Arborist is to advise on the 	<p>This recommended condition is not proposed to be changed by Council.</p> <p>A supplementary report will be prepared for the Panel that will also note the historic oversupply of parking spaces proposed by the applicant for DA21/0777.</p> <p>It is noted that Aliro is of the view that the 190 parking spaces approved for the original Buildings 1 and 2 should not be affected by the subject application. However, Aliro chose to include both these buildings and site area into the subject development application in order to take advantage of the greater yield associated for a larger site area, and also likely to meet the 10% landscaped requirements under SSLEP2015.</p> <p>Given these buildings and the site area forms part of the application – as submitted by Aliro – there is no prohibition from a new application seeking to re-adjust the parking numbers across the whole site. The potential conflict between Condition 37 of DA21/0777</p>	<p>Delete Condition</p>	<p>In the meeting on 30 May 2025, Council acknowledged that car parking supply was important, and that Council understood that Building 1 required 190 car parking spaces.</p> <p>Council's external planner encouraged further tree retention, in particular trees with medium and high retention value.</p> <p>Council acknowledged that agreement on amended landscaping and tree retention would allow for this deferred commencement condition to be deleted.</p> <p>The Applicant has taken on Council's suggestion to amend the footprint of Building 8 to retain the existing mature trees along the southern and south-western edges of the building, and to increase tree retention along the Captain Cook Drive boundary.</p>

Draft Condition	Council Response	Proposed Amendment	Justification																																				
<p>ability to retain trees 46 and 47, noting that these two trees may be difficult to retain even with an amended design.</p> <p>(c) Removal of 34 parking spaces and associated vehicle circulation access adjacent the future access point from the roundabout on Captain Cook Drive and internal drop off area to enable the retention of existing trees and landscaping in this area; and</p> <p>(d) Removal of 66 parking spaces along the length of captain cook drive frontage adjacent to in front of Buildings 5 and existing Building 1C (Dutton) and 1D (Aquatic Achievers) to enable the retention of existing mature trees and a 6-7m deep soil zone in this area;</p> <p>The applicant must submit an amended site plan, drawings, landscape plan , arborist report and stormwater design demonstrating consistency with the above requirements for approval by Council's Senior Manager Development Assessment. The applicant must also submit an amended parking allocation plan demonstrating allocation of parking spaces consistent with the approved uses on site, which includes:</p> <ul style="list-style-type: none">Retention of the existing 12 accessible parking spaces in locations in close proximity to the buildings they are allocated to;Indicative allocation of childcare parking and 'drop off' spaces adjacent to proposed location in Building 5 (subject to future detailed fit out DA);	<p>can be resolved through imposition of a condition to modify DA21/0777 being imposed on the subject consent to align the parking numbers.</p> <p>The justification for the proposed parking number reduction is unchanged – that the development application – considered holistically across the site – has an oversupply of parking when assessed against both the RMS and Council controls. A reduction in these parking numbers will enable a greater number of existing mature trees to be retained on site given the significant loss of 459 trees currently proposed.</p> <p>With respect to the McLaren addendum – if Aliro wishes to only assess Buildings 3-8 then Buildings 1 and 2 – and their associated site area should be removed from the application – which will likely have significant flow on effects for other compliance criteria.</p> <p>The reduction in parking is proposed to address the current loss of 459 trees, and is not strictly related to the Landscaped Area Control. However, should the applicant seek to remove the land surrounding buildings 1, 2 and 8 currently not included for proposed works from the application, the Landscaped Area Control may dip below 10% and a comprehensive re-assessment would be required.</p> <p>This recommended condition is not proposed to be changed by Council.</p> <p>When drafting this condition, both Council's stormwater and traffic engineers reviewed the condition to evaluate whether appropriate passing and turning could occur with the relocation of Building 8. They</p>		<p>18 additional trees are now retained, including 6 medium retention value trees and 1 high retention value tree:</p> <table><tr><th>Tree</th><th>Retention Value</th></tr><tr><td>42</td><td>Medium</td></tr><tr><td>43</td><td>Medium</td></tr><tr><td>44</td><td>Low</td></tr><tr><td>45</td><td>Medium</td></tr><tr><td>48</td><td>Medium</td></tr><tr><td>49</td><td>Low</td></tr><tr><td>451</td><td>Low</td></tr><tr><td>452</td><td>Medium</td></tr><tr><td>453</td><td>High</td></tr><tr><td>469</td><td>Medium</td></tr><tr><td>470</td><td>Low</td></tr><tr><td>471</td><td>Low</td></tr><tr><td>472</td><td>Low</td></tr><tr><td>486</td><td>Low</td></tr><tr><td>487</td><td>Low</td></tr><tr><td>488</td><td>Low</td></tr><tr><td>489</td><td>Low</td></tr></table> <p>It is noted that the Applicant's incumbent arborist was not available to provide arboricultural commentary on the increased tree retention. Instead, based on Council's direction to obtain landscape architect advice, the Landscape Tree Retention Statement prepared by Habit8 (Attachment O) has concluded that the allocation of the allocation of soft landscape area around each existing tree to be retained is sufficient for the tree' survival and growth, because:</p>	Tree	Retention Value	42	Medium	43	Medium	44	Low	45	Medium	48	Medium	49	Low	451	Low	452	Medium	453	High	469	Medium	470	Low	471	Low	472	Low	486	Low	487	Low	488	Low	489	Low
Tree	Retention Value																																						
42	Medium																																						
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Draft Condition	Council Response	Proposed Amendment	Justification
<ul style="list-style-type: none"> Retention of the same number of EV parking spaces equally distributed throughout the site; and Remaining 10 excess parking spaces are to be evenly distributed across the site. 	<p>were confident an AS compliant solution could occur.</p> <p>In terms of 'irregular footprints', Buildings 6 and 8 both have somewhat 'irregular footprints' already, which were proposed by the applicant. The size of the units is still functional at between 630-750sqm. Further, smaller industrial units – as are often seen in areas such as Mascot and Sydenham, will offer a greater diversity of product across the site. Further, the condition does not mandate the reduction in floorspace – rather that the building get relocated appropriately to retain existing trees.</p>		<ul style="list-style-type: none"> Many of the trees to be retained are palm trees. They have small compact root balls and are fully grown. Other larger existing tree species have sufficient soil volume to sustain growth to maturity. These trees are fully grown or close to maturity. The softscape allocated for trees to be retained allows protection of the main structural roots (SRZ) of each tree based on canopy mapping. <p>Landscape percentage has increased from 13.25% to 13.9%.</p> <p>Contrary to Council's comments, the Landscape Masterplan within the Architectural Drawings shows that the landscape percentage for the site excluding Buildings 1 and 2 (including adjacent landscaping) and land to be dedicated to Council is actually higher, at 15.47%. An excerpt of the plan is provided below to show the areas excluded (grey).</p> 

Draft Condition	Council Response	Proposed Amendment	Justification
<p>(B) STORMWATER DESIGN</p> <p>The stormwater trunk drainage system must be designed in accordance with Australian Standard AS 3500.3:2015; the BASIX Certificate issued for this development; Sutherland Shire Environmental Specification - Stormwater Management 2009 and Chapter 38 in the SSDCP 2015.</p> <p>Except where modified by the following:</p> <p>...</p> <p>Condition reason: Ensuring suitable drainage is provided.</p>	<p>The reference to BASIX affected development can be removed.</p> <p>Council's Dev Engineer notes that particulars for stormwater design may be moved to Prior to CC, however demonstrating "no increase in flows across the Northern Boundary" must remain as a deferred commencement due to Fisheries concurrence.</p> <p>If the applicant can provide sufficient modelling to demonstrate no additional discharge to Woollooware Bay, Council is open to amending the condition.</p>	<p>Delete condition</p>	<p>Additional stormwater information and amended Civil Engineering Drawings (Attachment I) are provided. Moreover, updated DRAINS modelling has been provided directly to Council's development engineering team by Sparks + Partners. This information is sufficient to resolve all matters in this draft deferred commencement condition.</p> <p>Therefore, draft deferred commencement condition (b) can be deleted.</p>
<p>(C) REGISTRATION OF EASEMENT WITH NSW LAND AND PROPERTY INFORMATION</p> <p>The required drainage easement to drain water burdening Lot 4 DP 714965 (477 Captain Cook Drive) must be registered with NSW Land and Property Information. This is to enable connection to Council's drainage channel and in accordance with Council's Drainage Easements Policy February 2025.</p> <p>Condition reason: To legally traverse Council land and discharge stormwater from the site.</p>	<p>For discussion with applicant</p> <p>Dev Eng notes that the easement is not related to flows to Woollooware bay or flows across the northern boundary and is required irrespective to the design from the proposed basin. The applicant proposed to discharge most of their drainage to a new connection to the channel which requires an easement over Council land. The easement is required at least prior to CC to enable works to be completed within the Council land.</p>	<p>(C) REGISTRATION OF EASEMENT WITH NSW LAND AND PROPERTY INFORMATION</p> <p>The required drainage easement to drain water burdening Lot 4 DP 714965 (477 Captain Cook Drive) must be registered with NSW Land and Property Information. This is to enable connection to Council's drainage channel and in accordance with Council's Drainage Easements Policy February 2025.</p> <p>Condition reason: To legally traverse Council land and discharge stormwater from the site.</p>	<p>The Applicant has lodged the required application to begin the easement registration process.</p> <p>This condition is proposed to be deleted as it is a duplicate of Condition 11.</p>
<p>(D) VOLUNTARY PLANNING AGREEMENT</p> <p>a) The Voluntary Planning Agreement between the Sutherland Shire Council, and Perpetual Corporate Trust Limited (as custodian for Aliro Trusco 1 Pty Ltd), based on letter of offer dated 21 March 2025 and endorsed by Council on 28 April 2025 has been exhibited and executed; and,</p>			<p>No amendments are proposed to this draft deferred commencement condition. We understand that Council's lawyers have met with the Council Strategic Planning team and are due to provide comments to the Applicant imminently.</p> <p>It is imperative that Council continues to liaise with the Applicant to ensure timely execution of the VPA.</p>

Draft Condition	Council Response	Proposed Amendment	Justification
<p>b) The Voluntary Planning Agreement, as executed, must be registered on the title of the land(s).</p> <p>Condition Reason: To require the execution and registration of the voluntary planning agreement.</p>			
General Conditions			
<p>2. Clarification of Sequencing</p> <p>Sequencing of the development must be in accordance with the preliminary staging plan and approved Civil Engineering plans, except where modified by the following and subject to the requirements of conditions of this consent.</p> <ul style="list-style-type: none"> i Phase 1: Installation of the trunk drainage system connecting to the Council drainage channel via a registered easement. Construction of the main entrance road from Captain Cook Drive ii Phase 2: Bulk earthworks to facilitate buildings and dedication of land to Council. iii Phase 3: Construction of the proposed buildings and associated parking, access, landscaping, services, water quality facilities and on-site stormwater management system. This includes Stage 1A (Building 5, Blocks 1 and 2), Stage 1B (Building 3), Stage 1C (Building 4) and Stage 2 (Buildings 6 and 7) in any order. iv Phase 1 is to occur first, then Phase 2, followed by Phase 3. The stages within Phase 3 may be the subject of separate Construction Certificates and Occupation Certificates. 	<p>Dev Eng notes that the 'phasing' in the condition has been written to match the staging plan prepared by the consultant's Civil Engineer. It is agreed that bulk would typically occur before drainage, however the trunk drainage is primarily contained to existing road areas and is not specifically related to the proposed buildings. It was assumed that installation of trunk drainage prior to building stages was required to satisfy flood management or construction management issue, and adequate cover over pipes to existing levels implied this was intentional.</p> <p>Noting the disagreement, this may be amended, however this is subject to advice from the applicants civil engineer and further review of constructability.</p> <p>Aliro to provide an amended civil and construction staging plan for Council's consideration.</p>	<p>2. Clarification of Sequencing</p> <p>Sequencing of the development must be in accordance with the preliminary staging plan and approved Civil Engineering plans, except where modified by the following and subject to the requirements of conditions of this consent.</p> <p><i>Construction may be carried out in a staged manner in any order as delineated on the preliminary staging plan and approved Civil Engineering plans.</i></p> <p><i>Works for each building stage is to be carried in the following order:</i></p> <ul style="list-style-type: none"> <i>i. Site wide demolition, clearing, stripping, bulk earthworks at any time.</i> <i>ii. The trunk drainage line shall be constructed up to and as required to service each building stage, and connection to the council drainage channel. (ii) may be concurrent with (iii) but must be completed prior to an Occupation Certificate being issued for the relevant building stage.</i> <i>iii. Building construction works (i.e. floor slabs, building structure inclusive of inground structure and services) in any order.</i> 	<p>To avoid confusion, the Construction Management Plan (Drawing DA1501) (see Attachment I) has replaced previous Drawings DA1501-1503) which led to misunderstandings regarding phasing. Drawing 1501 does not show phases, rather it delineates the extent of each stage and components of various civil works.</p> <p>The delineation of stages for each building are shown on the Amended Preliminary Staging Plan (Attachment C).</p> <p>Updated Concept Erosion and Sediment Control Plans are provided within the Civil Engineering Drawings (Attachment I) which demonstrate that construction works will have sediment basins working in conjunction with the existing stormwater system on the site, such that the trunk drainage system is not required during demolition, bulk earthworks and building construction.</p> <p>It is noted that the proposed wording of this condition broadly aligns with wording suggested by Council's development engineer.</p>

Draft Condition	Council Response	Proposed Amendment	Justification
		<p>Note: Prior to commencement of any works affecting the existing driveway on the site of Building 5 block 1, an access road carriageway and associated drainage infrastructure adjacent Building 5 block 1 which provides access from Building 1 to Captain Cook Drive is to be constructed.</p> <p>i Phase 1: Installation of the trunk drainage system connecting to the Council drainage channel via a registered easement. Construction of the main entrance road from Captain Cook Drive</p> <p>ii Phase 2: Bulk earthworks to facilitate buildings and dedication of land to Council.</p> <p>iii Phase 3: Construction of the proposed buildings and associated parking, access, landscaping, services, water quality facilities and on-site stormwater management system. This includes Stage 1A (Building 5, Blocks 1 and 2), Stage 1B (Building 3), Stage 1C (Building 4) and Stage 2 (Buildings 6 and 7) in any order.</p> <p>iv Phase 1 is to occur first, then Phase 2, followed by Phase 3. The stages within Phase 3 may be the subject of separate Construction Certificates and Occupation Certificates.</p>	
<p>5. Child Care Centre Operation</p> <p>This consent does not authorise the fitout, operating hours and/or the number of children associated with the childcare centre use in Building 5. The child care</p>	<p>The documentation provided was insufficient to do a comprehensive assessment of the childcare centre. Whilst the plans included generic areas for indoor and outdoor spaces, they did not provide</p>	<p>5. Child Care Centre Operation</p> <p>This consent does not authorise the fitout, operating hours and/or the number of children associated with the childcare centre use in Building 5. The child care</p>	<p>The original SEE demonstrates consistency with Part 3.3 of the <i>Transport and Infrastructure SEPP</i>. There is no change to this as a result of the additional information provided.</p>

Draft Condition	Council Response	Proposed Amendment	Justification
<p>centre operation is to be the subject of a separate development consent.</p> <p>Condition reason: Detailed fitout of the childcare centre was not provided to adequately demonstrate compliance.</p>	<p>detailed internal or external designs, that could then be tested for critical matters such as egress distances for evacuation and amenity for children. The Planning Guidelines assessment was a simple table 'ticking' all the criteria with no detail associated with why or how the Guidelines were met.</p> <p>Whilst there may be a potential operator, no full operator exists outlining how they can meet the required safety and design criteria, and the fit out design was not sufficient to ensure the safety of future children – particularly given the light industrial nature of the wider precinct.</p> <p>The applicant's BCA report noted a number of non-compliances with the existing design of the childcare centre, and the application's landscape plans do not show any detailed design for the outdoor areas.</p> <p><i>Council provided the following list of deliverables on 2 June 2025:</i></p> <ul style="list-style-type: none"> <i>Updated architectural drawings showing full fit-out of centre including layout of rooms, preparation areas, laundries, bathrooms and kitchens (showing specific requirements for sinks, washing facilities, kitchen/prep facilities, dryers) and any physical treatments such as acoustic screens required to ensure that the air quality and acoustic report requirements can be met for the facility. Travel distances for fire and other emergency egress should be shown on the plans given the sensitive nature of the use;</i> 	<p>centre operation is to be the subject of a separate development consent.</p> <p>Condition reason: Detailed fitout of the childcare centre was not provided to adequately demonstrate compliance.</p>	<p>Chapter 1 Early Learning is the childcare operator, and have provided input into the Updated Childcare Operational Plan of Management (Attachment G) which includes all the requested information. As such, the proposed Childcare Plan of Management is wholly consistent with their future operations and reflects their proposed operation. At the RFI stage, Chapter 1 Early Learning provided a Letter of Support, and there is no change to its conclusion, stating that:</p> <ul style="list-style-type: none"> The proposed design meets the needs of Chapter 1 Early Learning and in their opinion meets the NSW Child Care Planning Guideline. No further design changes would be needed to enable Chapter 1 Early Learning to operate. This means no further planning approvals would be required to enable their operation. <p>In response to Council's list of deliverables to allow a complete assessment of the proposed childcare centre:</p> <ul style="list-style-type: none"> The proposed hours of operation are 6.00am to 8.00pm Monday to Friday, fifty-two (52) weeks a year. This is set out in Section 5.0 of the Childcare Operational Plan of Management. The proposed capacity is 68 children in the following break-up. The amended Architectural Drawings and detailed assessment at Attachment F show that the proposal can cater for 68 children in terms of all metrics including amount of indoor and outdoor unencumbered play areas and amount of storage. The Amended Architectural Drawings (Attachment B) show the full fit-out of centre including layout of rooms, preparation areas, laundries, bathrooms and kitchens, as well as travel distances for fire and other emergency

Draft Condition	Council Response	Proposed Amendment	Justification
	<ul style="list-style-type: none"> • <i>Landscape plans specific to childcare centre showing details of the outdoor play areas including amenities, planting, greenery, shade sails and any small trees;</i> • <i>Solar analysis showing sun access and shading to the outdoor play areas at June 21st;</i> • <i>Traffic, BCA, Fire and Access reports specific to the childcare centre (not part of wider reports for the whole site). Traffic report or PoM needs to outline protocols to be in place to demonstrate safe pick up and drop off procedures given the heavy traffic to utilise the wider site;</i> • <i>More comprehensive assessment against the Planning Guidelines;</i> • <i>Waste Management Plan specific to the childcare centre use;</i> • <i>Updated Plan of Management with detailed information including:</i> <ul style="list-style-type: none"> ○ <i>Licensing and Approvals</i> ○ <i>Hours of operation and Capacity</i> ○ <i>Staffing including nominated supervisor, insurances, governance, staff arrival/departure</i> ○ <i>Drop off/pick up procedures and security</i> ○ <i>Food Preparation</i> ○ <i>Laundry facilities and protocols</i> ○ <i>Equipment and Building Maintenance</i> 		<p>egress. Details such as washers, dryers, kitchen preparation facilities and storage metrics are identified. Required balustrades are already shown on the elevations.</p> <ul style="list-style-type: none"> • A Childcare Landscape Plan is provided at Attachment E and shows details of the outdoor play areas including amenities, planting, greenery, shade sails, small trees and floor surfaces. • The solar analysis within the Amended Architectural Drawings (Attachment B) shows that the north-eastern outdoor play space receives solar access on the Winter Solstice between 8am to 1pm, while the south-western outdoor play space received solar access on the Winter Solstice between 9am to 11am. • A Childcare Traffic and Parking Impact Statement (Attachment K) demonstrates that there is sufficient car parking, that the car parking complies with AS2890.1:2004, that the traffic impacts are acceptable and that private waste collection by a vehicle similar to a 6.4m Small Rigid Vehicle can be accommodated. It also contains a detailed list of management measures for pick-up and drop-off, and safety measures for the internal access road design which are included in the Updated Childcare Plan of Management. (Attachment G). • A Childcare and Access BCA and Access Report is provided at Attachment L which concludes that subject to its recommendations, the proposed design can readily achieve, compliance with the provisions of the BCA. In addition, BM+G In addition, consider that such matters can adequately be addressed in the preparation of the Construction Certificate documentation without giving rise to any

Draft Condition	Council Response	Proposed Amendment	Justification
	<ul style="list-style-type: none"> o Family involvement including enrolment, communication and events o Centre Management including daily program and general timetable o Emergency procedures 		<p>inconsistencies with the Development Approval.</p> <ul style="list-style-type: none"> • A Fire Safety Strategy is provided at Attachment L which concludes that the proposed childcare centre and its fire safety strategy considered capable of meeting the fire-related Performance Requirements of the BCA, subject to validation and verification of any assumptions made through detailed fire engineering analysis at the pre-construction stage. • Attachment F contains additional detail that demonstrates why and how the proposed child care centre is wholly consistent with the NSW Childcare Planning Guidelines, with additional detail showing why and how the Guidelines are met. • A Childcare Operational Waste Management Plan is provided at Attachment N and outlines the expected operational general waste and recycling volumes, storage area requirements, bins and equipment, and site/contractor handling and collection practices.

Before Issue of a Construction Certificate

Where “Before issue of a construction certificate” is stated in the Draft Conditions, to remove ambiguity, we believe that the wording should be replaced with “Before issue of the relevant construction certificate”. This is to reflect the proposed staging of development and separate CC’s for each stage, which Council supports. See Attachment A which marks-up the affected conditions – Conditions 10, 12, 13, 20, 25, 29, 31, 32, 33, 34, 35, 36, 40, 41

<p>13. Design and construction of works in road reserve (council design)</p> <p>Before the issue of any construction certificate, the proposed development generates a need for the following works to be undertaken by the applicant in the Road Reserve including the future Road Reserve (that is the subject of land dedication) To this end a detailed frontage works application under the Roads Act 1993 must be submitted to Sutherland Shire Council.</p>	<p>Council officers are willing to accept a later stage for this work, however 'the relevant' CC needs to be reworded to a specific and agreed stage. It is suggested that the majority of a) through to h) could be attached to the CC for the first building. Condition 13 a) and b) may need to be resolved at an earlier stage as the works may be carried out prior to the buildings. This is to be looked at by your engineering</p>	<p>13. Design and construction of works in road reserve (council design)</p> <p>Before the issue of the relevant any construction certificate, the proposed development generates a need for the following works to be undertaken by the applicant in the Road Reserve including the future Road Reserve (that is the subject of land dedication). To this end a detailed frontage works application under the Roads Act 1993 must be submitted to Sutherland</p>	<p>Design and construction of works in a road reserve are typically undertaken throughout the construction process. It is unreasonable to tie design and delivery of these works to the first CC, particularly when works associated with the first CC would relate to site establishment and bulk earthworks.</p>
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Draft Condition	Council Response	Proposed Amendment	Justification
<p>The form is available on council's website. A fee applies for the relevant inspections, assessment, coordination, creation of design brief and the issue of permits providing consent to undertake frontage works. The design will be quoted separately by council's Design Services unit. This design will generally comply with the approved architectural design drawings and the current website version of council's Public Domain Design Manual (PDDM) and Public Domain Technical Manual (PDTM) except where modified by/or addressing the following:</p> <p>a) Property alignment/ boundary levels - establish the property alignment/ boundary levels and crossing profiles.</p> <p>b) Carriageway pavement – regrade, reconstruct and resurface as required.</p> <p>c) Grades - regrade footpath verge to final design levels including topsoil, turf and all associated soft landscaping.</p> <p>d) Captain Cook Drive frontage footpaths – install a 1.5m footpath pavement to the west of Gannons Road and install a 2.5m footpath pavement to the east of Gannons Road, connecting to the existing footpath pavement in front of Solander Park.</p> <p>e) Resolution Drive / Endeavour Road intersection eastern side footpaths - install a 2.5m footpath pavement from the development to the existing footpath pavement upon No.477 Captain Cook Drive.</p> <p>f) Infrastructure transitions - ensure there are adequate transitions between newly constructed and existing infrastructure as required.</p> <p>g) Kerb and gutter - adjacent to the required 2.5m footpath pavement construct kerb, gutter and carriageway.</p>	<p>team and feedback provided and detailed in your staging plan.</p>	<p>Shire Council. The form is available on council's website. A fee applies for the relevant inspections, assessment, coordination, creation of design brief and the issue of permits providing consent to undertake frontage works. The design will be quoted separately by council's Design Services unit. This design will generally comply with the approved architectural design drawings and the current website version of council's Public Domain Design Manual (PDDM) and Public Domain Technical Manual (PDTM) except where modified by/or addressing the following:</p> <p>Prior to the first construction certificate:</p> <p>a) Property alignment/ boundary levels - establish the property alignment/ boundary levels and crossing profiles.</p> <p>b) The design of Carriageway pavement – including the design of regrading, reconstruction and resurfacing as required.</p> <p>Prior to a construction certificate for the first building:</p> <p>c) Grades - regrade footpath verge to final design levels including topsoil, turf and all associated soft landscaping.</p> <p>d) Captain Cook Drive frontage footpaths – install a 1.5m footpath pavement to the west of Gannons Road and install a 2.5m footpath pavement to the east of Gannons Road, connecting to the existing footpath pavement in front of Solander Park.</p> <p>e) Resolution Drive / Endeavour Road intersection eastern side footpaths - install a 2.5m footpath pavement from the development to the existing footpath pavement upon No.477 Captain Cook Drive.</p> <p>f) Infrastructure transitions - ensure there are adequate transitions between</p>	<p>The condition is proposed to be amended to ensure the design of 13(a) and 13(b) are completed prior to the first CC.</p> <p>The design of the remainder of the 13(c)-(h) are proposed to be satisfied prior to the first construction certificate for a building, as recommended by Council.</p>

Draft Condition	Council Response	Proposed Amendment	Justification
<p>h) Utility services - adjust public services infrastructure as required.</p> <p>Condition reason: Ensure the development provides suitable vehicle and pedestrian access.</p>		<p>newly constructed and existing infrastructure as required.</p> <p>g) Kerb and gutter - adjacent to the required 2.5m footpath pavement construct kerb, gutter and carriageway.</p> <p>h) Utility services - adjust public services infrastructure as required.</p> <p>Condition reason: Ensure the development provides suitable vehicle and pedestrian access.</p>	
<p>25. Public utility adjustment / relocation works on the state road network</p> <p>Any public utility adjustment/relocation works on the state road network will require detailed civil design plans for road opening/underboring to be submitted to TfNSW for review and acceptance prior to the issue of a construction certificate and the commencement of any works. The developer must also obtain any necessary approvals from the various public utility authorities and/or their agents. Please send all documentation to development.sydney@transport.nsw.gov.au. A plan checking fee will be payable and a performance bond may be required before TfNSW approval is issued.</p> <p>Condition reason: Required by TfNSW.</p>	<p>This is a TfNSW Condition and cannot be changed without their approval.</p>	<p>No change proposed.</p>	<p>We understand that TfNSW has provided amended wording to Council to clarify that the condition is not intended to be tied to the first construction certificate.</p>
<p>27. Signage Strategy</p> <p>Prior to issue of any construction certificate, a signage strategy is to be submitted to Council for approval. The signage strategy is to include the following information:</p> <ul style="list-style-type: none"> Locations on each building where tenants can locate signage "building signage zone" in plan form; 	<p>Agreed. However that this can be linked to an OC. Issue with the wording 'relevant' OC as there is ambiguity as to which OC it will be produced and will need to relate to the entire site not just one stage. Suggest that it be the first OC which relates to buildings.</p>	<p>"Move to Occupation and Ongoing Use Section"</p> <p>27. Signage Strategy <i>All future tenant signage shall be consistent with the approved Wayfinding and Signage Plan (Drawing 007) and elevations.</i></p>	<p>A signage strategy is provided on the Wayfinding and Signage Plan (Drawing 007 within the Architectural Drawings). The Wayfinding and Signage Plan shows the locations on each building where tenants can locate signage, and the general construction and illumination parameters. The elevations of each building show the building signage zones on individual buildings, including dimensions. All</p>

Draft Condition	Council Response	Proposed Amendment	Justification
<ul style="list-style-type: none"> • Identification of the type of signage permitted in each “building signage zone”; and • Elevations showing building signage zones on individual buildings, including dimensions and types of signs. <p>Condition reason: Ensure a signage strategy is developed to holistically manage signage across the site.</p>		<p>Prior to issue of any construction certificate, a signage strategy is to be submitted to Council for approval. The signage strategy is to include the following information:</p> <ul style="list-style-type: none"> • Locations on each building where tenants can locate signage “building signage zone” in plan form; • Identification of the type of signage permitted in each “building signage zone”; and • Elevations showing building signage zones on individual buildings, including dimensions and types of signs. <p>Condition reason: Ensure a signage strategy is developed to holistically manage signage across the site.</p>	<p>signage zones are business identification signage zones.</p> <p>Following Council feedback received on 12 June 2025, it is proposed to amend this condition to require all future tenant signage to be consistent with the Wayfinding and Signage Plan, and the approved elevations.</p> <p>It is understood that Council has included this condition within the “Occupation and Ongoing Use” section of the conditions.</p>
During Building Work			
<p>62. Management of site soil / fill material</p> <p>...</p> <p><u>Importation of fill material</u></p> <p>Any fill material that is imported onto the site must comprise Virgin Excavated Natural Material (VENM), Excavated Natural Material (ENM) or other suitable material in accordance with the relevant Resource Recovery Exemption issued under the Protection of the Environment Operations (Waste) Regulation 2014.</p> <p>...</p>	N/A	<p>62. Management of site soil / fill material</p> <p>...</p> <p><u>Importation of fill material</u></p> <p>Any fill material that is imported onto the site <i>must be assessed by an appropriately qualified and experienced environmental consultant and</i> must comprise Virgin Excavated Natural Material (VENM), Excavated Natural Material (ENM) or other suitable material in accordance with the relevant Resource Recovery Exemption issued under the Protection of the Environment Operations (Waste) Regulation 2014.</p> <p>...</p>	<p>This amendment is to clarify the intention of the environmental consultant is to assess materials proposed for importation</p>

Draft Condition	Council Response	Proposed Amendment	Justification
<p>64. Potential contaminated land – unexpected finds – prior to recommencement of use</p> <p>If unexpected, contaminated soil or groundwater is treated and/or managed onsite; the supervising environmental consultant must verify that the situation was appropriately managed in accordance with relevant NSW EPA guidelines.</p> <p>The verification documentation must be provided to the satisfaction of the principal certifier and a copy submitted to Sutherland Shire Council, Environmental Science Assessment Officer.</p>	N/A	<p>64. Potential contaminated land – unexpected finds – prior to <i>issue of the relevant Occupation Certificate</i> recommencement of use</p> <p>If unexpected, contaminated soil or groundwater is treated and/or managed onsite; the supervising environmental consultant must verify that the situation was appropriately managed in accordance with relevant NSW EPA guidelines.</p> <p>The verification documentation must be <i>prepared by the environmental consultant and</i> provided to the satisfaction of the principal certifier and a copy submitted to Sutherland Shire Council, Environmental Science Assessment Officer <i>upon completion of remediation works and prior to issue of the relevant occupation certificate.</i></p>	<p>This amendment is for clarity, as “recommencement of use” is unclear.</p>
<p>65. Contaminated Land Remediation</p> <p>The identified contamination at the site must be remediated in accordance with 'preferred remedial option no. 1' provided in the Remediation Action Plan:</p> <ul style="list-style-type: none"> JBS&G, Masterplan Remedial Action Plan, 13 Endeavour Road, Caringbah, NSW, report ref: 64957/153694 Rev 2, dated 11 October 2024. and in accordance with: National Environmental Protection (Assessment of Site Contamination) Measure (2011); State Environmental Planning Policy (Resilience and Hazards) (2021); Sutherland Shire Development Control Plan (2015); and SafeWork NSW Code of Practice: How to safely remove asbestos (2022); The 	N/A	<p>65. Contaminated Land Remediation</p> <p>The identified contamination at the site must be remediated in accordance with <i>'preferred remedial option no. 1' provided in</i> the Remediation Action Plan:</p> <ul style="list-style-type: none"> JBS&G, Masterplan Remedial Action Plan, 13 Endeavour Road, Caringbah, NSW, report ref: 64957/153694 Rev 2, dated 11 October 2024. and in accordance with: National Environmental Protection (Assessment of Site Contamination) Measure (2011); State Environmental Planning Policy (Resilience and Hazards) (2021); Sutherland Shire Development Control Plan (2015); and SafeWork NSW Code of Practice: How to safely remove asbestos (2022); The 	<p>Specifying that works must be completed in accordance with 'preferred remedial option no.1' provided in the Remedial Action Plan unnecessarily impedes the application of the RAP in a manner consistent with EPA Guidelines and Planning Guidelines, which require inclusion of contingencies. As such, condition 65 should refer to remediation being completed in accordance with the RAP in its entirety.</p> <p>JBS&G note that the current RAP outlines appropriate triggers and validation requirements that would allow for the off-site disposal of material in accordance with EPA made and approved guidelines. No revision to the RAP would be considered warranted if this option were to be implemented.</p> <p>Stipulating the requirements for a Site Auditor to assess any variations to the RAP is conservative, noting Council are responsible for endorsing the current document and noting that the final</p>

Draft Condition	Council Response	Proposed Amendment	Justification
<p>removal and remediation must be undertaken under the supervision of the supervising environmental consultant.</p> <p>Note: A NSW EPA Accredited Site Auditor must be notified of and endorse any variations to the Remedial Action Plan (RAP), prior to the variations being implemented.</p>		<p>removal and remediation must be undertaken under the supervision of the supervising environmental consultant.</p> <p>Note: A NSW EPA Accredited Site Auditor must be notified of and endorse any variations to the Remedial Action Plan (RAP) shall be notified to and approved by the Sutherland Shire Council Environmental Science Assessment Officer, prior to the variations being implemented.</p>	<p>Validation Report must be prepared to Councils satisfaction. JBS&G note that engaging an Auditor during works may result in unnecessary delays to the project, and would likely result in the Auditor being required to prepare a Site Audit Report and Site Audit Statement. It is proposed to amend the condition with a reference to a requirement for notification and approval to Council should variations to the RAP be proposed.</p>
<p>68. Overhead Powerlines</p> <p>There are existing overhead 132kv transmission lines and Tower 49 (CR-9126). Access is to be maintained for the current tower, with Tower 49 to be replaced with two steel poles.</p> <p>Condition reason: Required by Ausgrid</p>	N/A	<p>68. Overhead Powerlines</p> <p>There are existing overhead 132kv transmission lines and Tower 49 (CR-9126). Access is to be maintained for the current tower, with Tower 49 to be replaced with two steel poles in the future.</p> <p>Condition reason: Required by Ausgrid</p>	<p>To ensure alignment between Draft Conditions and Ausgrid exact referral wording. "In the future" clarifies that Ausgrid, not Aliro, will be responsible for replacing the Tower 49 with two steel poles in the future.</p> <p>In any case, the proposed development maintains access to Tower 49.</p>
<p>Before Issue of an Occupation Certificate</p> <p><i>Where "Before issue of an occupation certificate" is stated in the Draft Conditions, to remove ambiguity, we believe that the wording should be replaced with "Before issue of the relevant occupation certificate". This is to reflect the proposed staging of development and separate OC's for each stage, which Council supports. See Attachment A which marks-up the affected conditions – Conditions 77, 79, 83, 85, 86, 87, 88, 91, 98, 117, 121</i></p>			
<p>77. Completion of landscape and tree works</p> <p>Before the issue of an occupation certificate, the principal certifier must be satisfied all landscape and tree-works have been completed in accordance with approved plans and documents and any relevant conditions of this consent.</p> <p>Condition reason: To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s).</p>	<p>The staging plan is not clear. Applicant would need to define each section of landscaping in the first instance and then deliver in stages. The condition could then be tied to the stages.</p>	<p>77. Completion of landscape and tree works</p> <p>Before the issue of the an occupation certificate for each building stage, the principal certifier must be satisfied all landscape and tree-works for that building stage have been completed in accordance with approved plans and documents and any relevant conditions of this consent and staging plan.</p> <p>Condition reason: To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s).</p>	<p>The condition as originally drafted would mean that landscaping needs to be completed before a building is completed which is impractical. Council agree that buildings can be built in stages and any order. For instance, it would not make sense for the entire landscaping to be completed prior to occupation of only Building 3.</p> <p>Landscaping is to be constructed in a staged manner in accordance with the Amended Preliminary Staging Plan (Attachment C). staging plan which has been amended to show the extent of landscaping attached to each building stage.</p>

Draft Condition	Council Response	Proposed Amendment	Justification
<p>78. Works-as-executed plans and any other documentary evidence</p> <p>Works-as-executed plans and associated certifications, compliance certificates and any other evidence confirming the following completed works must be submitted to the satisfaction of the principal certifier at the following points:</p> <p>a) For Phase 1:</p> <p>Prior to the issue of the Occupation Certificate for this stage:</p> <ul style="list-style-type: none"> • The trunk stormwater drainage system, stormwater treatment ponds and storage systems required in Phase 1 • Finished levels of all bulk fill placed upon the lot for phase 1; and • A copy of the plans/ certification must be provided to council and the PCA with the occupation certificate. <p>b) For each following Phase/ stage:</p> <p>Prior to the issue of the Occupation Certificate for this respective stage/s:</p> <ul style="list-style-type: none"> • Finished floor levels of the buildings relevant to the phase. • All parking bays, bays numbered, allocation to specific tenancies detailed, and visitor bays. • A copy of the plans/ certification and the carpark layout must be provided to council and the PCA with the occupation certificate. <p>Condition reason: To confirm the location/ position of works conform with the approval.</p>	<p>The intent of a) is to ensure that the WAE plans and certification for drainage and bulk earthworks are provided for prior to commencement of pavement and building works. This can be amended subject to detailed construction staging details as identified above in notes against Condition 2.</p>	<p>78. Works-as-executed plans and any other documentary evidence</p> <p>Works-as-executed plans and associated certifications, compliance certificates and any other evidence confirming the following completed works must be submitted to the satisfaction of the principal certifier prior to the issue of an occupation certificate for each stage, including: at the following points:</p> <ul style="list-style-type: none"> • The trunk stormwater drainage system, stormwater treatment ponds and storage systems • Finished levels of all bulk fill placed upon the lot for phase 1; • Finished floor levels of the buildings relevant to the stage phase. • All parking bays, bays numbered, allocation to specific tenancies detailed, and visitor bays. <p>A copy of the plans/ certification and the carpark layout must be provided to council and the PCA with the occupation certificate.</p> <p>a) For Phase 1:</p> <p>Prior to the issue of the Occupation Certificate for this stage:</p> <ul style="list-style-type: none"> • The trunk stormwater drainage system, stormwater treatment ponds and storage systems • Finished levels of all bulk fill placed upon the lot for phase 1; and • A copy of the plans/ certification must be provided to council and the PCA with the occupation certificate. <p>b) For each following Phase/ stage:</p>	<p>Drafting does not align with Condition 2. Moreover, an occupation certificate cannot be obtained for the trunk stormwater drainage system, stormwater treatment ponds and storage systems, and finished levels of all bulk fill.</p> <p>Alternative workable wording is proposed which aligns with proposed amended phasing in the amended Condition 2 while still retaining the intent of the original draft condition to ensure that the trunk drainage system is installed.</p>

Draft Condition	Council Response	Proposed Amendment	Justification
		<p>b) Prior to the Occupation Certificate for this the respective stage/s in Phase 5:</p> <ul style="list-style-type: none"> Finished floor levels of the buildings relevant to the phase. All parking bays, bays numbered, allocation to specific tenancies detailed, and visitor bays. A copy of the plans/ certification and the carpark layout must be provided to council and the PCA with the occupation certificate. <p>Condition reason: To confirm the location/ position of works conform with the approval.</p>	
<p>90. Completion of Vegetation Management Plan work</p> <p>The following actions are to be finalised to the satisfaction of Sutherland Shire Council, Manager Environmental Science and the principal certifier, prior to the release of any occupation certificate related to the use of buildings within the development.</p> <p>...</p>	<p>No concern is raised with this amendment to tie the work to Buildings 3 and 4.</p>	<p>90. Completion of Vegetation Management Plan work</p> <p>The following actions are to be finalised to the satisfaction of Sutherland Shire Council, Manager Environmental Science and the principal certifier, prior to the release of <i>the later of the any</i> occupation certificates <i>for Buildings 3 and 4 related to the use of buildings within the development.</i></p> <p>...</p>	<p>The Vegetation Management Plan work is to be constructed concurrently with the construction of Buildings 3 and 4. It will only be complete when both Buildings 3 and 4 are complete. Therefore, it is proposed to link this condition with the later OC of Buildings 3 and 4.</p>
Occupation and Ongoing Use			
<p>113. Prevention of air pollution</p> <p>To ensure contaminants are not released into the atmosphere from the site; the use of buildings, plant, equipment and fittings installed therein, must be operated to meet the requirements of the following:</p> <ul style="list-style-type: none"> Environment Protection Licence No. 11329, administered by the NSW EPA under the Protection of the Environment Operations Act 1997. 	<p>No concern is raised with the deletion which relates to an unrelated EPA licence.</p>	<p>113. Prevention of air pollution</p> <p>To ensure contaminants are not released into the atmosphere from the site; the use of buildings, plant, equipment and fittings installed therein, must be operated to meet the requirements of the following:</p> <ul style="list-style-type: none"> Environment Protection Licence No. 11329, administered by the NSW EPA under the Protection of the Environment Operations Act 1997. 	<p>The site is not subject to Environment Protection Licence No. 11329 (which applies to Marina Bayside Pty Ltd at 1 Mangrove Lane, Taren Point).</p>

Draft Condition	Council Response	Proposed Amendment	Justification
<ul style="list-style-type: none"> The Protection of the Environment Operations Act 1997 ... 		The Protection of the Environment Operations Act 1997	
<p>114. Car parking allocation</p> <p>Car parking must be allocated to individual tenancies/building uses on the following basis:</p> <p>a) With respect to the proposed uses and associated floor areas, car parking must be provided in compliance with the parking generation rates specified in Chapter 36 of Sutherland Shire Development Control Plan 2015 (as amended) and the RTA Guide to Traffic Generating Development 2002.</p> <p>b) The ten surplus parking bays must be evenly distributed through the development and be designated as common property in any future strata plan.</p> <p>c) With respect to future uses and associated floor areas, car parking must be provided in compliance with the parking generation rates specified in Chapter 36 of Sutherland Shire Development Control Plan 2015 (as amended) or relevant Carparking Development Control Plan in force at the time and the RTA Guide to Traffic Generating Development 2002.</p>	N/A	<p>114. Car parking allocation</p> <p>Car parking must be allocated to individual tenancies/building uses on the following basis:</p> <p>a) With respect to the proposed uses and associated floor areas, car parking must be provided in compliance with the parking generation rates specified in Chapter 36 of Sutherland Shire Development Control Plan 2015 (as amended) and the RTA Guide to Traffic Generating Development 2002.</p> <p>b) The ten surplus parking bays must be evenly distributed through the development and be designated as common property in any future strata plan.</p> <p>c) With respect to future uses and associated floor areas, car parking must be provided in compliance with the parking generation rates specified in Chapter 36 of Sutherland Shire Development Control Plan 2015 (as amended) or relevant Carparking Development Control Plan in force at the time and the RTA Guide to Traffic Generating Development 2002.</p>	Disregarding the parking allocated to Building 1 as required by DA21/0777, and the 12 spaces for Building 2 which reflect an existing lease (surplus of five spaces), there is only one surplus car parking space. Accordingly, Condition 114(b) is not relevant.
<p>118. Industrial activities outside the building</p> <p>There must be no industrial activities, storage or depositing of any goods or maintenance to any machinery conducted external to the building.</p> <p>Condition reason: To protect the amenity of the surrounding environment.</p>	The main intent of this condition is to limit noise impacts, visual impacts, and the loss of parking spaces to industrial activity and storage. This is a standard condition which is applied to industrial estates. Council staff are open to consideration of alternative wording which achieves the intent of this condition.	<p>118. Industrial activities outside the building</p> <p><i>Waste bins must be stored in designated garbage/ trade refuse areas, which must be kept tidy at all times. Waste and waste bins must not be stored or allowed to overflow in parking or landscaping areas.</i></p> <p>There must be no industrial activities, storage or depositing of any goods or</p>	<p>The condition as originally drafted is illogical and unworkable for an industrial estate that has hardstand spaces external to the buildings. For example, this condition would render hardstand spaces under awnings unusable for any unloading or loading of goods.</p> <p>All relevant impacts such as air quality, noise and visual impacts have been assessed on the assumption that hardstand spaces outside buildings will be used and determined to be acceptable.</p>

Draft Condition	Council Response	Proposed Amendment	Justification
		<p>maintenance to any machinery conducted external to the building.</p> <p>Condition reason: To protect the amenity of the surrounding environment.</p>	<p>This standard condition does not reflect the precinct nature of this site, within which all hardstand areas for loading/unloading will be internal-facing.</p> <p>Therefore, the only remaining intent of this condition is to ensure no loss of parking arising from storage of waste on parking spaces. This is addressed in the proposed condition.</p>
<p>119. Operating hours</p> <p>During ongoing use of the premises, the hours of operation of the light industrial, warehouse and distribution, industrial retail outlet, and commercial uses (excluding the café) are restricted to:</p> <ul style="list-style-type: none"> Monday 12pm to 12pm Tuesday 12pm to 12pm Wednesday 12pm to 12pm Thursday 12pm to 12pm Friday 12pm to 12pm Saturday 12pm to 12pm Sunday 12pm to 12pm 	<p>No objection is raised to the rewording of this condition.</p>	<p>119. Operating hours</p> <p>During ongoing use of the premises, the hours of operation of the light industrial, warehouse and distribution, industrial retail outlet, and commercial uses (excluding the café) are restricted to: 24 hours, 7 days per week.</p>	<p>Existing draft condition is unclear and does not make sense. Council's Assessment Report clearly states 24 hours, 7 days a week operation is supported and approved.</p> <p>Clear wording proposed.</p>
<p>120. Easements</p> <p>Easements must be created over the following:</p> <ol style="list-style-type: none"> The area required for on-site detention. The area required for stormwater treatment ponds/cartridges. The 2.5m wide bicycle and pedestrian shared pathway which traverses through the site between Captain Cook Drive and the public boardwalk adjacent to Woollooware Bay. This pathway is to be an unrestricted public accessway. 	<p>This was imposed to satisfy the draft Bicycle Network Map dated: Aug 2022. See snip below, which identified a shared pathway traversing the south-eastern boundary. A copy of the network plan is available on Council's website. Council officers are willing to reconsider this imposition in view that the status of this document is in draft form only.</p>	<p>120. Easements</p> <p>Easements must be created over the following:</p> <ol style="list-style-type: none"> The area required for on-site detention. The area required for stormwater treatment ponds/cartridges. The 2.5m wide bicycle and pedestrian shared pathway which traverses through the site between Captain Cook Drive and the public boardwalk adjacent to Woollooware Bay. This pathway is to be an unrestricted public accessway. 	<p>Condition 120(c) is an unreasonable and unacceptable condition which has not been raised during Assessment. Creation of an easement raises numerous issues and unreasonable obligations on Aliro including liability, onerous design specifications, particularly because the pathway will traverse operational areas within the site.</p> <p>Publicly accessible linkages have already been provided by Aliro between Captain Cook Drive and the foreshore via Endeavour Road under DA21/0777.</p> <p>Based on Council feedback that this condition relates to a Bicycle Network Map from August</p>

Draft Condition	Council Response	Proposed Amendment	Justification
<p>The easements and terms thereof must be created under the provisions of s.88B of the Conveyancing Act, 1919.</p> <p>Condition reason: Ensure suitable easements are created for access, drainage and services</p>		<p>The easements and terms thereof must be created under the provisions of s.88B of the Conveyancing Act, 1919.</p> <p>Condition reason: Ensure suitable easements are created for access, drainage and services</p>	<p>2022 that is still in draft and that Council are willing to reconsider imposition of this condition, we believe that this condition is currently unwarranted and should be deleted.</p>
<p>121. Completion of engineering works</p> <p>A certification from an appropriately qualified engineer to the effect that the completed stormwater infrastructure, stormwater treatment device and flooding works required by this consent have been completed to their satisfaction, in accordance with the development consent and any relevant Australian Standards.</p> <p>A copy of this certification must accompany any occupation certificate application.</p> <p>Condition reason: Ensure engineering works are constructed in accordance with the approved plans.</p>	<p>Council officers are willing to accept amendments to this condition, however 'the relevant' OC needs to be reworded to a specific and agreed stage(s).</p>	<p>121. Completion of engineering works</p> <p>A certification from an appropriately qualified engineer to the effect that the completed stormwater infrastructure, stormwater treatment device and flooding works required by this consent have been completed to their satisfaction, in accordance with the development consent and any relevant Australian Standards.</p> <p>A copy of this certification must accompany any the occupation certificate application for each stage.</p> <p>Condition reason: Ensure engineering works are constructed in accordance with the approved plans.</p>	<p>As the development will be staged, engineering works can only be certified after each stage in Phase 5 is complete. The proposed amendment will allow the relevant engineering works to be certified prior to the issue of the OC for each building stage, no matter which order those stages occur in.</p>

3.0 Conclusion

We trust that this letter and its attachments adequately resolve all outstanding matters and will allow the DA to be determined by the SSPP without any deferred commencement conditions (with the exception of any conditions relating to execution of a VPA), and with conditions that facilitate workable staging.

Please do not hesitate to contact the undersigned should you wish to clarify or discuss.

Yours sincerely,



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