

**JOINT REGIONAL PLANNING PANEL
(Region)**

JRPP No	2011SYE081
DA Number	DA2011/0892
Local Government Area	Warringah Council
Proposed Development	Demolition works and construction of a Medical Centre.
Street Address	Lots 13, 14,15, and 16 - Sec 2 within DP 1521, 10-12 Dale Street, Brookvale.
Applicant/Owner	Tim Shellshear & Associates Architects Pty Ltd
Number of Submissions	Two
Recommendation	Approval with Conditions
Report by	David Kerr, Acting Deputy General Manager, Strategic and Development Services

DEVELOPMENT ASSESSMENT REPORT

Assessment Officers:	Shaylin Moodliar & Lashta Haidari
Address / Property	Lots 13, 14,15, and 16 - Sec 2 within DP 1521, 10-12 Dale Street, Brookvale.
Description:	Demolition works and construction of a Medical Centre.
Development Application No:	DA2011/0892
Application Lodged:	14 July 2011
Plans Reference:	512.00.00-512.00.02, 512.10.01-512.10.04, 512.20.01-512.20.02 & 512.30.01 (Issue A-dated 14/07/2011) and prepared by Tim Shellshear & Associates Architects, LP01 & LP02 (Revision A-dated 13/07/2011) and prepared by Leuchars Partners, D01-D04 (Revision A-dated 13/07/2011) and prepared by Northern Beaches Consulting Engineers Pty Ltd.
Amended Plans:	Yes –Architectural plans relating to freeboard levels Stormwater Plans and Landscape Plan relating to the retention of street trees.
Applicant:	Tim Shellshear & Associates Architects Pty Ltd
Owner:	Jeroti Pty Ltd
Locality:	G10 Brookvale Industrial West
Category:	Category 3 – Medical Centres
DWLEP 2009 Permissible or Prohibited Land use:	Prohibited within the IN1 General Industrial zone.
Variations to Controls:	Yes - Building Height
Referred to WDAP:	Yes – Clause 15 of the WLEP 2000 requires an independent public hearing.
Referred to JRPP:	Yes – Capital investment value over \$10 million.
Land and Environment Court (LEC) Action:	No
SUMMARY	
Submissions:	Two (2) submissions were received as a result of the notification process.
Submission Issues:	<ul style="list-style-type: none">• Inconsistency with the Desired Future Character Statement for the G10 Brookvale Industrial West Locality;• Traffic and Parking;• Flooding issues; and• Prohibited Development under the Draft Warringah Local Environmental Plan 2009;• Draft Subregional Strategy

Assessment Issues:

- Desired Future Character Statement for the G10 Brookvale Industrial West Locality;
- Built form control relating to Building Height;
- General Principles relating to Clause 47- Flood Affected Land;
- Schedule 15 –Statement of Environmental of Effects
- Draft Warringah Local Environment Plan 2009; and
- Public Submissions

Recommendation:

Approval subject to conditions

Attachments:

- A. Site and Elevation Plans
- B. WDAP Minutes 20111207
- C. Memo to WDAP - Height

LOCALITY PLAN (not to scale)**Subject Site:**

Lots 13, 14, 15, and 16 - Sec 2 within DP 1521, 10-12 Dale Street, Brookvale

Public Exhibition:

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan. As a result, the application was notified to 33 adjoining land owners and occupiers for a period of 21 calendar days commencing on 29 July 2011 and being finalised on 23 August 2011. Furthermore, the application has been advertised within the Manly Daily on Saturday 30 July 2011 and a notice was placed upon

the site.

A total of two (2) submissions were received as a result of the notification/advertising process.

SITE DESCRIPTION

The land which is the subject of this application is located on the western side of Dale Street and comprises the following parcels of land:

LOT/DP	Street Address	Existing built form structures	Site Area
Lot 13, Sec 2, DP 1521	12 Dale Street	One-storey industrial workshop building	1011.6m ²
Lot 14, Sec 2, DP 1521	10 Dale Street	Two-storey factory building	1011.6m ²
Lot 15, Sec 2, DP 1521	10 Dale Street	Storage shed with an at-grade car park	1011.6m ²
Lot 16, Sec 2, DP 1521	10 Dale Street	Vacant land	1011.6m ²
			4046.4 m²

As indicated in the above table, the proposed development will occupy (4) four allotments of land which will have a combined site area of 4046.4m². The combined site is rectangular in shape with a combined allotment frontage to Dale Street of 80.46m and a northern and southern side boundary of 50.29 metres. The site is generally flat with an approximate 1.7m fall along Dale Street towards the south of the subject site.

The adjoining developments to the north and south of the site are generally single or two storey industrial buildings. To the east of the site on the opposite side of Dale Street is a single-storey Salvation Army store and one-and-two storey light industrial building units with automotive workshops and vehicle spare parts outlets. To the west of the site lies a single storey warehouse and light industrial building and further west comprises a mix of light industrial, retail and commercial office uses.

The surrounding development in the locality includes a mix of light industry, warehouse, distribution, commercial and retail uses. Further south of the subject site is Warringah Mall shopping centre complex.

The closest residential properties are along Old Pittwater Road approximately 220 metres north of the subject site.

RELEVANT BACKGROUND

Previous Development Application/s

A search of Council's record reveals that one previous consent pertaining to Lot 14, Sec 2, and DP 1521 of the subject site as follows:

Consent No	Description of works	Determination Date
C390/61	Factory building	15 March 1961

No further Development Applications have been lodged since that time.

Background to the Proposal

The applicant within the Statement Environmental of Effect (SEE) submitted with the application provides the following in relation to the proposed development:

"The Brookvale House medical centre has been operating at the Warringah Mall since 1986. The Warringah Mall Development Control Plan (DCP) was adapted by Council in December 2009. The DCP sets out the planned expansion and upgrade of the shopping centre. The current medical centre site falls within the lands planned to be redeveloped for additional retail uses in accordance with the DCP. As such, Primary Health Care is required to relocate as their current site will be subject to re-development in the foreseeable future. After conducting an extensive search of land in the locality, the site at 10-12 Dale Street was selected because it is considered to be highly appropriate given its accessibility and close proximity to the existing medical centre location at Warringah Mall".

The Subject Application

The subject application was lodged on 14 July 2011. Following the assessment of the application, an issues letter was sent to the applicant on 25 August 2011 which identified the following issues with the application:

- **Accessibility detail** - *To provide further information on the internal accessibility between the ground and first floor levels in accordance with Clause 69 of WLEP 2000.*
- **A Traffic Generation and intersection operational model** - *To provide further traffic modelling at the intersection of Dale Street and Cross Street and also at the intersection of Dale Street and Old Pittwater Road.*
- **A Flood Study Report** – *To determine the 1 in 100 year ARI extent and water level within the subject site and adjoining properties for both the existing condition and post development conditions.*
- **A Landscape Plan** – *To provide detail showing the preservation of four (4) street trees.*

The applicant was given seven (7) days to respond to Council's concerns.

The applicant responded to Council's letter on 2 September 2011 and 31 October 2011 by providing additional information, which has addressed the issues raised by Council.

Proposed Development

The applicant seeks consent for demolition works and the construction of a Medical centre with at grade and the basement carparking and associated landscaping works.

The specifics of the proposal are as follows:

Basement level

- Forty-one (41) staff car parking spaces (including one accessible space);
- Lift access lobby to ground floor level;
- 2 x fire egress; and
- Building services.

Ground floor level

- Day surgery (occupying approximately 485m² GFA) with access from Dale Street;
- Eighty-nine (89) car parking spaces (including 3 accessible spaces and 1 bicycle parking);
- Main entrance foyer, lift and stairwell;
- Waste storage area and vehicles delivery bay; and
- 2 x fire egress.

First floor level

- Dental clinic with four (4) surgical rooms, dental laboratory, sterile room and reception
- Physiotherapy clinic with five (5) treatment rooms;
- Twenty one (21) consulting rooms for general practitioners;
- Chemist;
- Staff room with WC;
- Public WC (accessible);
- Radiology clinic;
- Eye specialist clinic;
- General treatment rooms;
- Administration area and four (4) waiting room areas.

Tree Removal

The proposal seeks the removal of two (2) street trees to accommodate access for the proposed development.

Hours of operation

The Statement of Environmental Effects (SEE) submitted with the application has indicated that the proposed hours of operation will be:

- **Day Surgery** Monday to Sunday – 7.00am to 8.00pm (Ground Floor level)
- **Other** Monday to Sunday – 7.00am to 10.00pm (First Floor level)

Staff

The SEE submitted with the application notes that that the Medical centre will employ approximately 40 staff (which includes 2 eye specialists, 2 dentists, 7 support staff including nurses with 2 reception staff, 1 physiotherapist, 1 health care professional, 1 radiographer and 10 admin/clerical) on a full time basis during Monday – Friday, with specialists visiting on a regular basis 7 days a week.

Signage

The applicant does not seek consent for signage as part of this application. The signage shown on the architectural plans is for an indicative purpose only.

STATUTORY CONTROLS

- a) Environmental Planning and Assessment Act 1979;
- b) Environmental Planning and Assessment Regulation 2000;
- c) Local Government Act 1993;
- d) SEPP 55 – Remediation of Land;
- e) SEPP (Infrastructure) 2007;
- f) Warringah Local Environment Plan 2000;
- g) Warringah Section 94A Development Contributions Plan;
- h) Draft Warringah Local Environment Plan 2009 (DWLEP 2009);
- i) Warringah Development Control Plan.

REFERRALS

External Referrals

Referral Department	Comments Received
Ausgrid (formerly known Energy Australia)	<p>The application was also referred to Ausgrid in accordance with Clause 45 of State Environmental Planning Policy (Infrastructure) 2007.</p> <p>The specific comments received from Ausgrid have been addressed in detail under the heading "SEPP (infrastructure) 2007" of this report. In summary, Ausgrid has raised no objection to the proposed development subject to conditions, which have been incorporated within the recommendation of this report.</p>

Internal Referrals

Referral Department	Comments Received
Urban Design	<p>Council's Strategic Planning section has reviewed the proposal and has provided the following comments:</p> <p>Positive aspects</p> <p>Articulated building forms. Facades are composed with an appropriate scale, rhythm and proportion to the light industrial character of the area.</p> <p>The streetscape quality of Dale Street will be improved by the new landscaping treatment and the landscaped buffer at the rear of the property.</p> <p>The proposal is consistent with the existing urban character of the surrounding area.</p> <p>Negative Aspects</p> <p>Medical centre falls under 'Category 3' uses which have been translated into prohibited uses under the draft LEP 2009.</p> <p>Conclusion</p> <p>The initial analysis demonstrates that the proposed development complies with the current WLEP 2000 controls but is prohibited in terms of use in the draft WLEP 2009 which is currently under consideration by the Department of Planning and Infrastructure. In terms of urban design, the development can be supported in its current form."</p> <p>Comment: <i>The concerns raised by Council's Urban Designer with regards to Draft WLEP have been addressed under the Draft WLEP section of this report.</i></p>
Traffic Engineer	<p>Council's Traffic Engineer has reviewed the proposal and provided the following comments:</p> <p>"The applicant has provided traffic generation figures based on observations of similar facilities as part of the submitted traffic report. The traffic generation stipulated in the applicant's traffic report have been accepted by Council as relevant to the proposed development and the assessment is based on those figures.</p> <p>As stipulated the applicant has demonstrated by the use of traffic modelling software (based on the traffic generation from the site) that there will not be a significant adverse effect on the traffic flow in the area. The traffic assessment at this location is based on existing conditions. It is not reasonable to require an applicant to acquire traffic data from Warringah Mall to apply for a development in this area.</p> <p>Council is aware that the headroom in the basement car park is insufficient for use by service vehicles, however all service bays for this development are located on the ground floor. As service vehicles will not be accessing this area there is no requirement for 4.5m of headroom in the basement car park.</p> <p>The applicant has demonstrated by means of intersection modelling software that there will not be a significant adverse impact on the intersections of Old Pittwater Road and Dale Street and Cross Street and Dale Street as a result of</p>

Referral Department	Comments Received
	<p>this development.”</p> <p>Conditions recommended</p> <p>There are no objections to this development on traffic and parking grounds subject to the following conditions”.</p> <p>Comment: <i>The conditions as recommended by Council's Traffic Engineer have been incorporated within the recommendation of this report.</i></p>
Development Engineer	Council's Development Engineer has reviewed the proposal and has raised no objections to the proposed development subject to conditions, which have been incorporated within the recommendation of this report.
Waste Services Officer	Council's Waste Services Officer has reviewed the proposal and has raised no objections to the proposed development.
Natural Environment Unit (NEU)	Council's NEU has reviewed the proposal and has raised no objection to the proposed development. NEU has noted that the threatened species records that exist on site are historic and no longer applicable.
Landscape officer	Council's Landscape Officer has reviewed the proposal and raised no objections subject to conditions, which have been incorporated within the recommendation of this report.
Environmental Health & Protection	Council's Environmental Health & Protection section has reviewed the proposal and raised no objections subject to conditions, which have been incorporated within the recommendation of this report.
Building Assessment & Compliance	Council's Building Assessment and Compliance Officer has reviewed the proposal and raised no objections subject to conditions, which have been incorporated within the recommendation of this report.

NOTIFICATION & SUBMISSIONS RECEIVED

The subject application has been publicly exhibited in accordance with the EPA Regulation 2000, Warringah Local Environment Plan 2000 and Warringah Development Control Plan. As a result, the application was notified to 33 adjoining land owners and occupiers (for a period of 21 calendar days commencing on 29 July 2011 and being finalised on 23 August 2011, furthermore, the application has been advertised within the Manly Daily on Saturday 30 July 2011 and a notice was placed upon the site.

The plans have been amended since lodgment in terms of the floor levels of the premises. The applicant has indicated that the amendment has arisen due to the recommendations of the amended flood risk assessment for the premises. The amendments to the architectural and engineering plans only relate to the floor levels, without increasing the overall building height. The revised plans were not renotified in accordance with Clause 2.12 of the Warringah Development Control Plan, as it was considered that the amendments constituted minor changes and do not increase the environmental impacts of the proposal from the original notified proposal.

As a result of the public notification process, two (2) submissions have been received from the following:

Submissions	Address
S. E. Webb	24 Green Street, Brookvale
AMP Capital & Ingham Planning	On behalf of AMP Warringah Mall Pty Ltd and Westfield Management Ltd at 145 Old Pittwater Road Brookvale.

The following issues were raised in the submissions received to this development. A comment on each issue is provided.

Desired Future Character

Concern is raised that the development is inconsistent with the Desired Future Character of the G10 Locality and inappropriate development given the industrial character of the locality. The submission notes that *“given the large scale of the proposed medical centre, it is not a development that could be described as being “ancillary service” to the Brookvale West industrial and is therefore inconsistent with the DFC statement for the G10 locality”*.

Comment: An assessment of the proposed development against the Desired Future Character Statements for the G10 Brookvale Industrial West locality is provided in this report. In summary, the proposed development has been found to be consistent with the Desired Future Character Statement for the G10 locality. Accordingly, the concerns raised do not warrant the refusal of the application.

Traffic Generation

Concern has been raised that the proposed development will generate an ancillary flow of traffic from the car park and general increased usage to the area which is claimed to be already at optimum capacity. The following specific concerns were raised in relation to Traffic impacts:

- Afternoon peak hour traffic generation estimates are too low as a medical centre of the scale proposed would generate some 100 vehicles per hour (two way) more than estimated in the Applicant's traffic report;
- Traffic modelling for the approved expansion of Warringah Mall has taken into account future industrial development in the Brookvale industrial area and has identified that Cross Street and Old Pittwater Road were critical elements in the road network were sensitive to minor changes in traffic flow. Higher generating traffic development such as the proposed large medical centre have not been taken into account in the modelling and may have an adverse cumulative traffic impact, therefore assessment of cumulative effects of developments that generate more traffic than industrial development is necessary.
- The basement level car park provides inadequate height clearance for an 8.8m long medium rigid truck to access the site.

Comment: Council's Traffic Engineer has reviewed the proposal and raised no objections regarding the impact of the development on local intersections or the increase in traffic generated by the proposal.

With regards to the other concern raised in the submission, the following comments are provided by Council's Traffic Engineer:

- The applicant has provided traffic generation figures based on observations of similar facilities as part of the submitted traffic report. The traffic generation stipulated in the applicant's traffic report have been accepted by Council as relevant to the proposed development and the assessment is based on those figures.
- As stipulated below the applicant has demonstrated by the use of traffic modelling software (based on the traffic generation from the site) that there will not be a significant adverse effect on the traffic flow in the area.
- The traffic assessment at this location is based on existing conditions. It is not reasonable to require an applicant to acquire traffic data from Warringah Mall to apply for a development in this area.
- Council is aware that the headroom in the basement carpark is insufficient for use by service vehicles, however all service bays for this development are located on the ground floor. As service vehicles will not be accessing this area there is no requirement for 4.5m of headroom in the basement carpark.

For the above reasons, the concerns raised in relation to the traffic generation is noted but not considered to warrant the refusal of the application.

Draft Warringah LEP 2009

Concern has been raised that the proposed development is identified as “Prohibited Development” under the provision of DWLEP 2009. The submission notes that *“as the DA was submitted after the exhibition of this DLEP 2009 (as exhibited) and therefore the gazettal of the DLEP is imminent and certain, the DLEP should be given determining weight and the DA be refused”*.

Comment: This issue has been discussed in detail under the heading of ‘Draft WLEP’ of this report. In summary, the relevance of a draft LEP, and the weight to be given to it, relies on the facts of the particular case and circumstances which have been highlighted by numerous Land and Environmental Court cases (as detailed in the latter section of this report) given that the proposed development is found to be consistent with aims and objectives of the IN1 – General Industrial Zone, refusal of the application cannot be justified based on the fact that the proposed development is identified has a prohibited land use.

Accordingly, the concern raised is noted but not considered to warrant the refusal of the application.

Draft North East Subregional Strategy

Concerns has been raised that the proposed inconsistent with strategy. The submission notes that *“The Draft North East Subregional Strategy seeks to encourage commercial and retail uses to be located within commercial centres, well served with public transport and reduces the need to rely on private cars for transport. The Draft strategy specifically notes that - concentrating a greater range of activities near each other means that it is easier for people to go about their daily activities”*.

Comment: The NSW Government’s Metropolitan Strategy has identified Brookvale as the ‘Major Centre’ for the North East Subregion of Sydney (comprised of Manly, Warringah and Pittwater Local Government Areas) and aims to provide an alternate range of employment and service functions.

It is considered that the proposed development is consistent with one of the key directions of the Draft Strategy that is to encourage employment growth and to ensure an adequate supply of employment land is provided in the Major centre. The proposed development will employ 40 people, which is consistent with a key direction of the Draft Strategy and therefore the concern raised does not warrant the refusal of the application.

Downstream Flood impacts

The submission raises concern that the proposed development had not adequately addressed the flood prone land controls which will affect downstream property owners.

Comment: This issue has been addressed in detail under Clause 47 – Flood affected land of this report. In summary, Council’s Development Engineer has reviewed the proposed development and the Flood Risk Report prepared by Cardno and has raised no objection to the proposal on flooding grounds subject to conditions and therefore the concern raised in this regard does not warrant the refusal of the application.

Dilapidation Report

A submission received raises concerns that damage to the adjoining property could occur during the construction phase of the proposed development.

Comment: conditions have been included within the recommendation for demolition and construction works to be undertaken in accordance with the relevant legislation. Accordingly, the concern raised in this regard has been addressed by way of a condition.

LAND AND ENVIRONMENT COURT

No court action has been commenced in relation to the current application.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on "State Environmental Planning Policy No. 55 – Remediation of Land", 'State Environmental Planning Policy (Infrastructure) 2007', and 'Warringah Local Environmental Plan 2000' in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	See discussion on "Draft Environmental Planning Instruments" in this report.
Section 79C (1) (a)(iii) – Provisions of any development control plan	The application was advertised and notified in accordance with the requirements of Warringah Development Control Plan.
Section 79C (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the regulations	<p>Clause 7 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia. Accordingly, appropriate conditions of consent are recommended for imposition should this application be considered suitable for approval.</p> <p>Clause 92 of the EPA Regulations 2000 requires the consent authority to consider AS 2601 - 1991: <i>The Demolition of Structures</i>. This matter has been addressed via a condition of consent, should the application be considered for approval.</p>
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	<p>(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the General Principles of Development Control in this report and are found to be acceptable and reasonable.</p> <p>(ii) The proposal will not have a detrimental social impact in the locality considering the character of the proposal as it provides a health facility within the local area.</p> <p>(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the proposed land use. In this regard, the proposal will provide additional health facilities in the local area which will benefit the Locality/ community.</p>
Section 79C (1) (c) – the suitability of the site for the development	<p>The site does not contain any significant constraints and therefore, the site is considered suitable for the use proposed.</p> <p>In transport and accessibility terms, the site is located in close proximity to public transport (bus) along Pittwater Road, thus lessening the dependence on private motor vehicles and providing choice in mode of transport.</p>
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	The public submissions received in response to the development are addressed under 'Notification & Submissions Received' within this report.
Section 79C (1) (e) – the public interest	Pursuant to case law of <i>Ex Gratia P/L v Dungog Council</i> (NSWLEC 148), the question that needs to be answered is "Whether the public advantages of the proposed development outweigh the public disadvantages of the proposed development"? For the reasons stated in this report, it is apparent that there is public benefit to be gained from the operation of this facility. There are no unreasonable impacts that will result from the operation of the proposed development, therefore, the finding is that the benefits outweigh any disadvantage and as such the

Section 79C 'Matters for Consideration'	Comments
	<p>proposed development will have an overall public benefit.</p> <p>Additionally, the proposal satisfies the requirements of WLEP 2000, Draft WLEP 2009 and will have no detrimental effect on the public interest, subject to appropriate conditions being proposed.</p>

Draft Warringah Local Environmental Plan 2009 (DWLEP 2009)

The public exhibition of the Draft Warringah Local Environmental Plan 2009 (DWLEP 2009) commenced on 12 October 2009 and ended on 30 December 2009. The DWLEP 2009 was subsequently adopted by Council at its meeting on 8 June 2010. The DWLEP 2009 is therefore a mandatory matter for consideration under Section 79 (1) (a) (ii) of the Environmental Planning and Assessment Act, 1979 and weight must be given to it in the assessment of the subject application.

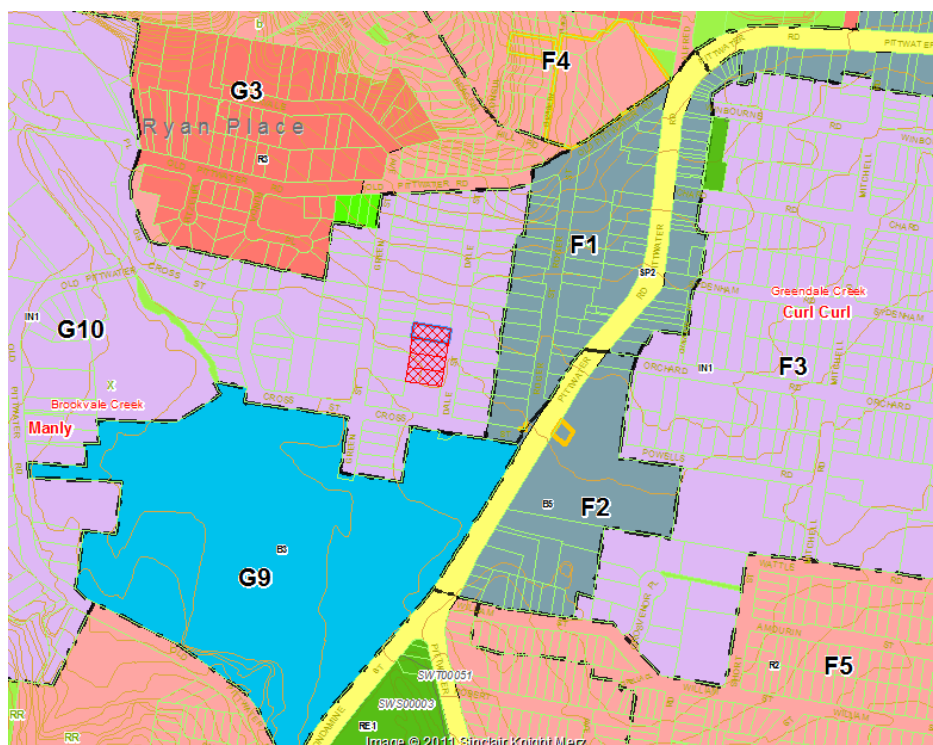
Definition

Proposed Land Use	Land use definition under WLEP 2000	Land use definition under DWLEP 2009
Medical Centre	Medical Centre	Health Services Facility

“Health services facility” means a building or place used as facility to provide medical, or other services relating to the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or treatment of injury to persons, and includes the following:

1. Day surgeries and medical centres,
2. Community health service facilities,
3. Health consulting rooms,
4. Facilities for the transport of patients, including helipads and ambulance facilities,
5. Hospitals.

Land Use Zone: IN1 General Industrial Land Use Zone (coloured light purple).



Permissible or Prohibited: Prohibited

Additional Permitted uses for particular land (Refer to Schedule 1): Not Applicable

The proposed development being defined as a “Health services facility” located within the IN1 zone will be a prohibited development under the provision DWLEP 2009.

The DWLEP 2009 is considered both imminent and certain and therefore must be taken into consideration. The relevance of a draft LEP, and the weight to be given to it, relies on the facts of the particular case and circumstances which have been highlighted by numerous Land and Environmental Court cases including *Mathers v North Sydney Council* [2000] NSWLEC 84; *Haywood and Bakker Pty Ltd v North Sydney Council* [2000] NSWLEC 138; *Blackmore Design Group Pty Ltd v North Sydney Council* [2001] NSWLEC 279; and *Trustees of the Sisters of the Good Samaritan v Warringah Council* [2011] NSWLEC 1181. In summary, the primary principles arising from the above cases are that the weight to be placed upon a draft LEP, when determining a development application, depends on:

1. The imminence of the Draft LEP and the degree of certainty that it will come into force;
2. The extent of conflict between proposed development and planning objectives contained in the Draft LEP; and
3. The existence and applicability of savings provisions in the Draft LEP.

Council’s Assessment

1. The imminence of the draft LEP and the degree of certainty that it will come into force

Comment: The DWLEP 2009 has completed the public exhibition process, has been adopted by Council and was subsequently forwarded to the Department of Planning for gazettal. In this regard, reference is made to the Land and Environment court case, *Trustees of the Sisters of the Good Samaritan v Warringah Council* [2011] NSWLEC 1181 where the judgement in Clause 61 summarises the weight to be given to a draft LEP, particularly in the circumstances of consideration against its immanency, certainty and consistency with the planning objectives of the zone.

61. If the weight to be given to the draft LEP is considered against its immanency, certainty and consistency with the expressed future planning objectives for the area, we are satisfied that the draft LEP should be given determinative weight.

Having regard to the above judgement, the plan is considered both imminent and certain. On this basis, the DWLEP 2009 is required to be given weight in the consideration under Section 79C of the EP & A Act, 1979.

2. The extent of conflict between the proposed development and the planning objectives contained in the draft LEP

IN1 – General Industrial

An assessment of the proposed development in relation to the objectives of the ‘IN1 – General Industrial’ is as follows:

a) To provide a wide range of industrial and warehouse land uses

Comment: The proposed development falls under the definition of ‘health services facilities’. It is considered that the proposed development will introduce an important facility with regards to health care needs for the current and future workforce in the locality.

Further, it is also important to note that the surrounding local context confirms that the locality as a whole contains a number of land uses such as a new office development, bulky goods retail and retail shops and other uses which are reflective of the WLEP 2000 land use table for the locality that are currently permitted that does not strictly fall under the definition of

industrial/warehouse land uses. Therefore, it is considered that the proposed development is consistent with the existing 'mixed' uses within the immediate locality.

For the above reasons, the proposed development is supported in relation to this objective.

b) *To encourage employment opportunities*

Comment: The proposed development is consistent with the intent of this objective, in that the proposal will provide a health services facility which can benefit the local workforce/community in the zone. The proposed operation will not undermine the principal function of the area as an employment-generating area as it in itself will be an employment generating use. The proposed development will encourage a mix of highly skilled medical specialists together with administrative staff, and thus, create opportunities for employment in a range of industry sectors. In addition, the proposal is also consistent with the *North East Subregion: Draft Regional Subregional Strategy* which encourages "employment growth" in the Brookvale area. In this regard, the proposed development is consistent with this objective.

c) *To minimise any adverse effect of industry on other land uses*

Comment: The proposal does not adjoin sensitive residential or other land uses. The proposed health services facility will have no unreasonable impact on the adjoining industry or other uses in the area in that the proposed use and hours will not conflict with the core hours associated with other industrial/warehouses buildings surrounding the subject site. Further the proposal will not be unreasonably affected by surrounding industrial development in relation to noise, traffic, or odours. This is due to the nature of the use, which is for outpatients who will be in and out of the facility within a day.

The proposed development is therefore consistent with this objective.

d) *To enable other land uses that provides facilities or services to meet the day to day needs of workers in the area*

Comment: The proposed development will provide supporting medical services to the local workforce in the area. Accordingly, it is considered that the proposed development is consistent with the intent of this objective.

e) *To enable a range of compatible community and leisure uses*

Comment: The proposed development is consistent with the intent of this objective, in that the proposed development will provide supporting medical services to the local workforce in the Brookvale Industrial West locality. The proposed development will result in the creation of a compatible community use building for the locality.

f) *To maintain the industrial character of the land in landscaped settings*

Comment: There is limited landscaping available on site at present and this situation will be improved as a result of the proposed development, particularly in relation to the Dale Street frontage. The proposal as indicated above is considered to be compatible with the industrial character of the area in that the proposed development will provide a health services facility to the workforce of the locality.

Having regard to the above assessment, the proposal within this zone is consistent with the aims and objectives of this zone and therefore the proposal can be supported.

g) The existence and applicability of savings provisions in the Draft LEP

In relation to the third principle, the DWLEP 2009 contains a savings provision under Clause 1.8A which states:

"If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced".

In this particular circumstance reference is made to the Land and Environment court case (in *Blackmore Design Group Pty Ltd v North Sydney Council* [2001] NSWLEC 279), where the judgement summarises the weight to be given to a draft LEP, particularly, in the circumstances where it was a draft when an application was lodged and has since been gazetted with a transitional provision.

"The fact that LEP 2010 has been made ensures that the plan is certain and imminent and accordingly, that plan must be given significant weight in the determination of the application. However, due to the savings provision, the inquiry does not stop there. In Blackmore at [30], Lloyd J states:

Whether one applies the test of "significant weight", or "some weight", or "considerable weight" or "due force" or "determining weight" to the later instrument is not, however, the end of the matter. The savings clause still has some work to do. The proposed development is a permissible development by dint of the savings clause. In giving the 2001 LEP the weight of being imminent and certain, that does not mean that there is no further inquiry. It is necessary to look at the aims and objectives of the later instrument and then see whether the proposed development is consistent therewith. Various expressions have been used to define this concept, but the approach which has been favoured in the Court of Appeal is to ask whether the proposal is "antipathetic" thereto (Coffs Harbour Environment Centre Inc v Coffs Harbour City Council [1991] 74 LGRA 185 at 193)."

DWLEP 2009 is still a draft document (at the time of writing this report) and has not commenced. In accordance with the above judgement and given that the proposal is found to be consistent with the aims and objectives of the IN1 zone the proposal is supported in this instance.

Principal Development Standards - IN1 General Industrial:

The only Principal Development Standard in Part 4 of the DWLEP which is relevant to the development is 'Height of Buildings'. The draft 'Height of Buildings' control Map referred to in Clause 4.3(2) of the DWLEP shows that a 11m building height limit applies to the site under the IN1 zone. The proposed development does not comply with the Standard as indicated in the table below:

Development Standard	Permitted	Proposed	Complies	Clause 4.6 Exception to Development Standards
Height of Buildings:	11m	11. 5m - 13.1m (at the height point of the building being the top of southern parapet)	NO	YES

***Note:** The building height development standard in the Draft WLEP is taken from the *existing* ground level as opposed to the *natural* ground level stipulated in WLEP 2000.

Clause 4.3 – Height of Buildings (DWLEP 2009)

The proposed development does not comply with the Building Height Development Standard as detailed in the above compliance table under the provisions of the DWLEP 2009. In this regard, the objectives of the Standard are addressed below:

(a) *To ensure that buildings are compatible with the height, bulk and scale of the desired future character of the locality that may be identified in any development control plan made by the Council*

Comment: The height standard for the site falls under the DWLEP 2009 only, whilst the Draft Warringah DCP does not have a DFC statement, the proposed development has been found to be consistent with the DFC statement for the G10 locality under the current WLEP 2000 as discussed elsewhere in the report. Further, the proposed height of the building is considered not to have an unreasonable impact in terms of its height, bulk and scale (and that is envisaged in the future) for the following reasons:

- The extent of the non-compliance is limited to the eastern part of building and parapet structures, noting that as a result of the land gently falling south across Dale Street, the non-compliances will not have any unreasonable impact on surrounding properties.
- The proposed roof form will have a 4 degree slope towards the western boundary (away from Dale Street) which will not visually dominate the surrounding spaces by virtue of its height or bulk, especially when viewed within the existing context.
- The proposed breach to the building height pertains mostly to the northern and southern parapet roof form which in itself creates a visual relief from the building façade when viewed from the Dale Street façade.

For the above reasons, the proposed development is considered to be consistent with this objective.

b) *To minimise visual impact, disruption or views, loss of privacy and loss of solar access*

Comment: The non-compliance with the height standard will not result in inconsistencies with this objective under the DWLEP 2009 as indicated above. The extent of non-compliance with the building and its parapet structures will not result in adverse impacts with regards to views, loss of privacy and loss of solar access.

The development has been designed to respond to the topography of the site and the area which is generally flat. Further, the non-compliance does not cause an adverse impact on surrounding spaces by way of overshadowing, view loss or overlooking and is considered not to dominate the public domain.

For the above reasons, the proposed development is considered to be consistent with this objective

c) *To minimise adverse impact of development on the scenic quality of Warringah's coastal and bush environments*

Comment: The non-compliance with the height standard will not result in inconsistencies with the scenic quality under the DWLEP 2009, as the development is located within the general industrial area of Brookvale, which does not have any impact upon the scenic quality of Warringah's coastal and bushland environments.

d) *To manage the visual impact of development when viewed from public places such as parks and reserves, roads and community facilities*

Comment: The non-compliance with the height standard will not result in inconsistencies with this objective under the Draft WLEP by maintaining the street level of Dale Street and excavating within the site. The development minimises its potential impact upon the streetscape by an articulated design which, in turn minimises visual bulk of the proposal onto the public domain.

(2) *The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

(2a) *If the Height of Buildings Map specifies, in relation to any land shown on that map, a Reduced Level for any building on that land, any such building is not to exceed the specified Reduced Level.*

Comment: The height of the building will exceed the maximum height as shown on the 'Height of Building Map'. As previously discussed within this report and within {Clause 4.6(4) below} the applicant has applied for a variation to this control.

Conclusion: A variation to the Building Height Development Standard under Clause 4.3 of DWLEP 2009 can be supported for reasons that it is found to be consistent with objectives of the standard as discussed above.

Clause 4.6 - Exception to Development Standard

This Clause applies when a Development standard is varied under the provisions of the DWLEP 2009. As indicated above, the height of the proposed development exceeds the 11m maximum building height standard under the proposed zone by up to 2.1 metres at highest point of the building.

The objectives of this Clause are:

- a) To provide an appropriate degree of flexibility in applying certain development standards to particular development, and
- b) To achieve better outcomes for and from development allowing flexibility in particular circumstances.

Clause 4.6 (subclause 4) states that consent must not be granted for development that contravenes a standard unless the consent authority is satisfied that:

- (i) ***The applicant's written request that adequately addressed the matter required to be demonstrated by subclause (3)***

Comment: The applicant has provided a written request that addresses the non-compliance in relation to varying the building height development standard under the provisions of the DWLEP 2009.

- (ii) ***The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out***

Comment: The non-compliance with the building height standard is considered to be in the public interest as the proposed development is found to be consistent with the zone objectives of the IN1 zone as discussed in the previous section of this report.

- (iii) ***The concurrence of the Director-General has been obtained***

Comment: Concurrence is not required from the Director-General due to the Draft Warringah Local Environmental Plan not being gazetted.

Conclusion: The proposal is considered to be of a similar architectural bulk and scale to adjoining and surrounding developments within the IN1 General Industrial zone. The proposal is consistent with Clause 4.6 – *Exceptions to development standards*, the objectives of Clause 4.3 - *Height of buildings* and the IN1 General Industrial Zone of the Draft Warringah Local Environmental Plan 2009.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPI's)

State Environmental Planning Policies (SEPPs)

Further consideration is required for the following State policies:

State Environmental Planning Policy No 55 – Remediation of Land

Clause 7(1)(a) of State Environmental Planning Policy No. 55 – Remediation of Land and Clause 48 of WLEP 2000 state that a consent authority must not consent to the carrying out of any development on land unless;

- It has considered whether the land is contaminated, and
- If the land is contaminated, it is satisfied that the land is suitable in its contaminated state for the purpose for which the development is proposed to be carried out, and
- If the land requires remediation to be made suitable for the development proposed to be carried out, it is satisfied that the land will be remediated before the development is carried out.

In response to these requirements the applicant submitted a *stage 1 – Preliminary Contamination Assessment* prepared by Environmental Investigation Services (EIS) dated July 2011 (Ref: E25037kBrpt).

The report notes that based on the scope of work undertaken for this assessment EIS consider that the site can be made suitable for the proposed development provided that the following recommendations are implemented:

- Some groundwater analysis is undertaken to assess the condition of groundwater and to assess disposal options for the groundwater during any dewatering;
- A Hazardous Building Material survey is undertaken of all structures prior to demolition;
- Following demolition of the building the footprint is inspected and sampled; and
- Undertake inspections during excavation works to assess any unexpected conditions or subsurface facilities that may be discovered between investigation locations. Particular precautions and attention should be undertaken during the rerouting of the sewer pipe which runs through the central section of the site. If any staining of soils or odours other than those associated with the sewer are detected EIS should be contacted immediately. The site inspections should facilitate appropriate adjustment of the works programme and schedule in relation to the changed site conditions. Inspections should be undertaken by experienced environmental personnel.

The application was also referred to Council's Environmental Health Officer who raised no objection to the proposal subject to conditions.

Accordingly, based on the information submitted, the requirements of SEPP 55 and Clause 48 of WLEP 2000 have been satisfied and the land is considered to be suitable for the development subject to conditions which adopt the recommendations of the above-mentioned *Phase 1 – Preliminary Contamination Assessment* by EIS.

State Environmental Planning Policy - Infrastructure

Clause 45 of the Policy requires the Consent Authority to consider any development application (or an application for modification of consent) for any development carried out:

- within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists),
- immediately adjacent to an electricity substation,
- within 5m of an overhead power line
- includes installation of a swimming pool any part of which is: within 30m of a structure supporting an overhead electricity transmission line and/or within 5m of an overhead electricity power line

The application was referred to Ausgrid who raised no objection to the proposal subject to standard conditions which are included in the recommendation of this report.

SEPP No. 64 – Advertising of Land

SEPP 64 is not applicable to the proposed development, as the proposed development does not seek to propose any new signage as part of this application.

Regional Environmental Plans (REPs)

There are no Regional Environmental Plans which are relevant to this application.

Warringah Local Environmental Plan 2000

Desired Future Character

G10 - Brookvale Industrial West Locality

Desired Future Character (DFC)

The subject site is located in the G10 Brookvale Industrial West Locality under Warringah Local Environmental Plan 2000.

The Desired Future Character Statement for this locality is as follows:

The Brookvale Industrial West locality will remain an industrial and employment centre incorporating industries, warehouses and ancillary service uses.

New development or significant redevelopment will be designed to incorporate landscaping to soften the visual impact of industrial buildings and their associated parking and other paved areas as viewed from the street.

At the interface of the locality with adjoining and adjacent residential areas, buildings will be sited and designed and the use of land managed to minimise interference with the amenity of such residential areas.

Allotments are to be consolidated where necessary to ensure the development of one allotment will not render an adjoining allotment unsuitable for development.

The proposed development seeks to operate as a Medical centre is appropriately defined as a 'Medical Centre' pursuant to the dictionary section of the WLEP 2000, and accordingly is classified as a Category 3 development in this locality.

Pursuant to Clause 12(3) (b) of WLEP 2000, before granting consent for development classified as Category Three, the consent authority must be satisfied that the development is consistent with the desired future character described in the relevant locality statement. Accordingly, an analysis of the various relevant components of the Desired Future Character of the G10 Brookvale Industrial West Locality is as follows:

The Brookvale Industrial West locality will remain an industrial and employment centre incorporating industries, warehouses and ancillary service use.

Comment: The proposed development will result in the creation of a health service facility for the locality. The proposed development is consistent with the intent of this component of the DFC, in that the proposed development will provide supporting ancillary medical services to the local workforce in the Brookvale Industrial West locality.

The proposed operation will not undermine the principal function of the locality as an industrial and employment centre as in itself will generate employment. Accordingly, the proposed development is consistent with this component of the DFC.

New development or significant redevelopment will be designed to incorporate landscaping to soften the visual impact of industrial buildings and their associated parking and other paved areas as viewed from the street.

Comment: There is no existing landscaping on the subject site, apart from number of street trees at the front of the site. Although the proposal will result in the removal of two (2) street trees, it is considered that the proposed development will improve the current situation by introducing extensive landscaping within the front building setback along the Dale Street frontage as required by this component of the DFC.

The Landscape plan submitted with the application shows that the proposal is designed to incorporate a mixture of native landscaped species along the Dale Street elevation which will soften the appearance of the building façade. In addition, a variety of compatible colours and materials will be used to contribute to the visual interest of the front facade and therefore reduce the apparent building mass as viewed from Dale Street. Accordingly, the proposed development is consistent with this component of the DFC.

At the interface of the locality with adjoining and adjacent residential areas, buildings will be sited and designed and the use of land managed to minimise interference with the amenity of such residential areas

Comment: The closest residential properties are along Old Pittwater Road approximately 220 metres north of the subject site. Given that the subject site does not adjoin residential development this component of the DFC is satisfied by proposed development

Allotments are to be consolidated where necessary to ensure the development of one allotment will not render an adjoining allotment unsuitable for development

Comment: The subject site encompasses four (4) allotments, which will be required to be consolidated via condition of consent included in the recommendation of this report. The proposed development is not considered to render adjoining allotments unsuitable for development. The proposed development is therefore consistent with this component of the DFC.

As detailed above the proposed development is considered to be consistent with the Locality's DFC statement.

Built Form Controls for Locality G10 Brookvale Industrial West Locality

The following table outlines compliance with the Built Form Control's of the above locality statement:

Built Form Standard	Required	Proposed Development	Compliance
Building Height	11m (natural ground to topmost ceiling)	11.5m (topmost ceiling of the building); 12.7m (top of ceiling for northern parapet) 13.1m ((top of ceiling for southern parapet)	No*
Front Building Setback	4.5m	4.5m (building column blade wall), 5.8m (ground and first floor building)	Yes
Subdivision	The minimum allotment area for any allotment resulting from the subdivision of land is 4000m ² .	No subdivision is proposed	Not Applicable

Clause 20 Variation

A Clause 20 variation is required to support the above non-compliance to the Building height Built Form Control under the G10 Brookvale Industrial West Locality.

Clause 20 of WLEP 2000 states the following:

“Consent may be granted to proposed development even if the development does not comply with one or more development standards, providing the resulting development is consistent with the general principles of development control, the desired future character of the locality and any relevant State Environmental Planning Policy.”

(i)	General Principles of Development Control The proposal is consistent with the General Principles of Development Control as detailed in the 'General Principles of Development Control' table as detailed in this report.
(ii)	Desired Future Character of the Locality The proposal is consistent with the Desired Future Character Statement as detailed earlier in this report.
(iii)	Relevant State Environmental Planning Policies The proposed development is consistent with the provisions of the following State Environmental Planning Policies (SEPP's): SEPP (Infrastructure) 2007; and SEPP No. 55 - Remediation of Land.

Based on the above assessment, the development qualifies to be considered for a variation to the Building Height Built Form Control.

Description of variations sought and reasons provided:

Building Height Built Form Control

Built Form Standard	Required	Proposed Development	Compliance
Building Height	11m (natural ground to topmost ceiling)	11.5m (topmost ceiling of the building); 12.7m (top of ceiling for northern parapet) 13.1m ((top of ceiling for southern parapet)	No

The following considerations have been applied in the assessment of the Building Height Built Form Control variation:

Ensure that development does not become visually dominant by virtue of its height and bulk

Comment: The non-compliance pertains to the building height across the front portion of the building. The proposed breach will be up to 11.5m to the topmost ceiling of the building along the southern half of the Dale Street front elevation and two parapet column structures.

The proposed non-compliance is not considered to result in visual bulk which will it dominate the surrounding spaces as the non-compliant elements of the building are sufficiently setback from the side and rear edges of the building such that they do not add to the overall building bulk. The two parapet column structures at the front elevation of Dale Street do not visually dominant the surrounding spaces by virtue of its height or bulk, especially when viewed within the existing context and these structures provides for good articulation and visual interest.

Preserve the amenity of surrounding land

Comment: Due to the industrial/commercial character of the locality there is no other residential properties where residential amenity may be affected. The amenity of industrial/commercial properties are not significantly impacted by the proposed development.

Ensure that development responds to site topography and minimises excavation of the natural landform

Comment: The proposed development responds to the flat topography of the site. The development does whilst proposing excavation of the landform to accommodate the basement car park is considered satisfactory.

Provide sufficient area for roof pitch and variation in roof design rather than a flat roof

Comment: The development incorporates flat roof forms throughout. However, given the variable building heights and the use of parapets provides sufficient variation to the overall built form is provided.

Conclusion: Given the above, variation to the Building Height Built Form Control (Development Standard) pursuant to Clause 20(1) can be supported in this instance.

General Principles of Development Control

The following General Principles of Development Control as contained in Part 4 of Warringah Local Environmental Plan 2000 are applicable to the proposed development:

General Principles	Applies	Comments	Complies
CL38 Glare & reflections	YES	The proposed external finishes include sandstone cladding, technical E-glass glazing, aluminium frames and louvres, stainless steel fixings and brackets as well metal cladding, painted render and colourbond roofs with parapets. The proposed schedule of external finishes submitted with the application indicates that the external colours and finishes, including its roof colours, will utilise dark and earthy tone colours which is consistent with the requirement of this Clause. Notwithstanding, a standard condition is included in the recommendation to ensure that the reflectivity index of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20%.	Yes (subject to condition)
CL39 Local retail centres	NO	No Comment	Not Applicable
CL40 Housing for Older People and People with Disabilities	NO	No Comment	Not Applicable
CL41 Brothels	NO	No Comment	Not Applicable
CL42 Construction Sites	YES	The proposed construction and excavation may have an adverse impact upon the amenity of surrounding development in terms of traffic, noise, dust, parking, accessibility, sediment and the safety of pedestrians. A condition has been included for a Construction Management Plan to be obtained prior to the commencement of works should the application be approved.	Yes, subject to conditions
CL43 Noise	YES	Clause 43 states that development is not to result in noise emission which would unreasonably diminish the amenity of the area and is not to result in noise intrusion which would be unreasonable to the	YES, subject to conditions

General Principles	Applies	Comments	Complies
		<p>occupants.</p> <p>The medical centre use is consistent with surrounding land uses and as such will not result in noise emissions which are unreasonable in the locality in which they are located.</p> <p>Accordingly, it is considered that the proposed development is capable of complying with the requirements of this Clause subject to conditions requiring that all noise emissions to be carried out in accordance with Environment Protections Authority guidelines for noise emissions from construction/ demolition works.</p>	
CL44 Pollutants	YES	The proposed medical centre operation will not result in the emission of atmospheric, liquid or other pollutants which would unreasonably diminish the amenity of adjacent properties, the locality or waterways.	YES
CL45 Hazardous Uses	NO	No Comment	Not Applicable
CL46 Radiation Emission Levels	NO	No Comment	Not Applicable
CL47 Flood Affected Land	YES	<p>Clause 47 requires that Flood affected land is to be sited and designed to minimise impacts of flooding on property and have regard to the existing flood regime. In particular:</p> <ul style="list-style-type: none"> development is not to reduce flood storage area or impact upon the existing flood regime habitable floor areas of buildings are to be at a level of at least 500mm above the 1% annual exceedance probability flood level, and Buildings or works affected by flooding are to be constructed of flood compatible building materials. <p>For the purposes of this clause, <i>flood affected land</i> means land below the 1% annual exceedance probability flood level.</p> <p>The subject site is within the 1 in 100 Year Flood, Probable Maximum Flood (PMF) or Draft PMF. In this regard, an amended flood risk report prepared by Cardno dated 27 October 2011 has been submitted with the application. The report concludes that based on the assessment undertaken:</p> <ul style="list-style-type: none"> The current proposed ground levels of floor levels provide between 0.5m to 0.8m of freeboard depending on location; The proposed development has a minimal impact on 100 yr ARI flood levels with a local increase only of up to 0.2m on the northern boundary of the development site, and The only discernible impact on velocities, velocity x depth and hazards is the removal of minor <i>overland flow within 6-12 Dale Street.</i> <p>The applicant has amended the plans to raise the floor in accordance with the above recommendation. Further Council's Development Engineers has reviewed the proposal and raised no objections subject to conditions to the proposal on flooding ground. Accordingly, the proposed development is consistent with the requirements of this Clause.</p>	YES subject to conditions

General Principles	Applies	Comments	Complies
CL48 Potentially Contaminated Land	YES	<p>Clause 48 states that the consent authority must not consent to the carrying out of development on land unless;</p> <ul style="list-style-type: none"> It has considered whether the land is contaminated, and If the land is contaminated, it is satisfied that the land is suitable in its contaminated state for the purpose for which the development is proposed to be carried out, and If the land requires remediation to be made suitable for the development proposed to be carried out, it is satisfied that the land will be remediated before the development is carried out. <p>These issues have been addressed in detail under 'State Environmental Planning Policy (SEPP) No.55 - Remediation of Land' in this report. The site has been found to be suitable for the proposed use subject to conditions.</p>	YES Subject to conditions
CL49 Remediation of Contaminated Land	No	No comment.	Not Applicable
CL49a Acid Sulfate Soils	No	No comment.	Not Applicable
CL50 Safety & Security	YES	The proposed building will overlook Dale Street and the new glazed entry doors and windows on the first floor allows for casual surveillance, therefore, the proposed development is satisfactory with regards to this Clause.	YES
CL51 Front Fences and Walls	No	No comment.	Not Applicable
CL52 Development Near Parks, Bushland Reserves & other public Open Spaces	No	No comment.	Not Applicable
CL53 Signs	No	No new signage is proposed as part of this application	Not Applicable
CL54 Provision and Location of Utility Services	YES	<p>The proposed development also includes the provision of a new substation, which is included within the boundary of the subject site. The application was referred to Ausgrid, who has raised no objection to the provision of the substation for the development.</p> <p>Conditions could be imposed if the application was approved requiring connection to all utility services including an approved telecommunications provider, energy, water and sewerage.</p>	YES subject to conditions
CL55 Site Consolidation in 'Medium Density Areas'	No	No comment.	Not Applicable
CL56 Retaining Unique Environmental Features on Site	No	The site does not contain any unique environmental features.	Not Applicable
CL57 Development on Sloping Land	YES	<p>Clause 57 states that on sloping land, the height and bulk of development, particularly on the downhill side, are to be minimised and the need for cut and fill reduced by designs which minimise the building footprint and allow the building mass to step down the slope. The clause also states that excavation of the landform is to be minimised.</p> <p>The site falls approximately 1.7m along Dale Street towards the south with no fall across the western or eastern boundaries.</p>	YES

General Principles	Applies	Comments	Complies
		The proposed development has been designed that response to the topography of the land. Accordingly, the proposed development has been design to achieve compliance with the requirement of this Clause.	
CL58 Protection of Existing Flora	YES	The development will result in the removal of two street trees. Council's Landscape Officer has reviewed the proposed development and raised no objection to the proposed tree removal subject to a number of conditions which requires replacement planting.	Yes Subject to conditions
CL59 Koala Habitat Protection	No	No comment.	Not Applicable
CL60 Watercourses & Aquatic Habitats	No	No comment.	Not Applicable
CL61 Views	YES	The proposal satisfies the requirements of the General Principle in that it will allow for a reasonable sharing of views between adjoining and surrounding properties.	YES
CL62 Access to sunlight	YES	The Development Application is accompanied by a shadow diagram (see Drawing No.512.100.01 Issue A dated 14 July 2011) which indicates that the development does not unreasonably reduce sunlight to surrounding properties. It is considered that reasonable and equitable level of sunlight is provided to the southern adjoining commercial property and the development is satisfactory meets the requirements of this Clause.	YES
CL63 Landscaped Open Space	No	No comment.	Not Applicable
CL63A Rear Building Setback	No	No comment.	Not Applicable
CL64 Private open space	No	No comment.	Not Applicable
CL65 Privacy	YES	Given the location of the development within an established industrial and employment centre area, the development will not result in any adverse privacy impacts. As such, it is considered satisfactory with regard to the requirements of the General Principles.	YES
CL66 Building bulk	YES	<p>Clause 66 requires buildings to have a visual bulk and an architectural scale consistent with structures on adjoining or nearby land. Buildings are not to visually dominate the street or surrounding spaces, unless the applicable Locality Statement provides otherwise.</p> <p>In particular, the clause requires that:</p> <ul style="list-style-type: none"> <i>Side and rear setbacks are to be progressively increased as wall height increases,</i> <i>Large areas of continuous wall planes are to be avoided by varying building setbacks and using appropriate techniques to provide visual relief, and</i> <i>Appropriate landscape plantings are to be provided to reduce the visual bulk of new buildings and works.</i> <p>Council's Senior Urban Designer has reviewed the proposal and has provided the following comments in relation to building bulk:</p> <ul style="list-style-type: none"> <i>Articulated building forms. Facades are composed with an appropriate scale, rhythm and proportion to the light industrial character of the area.</i> <i>The streetscape quality of Dale Street will be improved by the new landscaping treatment and the landscaped buffer at the rear of the property.</i> 	YES

General Principles	Applies	Comments	Complies
		<ul style="list-style-type: none"> <i>The proposal is consistent with the existing urban character of the surrounding area.</i> <p>Further to the above, the bulk and scale of the proposed development is considered to be acceptable for the following reasons;</p> <ul style="list-style-type: none"> A variety of compatible colours and materials has been used to contribute to the visual interest of the facade which assists in reducing the apparent building mass. Adequate setbacks have been proposed to the building to allow for a landscape design to be implemented which is capable of softening views of the building from the public domain. 	
CL67 Roofs	YES	<p>Clause 67 requires roofing to complement the local skyline.</p> <p>The roof form proposed is appropriate for the types of development proposed and are compatible with other development in the locality. Accordingly, the proposal is consistent with the requirement of Clause 67.</p>	YES
CL68 Conservation of Energy and Water	YES	<p>The application does not include any details with regards to the provision of solar hot water or the incorporation of low energy fittings and appliances. Therefore, conditions are included in the recommendation of this report which requires the development to incorporate low energy fittings and appliances.</p>	YES subject to conditions
CL69 Accessibility – Public and Semi-Public Buildings	YES	<p>Clause 69 requires that the sitting, design and construction of the premises available to the public are to ensure an accessible continuous path of travel, so that all people can enter and use the premises. Such access is to comply with the requirement of the Disability Discrimination Act 1992 (DDA Act 1992) and with Australian Standard AS 1428.2 - 1992.</p> <p>An access report prepared by Moris Goding Accessibility consulting dated 14 July 2011 has been submitted with the application, the report concludes that:</p> <p>“In general, the development has accessible paths of travel that are continuous throughout. In line with the report's recommendations, the proposed development has demonstrated an appropriate degree of accessibility. The Development Application drawings indicate that compliance with statutory requirements, pertaining to the site access, common area access, accessibility parking and accessible parking and accessible sanitary facilities, can be readily achieved”.</p> <p>In this regard, a condition of consent has been included to ensure the development complies with the intent of the DDA and the requirements of the BCA and AS1428.2. Accordingly, the proposed development will comply with the provisions of Clause 69</p>	Yes Subject to condition
CL70 Site facilities	YES	<p>Clause 70 states that site facilities including garbage and recycling enclosures, mailboxes and clothes drying facilities are to be adequate and convenient for the needs of users and are to have minimal visual impact from public places.</p> <p>A Servicing room is provided in the basement level which is not visible from the street.</p> <p>Council's Waste officer has reviewed the proposal and has raised no objection to the proposed development.</p>	YES

General Principles	Applies	Comments	Complies
CL71 Parking facilities (visual impact)	YES	<p>Clause 71 requires that car-parking facilities are to be sited and designed so as not to dominate the street frontage or other public spaces.</p> <p>The development incorporates a basement parking level and open car spaces at the ground level. Therefore, the visual impact of the parking facility is minimised when viewed from the street.</p>	YES
CL72 Traffic access & safety	YES	<p>Vehicular access to the site will be provided from Dale Street. Traffic and pedestrian conflicts have been minimised through the provision of only one vehicular crossing. Council's Traffic Engineer has reviewed the proposed development and raised no objections on the grounds of traffic access and safety subject to conditions.</p> <p>Accordingly, the proposed development is considered satisfactory with regards to this Clause subject to conditions as recommended by Council's Traffic Engineer.</p>	YES (subject to conditions)
CL73 On-site Loading and Unloading	YES	<p>Medical supplies are generally regarded as low volume goods and, as such the loading and unloading of such items is not considered to adversely impact upon the amenity of the surrounding area.</p> <p>Further to the above, the proposal provides adequate ground floor level facilities for the loading and unloading of service, delivery and emergency vehicles. On-site facilities within the ground floor level are screened from public view and designed so that vehicles may enter and leave in a forward direction.</p>	YES
CL74 Provision of Car parking	YES	<p>Clause 74 stipulates that adequate off-street car parking is to be provided to serve a development and that the application must be assessed against the provisions of Schedule 17 of WLEP 2000.</p> <p>Under Schedule 17 of WLEP 2000, car parking for the proposed development has been calculated as follows:</p> <ul style="list-style-type: none"> Medical Centre - 4 spaces per 100sqm GFA <p>Based on the requirements above car parking is required for the development as follows:</p> <p>The proposed medical centre provided total of 3158.9237m² of GFA and therefore a total of 127 car parking spaces are required for the proposed development.</p> <p>There are 41 basement level and 89 ground floor level car parking spaces are proposed (i.e. total of 130 spaces) which complies with the requirements of Schedule 17.</p>	YES
CL75 Design of Car parking Areas	Yes	<p>Council Traffic Engineer has indicated that the car parking area for the proposed development is satisfactory with regards to internal manoeuvring and parking space and aisle dimension requirements of AS2890.1:2004.</p> <p>Conditions have been included within the recommendation of this report to ensure compliance is achieved.</p>	Yes Subject to conditions
CL76 Management of Stormwater	YES	Council's Development Engineers have reviewed the stormwater management plans submitted with the application and raised no objections subject to a number of conditions. All recommended conditions have been included within the recommendation of this report	Yes Subject to conditions
CL77 Landfill	No	No landfill is proposed.	Not Applicable
CL78 Erosion & Sedimentation	YES	The proposed soil and water management plan including the erosion and sedimentation of the proposal	YES subject to

General Principles	Applies	Comments	Complies
		has been assessed by Council's Environmental Health and Protection Officer, who raised no objections, subject to the imposition of their recommended conditions of consent.	conditions
CL79 Heritage Control	No	The site is not identified as a heritage item nor is it located within a conservation area.	Not Applicable
CL80 Notice to Metropolitan Aboriginal Land Council and the National Parks and Wildlife Service	No	No comment.	Not Applicable
CL81 Notice to Heritage Council	No	No comment.	Not Applicable
CL82 Development in the Vicinity of Heritage Items	No	The subject site is not located within the vicinity of any known Heritage items.	Not Applicable
CL83 Development of Known or Potential Archaeological Sites	No	The subject site is not located within the vicinity of any known or potential archaeological sites	Not Applicable

SCHEDULES

Schedule 8 - Site analysis

Clause 22(2)(a) of WLEP 2000 requires that the consent authority must consider a Site Analysis prepared in accordance with the criteria listed in Schedule 8.

It is considered that submitted plans, in conjunction with the Statement of Environmental Effects, to have satisfactorily addressed the requirement of this Schedule.

Schedule 15 - Statement of Environmental Effects

Pursuant to Clause 15 of WLEP 2000, consent may be granted to development classified as Category Three only if the consent authority has considered a Statement of Environmental Effects that includes the items in Schedule 15.

The applicant has submitted a Statement of Environmental Effects, which addresses the items listed in Schedule 15 of WLEP 2000. An assessment of Category 3 elements of the proposal only against the provisions of Schedule 15 is provided below:

Consideration	Proposed
(1) Summary of the Statement of Environmental Effects (SEE)	<p>A Statement of Environmental Effects has been submitted with the application.</p> <p>Comment: It is considered that the statement submitted adequately addresses the proposal's consistency with all relevant planning controls.</p>
(2) Consistency of the proposal with the desired future character statement and general principles of development control established by the plan.	<p>The applicant has addressed the consistency of the proposal with the desired future character statements for the G10 Locality and the general principles of development control in the Statement of Environment Effects. In summary, the applicant has concluded that the proposal is consistent with DFC statement for the G10 Locality and the development is also consistent with the general principles as contained in Part 4 of the WLEP 2000.</p> <p>Comment: An assessment of the proposal with all relevant controls in WLEP 2000 is detailed in this report. The assessment has found that the proposal is consistent with the relevant planning controls.</p>
(3) Objectives of the proposed development.	<p>The applicant has advised that the primary objectivities of the proposed development are to:</p> <p><i>"To provide a purpose built medical facility that overcomes the constraints of the current premises which have been adapted to be used as a medical centre but are far from ideal from an operational perspective. The upgraded facility will maintain the existing workforce and attract high quality medical practitioners to serve the local workforce and residents on the Northern Beaches. To expand the range of medical services offered in the new centre which will in turn reduce some pressure</i></p>

Consideration	Proposed
	<p><i>on local hospitals for day surgery procedures. To reduce the need for workers, resident and medical practitioners to travel outside the area for health care support and employment. To meet the existing and growing demand for health care services in the locality and wider region."</i></p> <p>Comment: The proposal is an attempt to provide medical services to the general public. The applicant has satisfactorily described the objectives of the proposal.</p>
<p>(4) An analysis of feasible alternatives.</p> <p>(including (a) Consequences of not carrying out the development and (b) Justification for the development)</p>	<p>The applicant has advised that the consequences of not carrying out of the development include the loss of potential opportunity to provide a state of the art medical centre that will provide ongoing environmental, social and economic benefits to the local workforce in the locality and the wider region. The reason why the applicant has stated that the development is necessary, is summarised as follows:</p> <p><i>"The proposed site is the only suitable location in the area. There are no other sites of suitable size. To enable this development elsewhere would require multiple site amalgamation which would be very difficult as the majority of properties in the area are owner occupied. Further, the development will provide an improved physical separation from the main access point into Warringah Mall which will assist in local traffic flows. "</i></p> <p>Comment: The justification for the development is to provide for a convenient facility for workers within the area, which builds upon the current medical practices within the Warringah LGA. The development is not considered to impact upon the ability of the area to be maintained as high quality industrial/warehouse area and will add to the services available to the community.</p>
(5) Development and context analysis.	<p>The SEE submitted with the application provides a detailed description of the proposed development and the context of the development.</p> <p>Comment: The SEE has provided an appropriate description of the development and an analysis of the context of the subject site.</p>
(6) Biophysical, economic and social considerations and the principles of ecologically sustainable development.	<p>The applicant has stated there are no adverse environmental impacts associated with the development.</p> <p>The SEE states that the proposal will provide a further enhanced valuable service to the local and surrounding employment centre which further reinforces the economic and social benefits to not only the business but also the existing and future patrons to the locality.</p> <p>Comment: The proposal not considered to provide adverse impacts in relation to the biophysical, economic and social considerations and the principles of ecologically sustainable development.</p>
(7) Measures to mitigate any adverse effects of the development on the environment	<p>The applicant has stated there are no adverse environmental impacts associated with the development. The SEE has indicated that mitigation measures for the proposed development are as follows:</p> <p><i>The traffic generation outcome with the medical centre use will not present any unsatisfactory traffic capacity or safety implications.</i></p> <p><i>Appropriate internal design complying with the BCA and fire regulations.</i></p> <p>Comment: Mitigation measures are contained within the SEE in relation to waste management and disposal and hours of operation of the medical centre.</p>
(8) Other approvals required	<p>The subject development does not constitute integrated development pursuant to the provisions of the <i>Environmental Planning and Assessment Act 1979</i>. No other approvals are therefore required to enable the proposed development to proceed.</p>

Schedule 17 – Car parking Provision

For further details refer to *Clause 74 Provision of car parking* in the General Principles of Development Control table in this report. In summary, the requisite numbers of carparking spaces have been provided.

POLICY CONTROLS

Warringah Section 94A Development Contributions Plan

The proposal is subject to the application of Council's Section 94A Development Contributions Plan. The following monetary contributions are required to provide for additional infrastructure generated from this development;

Warringah Section 94A Development Contributions Plan		
Contribution based on total development cost of		\$11,615,774.00
Contribution - all parts Warringah	Levy Rate	Contribution Payable
Total S94A Levy	0.95%	110,349.85
S94A Planning and Administration	0.05%	5,807.90
Total	1.0%	\$116,157.75

If the application is approved a condition of consent can be included to ensure the required contributions are paid prior to the issue of any Construction Certificate.

MEDIATION

Mediation was not requested for this development application

CONCLUSION

The proposal has been considered against the relevant matters for consideration under Section 79C of the *Environmental Planning and Assessment Act, 1979*. This assessment has taken into consideration the submitted and amended plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to any conditions contained within the Recommendation.

The proposal includes the redevelopment of the site for the purpose of a Medical Centre with the basement carparking. The assessment of the application has found that the proposal satisfies the requirements of the Desirable Future Character statement as the proposal will provide a health care facility to the current and future workforce in the locality, and more importantly the proposal will not undermine the principal function of the locality as an industrial and employment centre as in itself will generate employment has required by the DFC statement in the G10 locality. Further, it is considered the proposed new building will contribute to the quality and identity of the area. The proposed development is a permissible form of development and the site is considered to be suitable for the proposal.

With respect to the Category 3 matters relating to this proposal, consideration has been given to the DFC for the G10 Locality and the relationship of the Category 3 uses to the Locality as a whole. In summary, it is found that the proposed development is consistent and meets the health care requirements of the locality.

The development is submitted pursuant to the provisions of WLEP 2000 and must be assessed in accordance with the current planning controls applying to the site. In this regard, the application involves a variation to the planning control relating to building height for the G10 locality. In this case, the non-compliance is not considered to create such impacts that will justify a refusal of the application as the resultant built form is assessed as being compatible with surrounding development and suitable on the subject site.

The proposed development has been assessed as being consistent with the relevant State Planning policies. The development has also been found to be consistent with the aims and objectives of the zones under the provisions of Draft WLEP 2009.

The proposal generated two (2) submissions which raised issues relating to inconsistency with the Desired Future Character, increased traffic flow and car parking, inadequate flood modelling, and issues relating to the prohibition of the proposed under the provision of DWELP 2009. All issues have been addressed in this report (see 'Public Exhibition') and were found not to warrant the refusal of the application.

Therefore, it is considered that the proposal has adequately addressed and satisfied the planning controls and objectives applying to the site under WLEP 2000 and other relevant legislation and is a suitable and appropriate development for the site and the locality.

Accordingly, subject to the conditions of consent attached to this report, the application is recommended for approval.

RECOMMENDATION – Approval

That the Joint Regional Planning Panel (JRPP) for the Sydney East Region as the consent authority approve Development Application No: DA2011/0892 for demolition works and construction of a Medical Centre at Lots 13, 14, 15, and 16 - Sec 2 within DP 1521, 10-12 Dale Street, Brookvale subject to the conditions printed below:

GENERAL CONDITIONS

CONDITIONS THAT IDENTIFY APPROVED PLANS

1. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
512.00.00 Issue A	14/07/2011	Tim Shellshear & Associates Architects
512.00.01 Issue B	31/08/2011	Tim Shellshear & Associates Architects
512.00.02 Issue E	26/10/2011	Tim Shellshear & Associates Architects
512.10.01 Issue D	06/10/2011	Tim Shellshear & Associates Architects
512.10.02 Issue E	26/10/2011	Tim Shellshear & Associates Architects
512.10.03 Issue C	31/08/2011	Tim Shellshear & Associates Architects
512.10.04 Issue A	14/07/2011	Tim Shellshear & Associates Architects
512.20.01 Issue C	31/08/2011	Tim Shellshear & Associates Architects
512.20.02 Issue C	31/08/2011	Tim Shellshear & Associates Architects
512.30.01 Issue C	31/08/2011	Tim Shellshear & Associates Architects

Engineering Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Job No.110664 D01 Revision C	10/10/2011	Northern Beaches Consulting Services Pty Ltd
Job No.110664 D01 Revision D	27/10/2011	Northern Beaches Consulting Services Pty Ltd
Job No.110664 D01 Revision D	27/10/2011	Northern Beaches Consulting Services Pty Ltd
Job No.110664 D01 Revision C	10/10/2011	Northern Beaches Consulting Services Pty Ltd

Reports / Documentation		
Report No. / Page No. / Section No.	Dated	Prepared By
Stage 1 Preliminary Environmental Site Assessment Ref: E25037KBrpt, pages 1-43	July 2011	Environmental Investigation Services (EIS)
Updated Flood Risk Report Ref: W4912:BCP/bcp, pages 1-6	27 October 2011	Cardno
Assessment of Traffic and Parking Implications (Issue B) Ref: 11124, pages 1-12	August 2011	Transport and Traffic Planning Associates
Building Code Compliance Report Report No: 968	13 July 2011	Steven Witheridge
Access Review, pages 1-10	14 July 2011	Morris-Goding Accessibility Consulting

No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

The development is to be undertaken generally in accordance with the following:

Landscape Plans - Endorsed with Council's stamp		
Drawing Number	Dated	Prepared By
LP01 - LP02 (Revision B)	31/08/2011	Leuchars Partners

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

2. Compliance with External Department, Authority or Service Requirements

The development must be carried out in compliance with the following:

External Department, Authority or Service	E-Services Reference	Dated
Ausgrid	DA2011/0892	25 July 2011

(NOTE: For a copy of the above referenced document/s, please see Council's 'E-Services' system at www.warringah.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of External Department, Authority or Bodies. (DACPLB02)

3. No Approval for any Signage

No approval is granted under this Development Consent for signs (as defined under Warringah Local Environment Plan 2000 and State Environmental Planning Policy No. 64). A separate Development Application for any signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

Reason: Control of signage. (DACPLB06)

4. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (c) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: *Legislative Requirement. (DACPLB09)*

5. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

7.00 am to 5.00 pm inclusive Monday to Friday

8.00 am to 1.00 pm inclusive on Saturday,

No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (f) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (g) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (h) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)
- (i) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) shall be removed or damaged during construction unless specifically approved in this consent including for the erection of any fences, hoardings or other temporary works.

Reason: *To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)*

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

6. Section 94A Contributions

The Section 94A Contributions are required to be paid for this development. This amount has been calculated using the Warringah Section 94A Development Contributions Plan. The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index).

The basis for the contributions is as follows:

Warringah Section 94A Development Contributions Plan		
Contribution based on total development cost of		\$11,615,774.00
Contribution - all parts Warringah	Levy Rate	Contribution Payable
Total S94A Levy	0.95%	\$110,349.85
S94A Planning and Administration	0.05%	\$5,807.90
Total	1%	\$116,157.75

Details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: *To retain a level of service for the existing population and to provide the same level of service for the population resulting from new development. (DACPLC01)*

7. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: *To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)*

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS2601.2001 - Demolition of Structures**
- (b) AS4361.2 - Guide to lead paint management - Residential and commercial buildings**
- (c) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (d) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (e) AS 4970 - 2009 'Protection of trees on development sites'**
- (f) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (g) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS 2890.3 - 1993 Parking facilities - Bicycle parking facilities**
- (i) AS 2890.5 - 1993 Parking facilities - On-street parking**
- (j) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (k) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (l) AS 1428.1 - 2009* Design for access and mobility - General requirements for access - New building work**
- (m) AS 1428.2 - 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**

***Note:** *The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website http://www.humanrights.gov.au/disability_rights/buildings/good.htm*

****Note:** the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to.

8. External Colours and Materials (Industrial, Commercial, Mixed & Apartment Buildings)

(a) External Glazing

The reflectivity index of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20% (expressed as a per centum of the reflected light falling upon any surface).

(b) External Roofing

The external finish to the roof shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Light colours such as off white, cream, silver or light grey colours are not permitted.

(c) Anti Graffiti Coating

The finishes of the walls adjoining Dale Street must be finished in heavy duty long life, ultra violet resistant coating with a high resistance to solvents and chemicals as an anti-graffiti coating easily cleaned by solvent wipe.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: *To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development. (DACPLC04)*

9. Sewer / Water Quickcheck

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: *To ensure compliance with the statutory requirements of Sydney Water. (DACPLC12)*

10. Bonds

(a) Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

(b) Construction, Excavation and Associated Works Bond (Crossing / Kerb)

A Bond of \$40,000 as security against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter and any footpath works required as part of this consent.

(c) Construction, Excavation and Associated Works Bond (Pollution)

A Bond of \$10,000 as security to ensure that there is no transmission of material, soil etc off the site and onto the public road and/or drainage systems.

(d) Construction, Excavation and Associated Works Bond (Failure to remove waste)

A Bond of \$20,000 as security against damage to Council's road(s) fronting the site caused by the transport and disposal of materials and equipments to and from the site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection)

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: *To ensure adequate protection of Council infrastructure. (DACENC01)*

11. On-site Stormwater Detention Compliance Certification

An On-site Stormwater Detention system must be designed and constructed in accordance with Council's current On-site Stormwater Detention Technical Specification and the concept drawing by Northern Beaches Consulting Engineers, Job No.110664, drawing number's D01-D04, latest Revision D dated 27 October 2011.

Onsite stormwater detention system must be designed to comply with the following

Permissible Site Discharges:

- 5 year ARI storm - 50 litres per second
- 20 year ARI storm - 90 litres per second
- 100 year ARI storm - 128 litres per second

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: *To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development. (Special condition)*

12. Pump-Out System Design for Stormwater Disposal

The design of the pump-out system for stormwater disposal will be permitted for drainage of basement areas only, and must be designed in accordance with Council's Stormwater Drainage Policy. Engineering details demonstrating compliance with this requirement and certified by an appropriately qualified and practising hydraulic engineer.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: *To ensure adequate provision is made for the discharge of stormwater from the excavated parts of the site. (DACENC04)*

13. Shoring of Adjoining Property

Should the proposal require shoring to support an adjoining property or Council land, owner's consent for the encroachment onto the affected property owner shall be provided with the engineering drawings. Council approval is required if temporary rock anchors are to be used within Council land.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: *To ensure that owners consent is obtained for ancillary works, and to ensure the protection of adjoining properties and Council land. (DACENC05)*

14. Vehicle Crossings Application Formwork Inspection

An application for street levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: *To facilitate suitable vehicular access to private property. (DACENC12)*

15. Vehicle Driveway Gradients

Driveway gradients within the private property are not to exceed a gradient of 1 in 4 (25%) with a transition gradient of 1 in 10 (10%) for 1.5 metres prior to a level parking facility. Access levels across the road reserve are to comply with the allocated vehicle profile detailed in Council's Minor Works Policy.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: *To ensure suitable vehicular access to private property. (DACENC13)*

16. Waterproofing/Tanking of Basement Level

The basement area is to be permanently tanked or waterproofed to levels of minimum 500mm above the 1 in 100 year ARI top water surface level as predicted in the Cardno's *Updated Flood Risk Report for Proposed Development at 6-12 Dale Street, Brookvale*, dated 27 October 2011. Details of the waterproofing/ tanking are to be prepared by a suitably qualified Engineer.

Where dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the Department of Water and Energy. The bore license must be obtained prior to commencement of dewatering works. All requirements of the Department of Water and Energy are to be complied with and a copy of the approval must be submitted to the Certifying Authority.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: *To prevent ingress of sub-surface flows into the basement area and to comply with State Government Requirements. (DACENC14)*

17. Utilities Services

Prior to the issue of the Construction Certificate, evidence is to be submitted to the Certifying Authority that:

- (a) A letter from the telecommunications service provider confirming that satisfactory arrangements have been made for the provision of underground telecommunications for the approved development have been made; and
- (b) Evidence that notification has been received from an Electricity Service Provider of electricity supply requirements for the development can be provided.

Reason: *To ensure that services have been provided as required by this consent. (DACENC15)*

18. Structural Adequacy and Excavation Work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: *Safety. (DACENC19)*

19. Flood

a) Flood Protection

All new building works and services shall be designed to withstand the hydraulic forces of the floodwaters up a minimum of 500mm above the 1 in 100 year ARI water surface level as predicted in the Cardno's *Updated Flood Risk Report for Proposed Development at 6-12 Dale Street, Brookvale*, dated 27 October 2011. Buoyancy (particularly in relation to cars in the ground floor car park), flowing water with debris, wave action, the flood compatibility of materials and waterproofing shall be addressed.

b) Flood Compatible Design, Construction & Materials

All new building works and services must be designed and constructed to withstand the hydraulic forces of the floodwaters up to a minimum of 500mm above the 1 in 100 year ARI water surface level as predicted in the Cardno's *Updated Flood Risk Report for Proposed Development at 6-12 Dale Street, Brookvale*, dated 27 October 2011. All materials up to the 1 in 100 year ARI water surface level, including fencing, are to be made from flood compatible materials (as defined by the New South Wales Floodplain Development Manual) and are to be designed to withstand the hydraulic forces of the floodwater. All fencing must not impede the existing flood regime, must allow for passage of flood waters and must not result in any adverse flood impact to any surrounding properties for events up to and including the 1% ARI (i.e. open style pool fence).

c) Electric Sub-station

The finished level of the concrete plinth for the electric sub-station is to be a minimum of 500mm above the predicted 1 in 100 year ARI water surface level, as predicted in the Cardno's *Updated Flood Risk Report for Proposed Development at 6-12 Dale Street, Brookvale*, dated 27 October 2011.

(d) Flood Evacuation Plan

A flood evacuation plan is to be prepared by suitably qualified Engineer with experience in flood management who is eligible for Membership to the Australian Institute of Engineers.

Details demonstrating compliance are to be prepared by a suitably qualified Engineer with experience in flood design / management who has, or is eligible for membership to the Australian Institute of Engineers and then submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: *To protect the building from flooding in accordance with Council and NSW Government policy (DACNEC09)*

20. Surface stormwater inlet system

A surface stormwater inlet system must be designed and constructed generally in accordance with the recommendations as detailed in Cardno's *Updated Flood Risk Report for Proposed Development at 6-12 Dale Street, Brookvale*, dated 27 October 2011.

A surface stormwater inlet system is to be constructed on the northern boundary of 12 Dale Street to collect stormwater trapped in this location and to discharge this stormwater back into the gutter in Dale Street at a location to achieve gravity drainage of the shallow trapped low point.

Detailed drainage plans are to be prepared by a suitably qualified Civil Engineer, who has membership to the Institution of Engineers Australia, National Professional Engineers Register (NPER) and registered in the General Area of Practice for civil engineering.

Detailed drainage plans, including engineering certification confirming the above requirements have been satisfied are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: *To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development. (Special condition)*

21. Trees and / or Landscaping

In order to protect and enhance onsite vegetation and trees the following applies to the development site:

Existing trees which must be retained

All trees not indicated for removal on Landscape Plan		
Drawing Number	Dated	Prepared By
LP 01 Revision B	31/08/2011	Leuchars Partners

All tree protection measures to be in accordance with AS 4970-2009 Protection of trees on development sites

Reason: *To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAC01)*

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

22. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy must be valid for the entire period that the works are being undertaken on public land.

Reason: *To ensure the community is protected from the cost of any claim for damages arising from works on public land. (DACEND01)*

23. On-street Work Zone

The applicant shall lodge an application for a work zone for the frontage of the site to Council for consideration and approval. The provision of a work zone will require approval from Warringah Traffic Committee and the Roads & Traffic Authority of NSW. Application forms for work zones are available on Council's website or at the Customer Service section at Council's administration building. Applications shall be lodged at least 4 weeks prior to work commencing.

Reason: *To ensure works vehicles do not impact on parking, traffic flows and pedestrian thoroughfares.*

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

24. Surveyor's Report

A Registered Surveyor's identification report indicating the finished ground floor levels to a nominated fixed datum point are in accordance with the levels indicated on the approved plans. A Surveyor's Report is to be provided for confirmation prior to pouring of the slab or construction of the floor platform.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: *To ensure the height of buildings under construction comply with levels shown on approved plans. (DACENE04)*

25. Vehicle Crossings

The provision of two vehicle crossings 6 metres wide each in accordance with Warringah Council Drawing No A4-3330/ 1 Normal profile and specifications. An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: *To facilitate suitable vehicular access to private property. (DACENE05)*

26. Footpath Construction

The applicant shall construct a 1.5 metre wide concrete footpath along the entire frontage of Dale Street in an alignment to be approved by Council's Development Engineers. The works shall be in accordance with the following:

- (a) All footpath works are to be constructed in accordance with Council's minor works policy.
- (b) Minimum cross fall to be 3% rise from the existing top of kerb level to the boundary alignment.
- (c) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Council's specification for footpath.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: *To ensure compliance of footpath works with Council's specification for engineering works. (DACENE07)*

27. Layback Construction

Two laybacks 6 metres wide each (excluding the wings) is to be constructed in accordance with Warringah Council Drawing No A4-2276 and specifications.

Reason: *To ensure suitable vehicular access to private property. (DACENE08)*

28. Maintenance of Road Reserve

The public footways and roadways adjacent to the site shall be maintained in a safe condition at all times during the course of the work.

Reason: *Public Safety. (DACENE09)*

29. Notification of Inspections

Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

- (a) Installation of Silt and Sediment control devices
- (b) Prior to pouring of concrete footpath and driveways

Reason: *To ensure new Council infrastructure is constructed to Council's requirements. (DACENE10)*

30. Traffic Control During Road Works

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others in accordance with Council's Minor Works Policy and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works.

Reason: *Public Safety. (DACENE11)*

31. Trees Condition

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: *Protection of Trees. (DACLA03)*

32. Requirement to Notify about New Contamination Evidence

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.

Reason: *To protect human health and the environment. (DACHPE01)*

33. Off-site Disposal of Contaminated Soil - Chain of Custody

All contaminated material removed from the site must be disposed of at a waste facility that can lawfully receive that waste and must be done in accordance with:

- *Protection of the Environment Operations Act 1997 (NSW); and*
- *Environment Protection Authority's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999).*

Copies of all test results and disposal dockets must be retained for at least 3 years and be made available to authorised Council officers on request.

Reason: *For protection of environment and human health and to ensure compliance with the legislation.*

34. Dewatering

Any water being discharged from the site to stormwater must not cause pollution and must comply with the ANZECC 2000 guidelines and meet the following requirements:

- Suspended sediment must be less than 50mg/L
- Turbidity must be less than 150 NTU
- Oil & Grease must be less than 10mg/L
- BOD 5 must be less than 30
- pH must be between 6.5 -8.5

Any discharged water must be analysed prior to discharge, and weekly thereafter, by an independent NATA accredited laboratory and records of water quality discharge must be kept on site. Water must be discharged in a manner that does not cause safety nuisances.

Reason: *Environmental Protection*

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

35. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: *To ensure bushland management. (DACPLF01)*

36. Consolidation of Lots

Lots 13-16, Sec 2, DP 1521, 10-12 Dale Street must be consolidated as one (1) allotment and registered on a survey plan (prepared and signed by a Registered Surveyor) with the NSW Land & Property Information Service (NSW Department of Lands).

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any final Occupation Certificate.

Reason: *To ensure development is not constructed over property boundaries. (DACPLF02)*

37. Garbage and Recycling Facilities

All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: *To prevent pollution of the environment and to protect the amenity of the area. (DACPLF03)*

38. Building Number

Building number is to be affixed to the building to be readily visible from the public domain.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: *Proper identification of buildings. (DACPLF04)*

39. Authorisation of Legal Documentation Required for On-site Stormwater Detention

The original completed request forms (Department of Lands standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: *To create encumbrances on the land. (DACENF01)*

40. Registration of Encumbrances for On-site Stormwater Detention

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: *To identify encumbrances on land. (DACENF02)*

41. Reinstatement of Kerb

All redundant laybacks and vehicular crossings shall be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: *To facilitate the preservation of on street parking spaces. (DACENF03)*

42. Restriction as to User for On-site Stormwater Detention

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such restriction.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: *To ensure modification to the on-site stormwater detention structure is not carried without Council's approval. (DACENF04)*

43. On-Site Stormwater Detention Compliance Certification

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: *To ensure stormwater disposal is constructed to Council's satisfaction. (DACENF10)*

44. Positive Covenant for the Maintenance of Stormwater Pump-out Facilities

A Positive Covenant (under the provisions of Section 88B of the Conveyancing Act 1919) is to be created on the property title to ensure the on-going maintenance of the stormwater pump-out facilities on the property being developed.

Warringah Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Warringah Council's delegate shall sign these documents prior to the submission to the Land & Property Information Department.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: *To ensure adequate provision is made for the stormwater pump out system to be maintained to an appropriate operational standard. (DACENF11)*

45. Positive Covenant for On-site Stormwater Detention

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Warringah Council's delegate prior to lodgement with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such covenant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: *To ensure ongoing maintenance of the on-site stormwater detention system. (DACENF12)*

46. Creation of Positive Covenant and Restriction as a User

Where any conditions of this Consent require the creation of a positive covenant and/or restriction as a user, the original completed request forms, (Department of Lands standard forms 13PC and/or 13RPA), shall be submitted to Warringah Council for authorisation.

A certified copy of the documents shall be provided to Warringah Council after final approval and registration has been affected by the "Department of Lands".

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: *To identify encumbrances on land. (DACENF14)*

47. Required Planting

Species	Location	Pot Size
All tree species	As indicated on Landscape Plan Dwg No. LP 01 B dated 31.08.11 prepared by Leuchars Partners	25 litre

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: *To maintain environmental amenity. (DACLAF01)*

48. Environmental Reports Certification

Written certification from a suitably qualified person(s) shall submit to the Principal Certifying Authority and Warringah Council, stating that all the works/methods/procedures/control measures/recommendations approved by Council in the Stage 1 Preliminary Environmental Site Assessment Report prepared by Environmental Investigation Services dated July 2011 (report No. E25037KBprt).

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: *To ensure compliance with standards. (DACHPF04)*

49. Site Validation

A validation certificate prepared by a suitably qualified environmental consultant must be provided to Council certifying that the site is safe for its intended use.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: *To ensure environmental amenity is maintained. (DACHPF06)*

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

50. Hours of Operation

The hours of operation are to be restricted to:

Day	Other	Day Surgery
Monday	7.00am – 10.00pm	7.00am – 8.00pm
Tuesday	7.00am – 10.00pm	7.00am – 8.00pm
Wednesday	7.00am – 10.00pm	7.00am – 8.00pm
Thursday	7.00am – 10.00pm	7.00am – 8.00pm
Friday	7.00am – 10.00pm	7.00am – 8.00pm
Saturday	7.00am – 10.00pm	7.00am – 8.00pm
Sunday	7.00am – 10.00pm	7.00am – 8.00pm

Upon expiration of the permitted hours, all services shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: *Information to ensure that amenity of the surrounding locality is maintained. (DACPLG08)*

51. Signs/Goods in the Public Way

No signs or goods are to be placed on the footway or roadway adjacent to the property.

Reason: *To ensure pedestrian safety.*

52. Loading Within Site

All loading and unloading operations shall be carried out wholly within the confines of the site and within the approved loading area, at all times.

Reason: *To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian safety and amenity. (DACPLG20)*

53. Delivery Hours

No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

Reason: *To protect ensure the acoustic amenity of surrounding properties. (DACPLG21)*

54. Allocation of Spaces

Car parking spaces provided shall be provided, made accessible and maintained at all times. The spaces shall be allocated as follows:

127	Medical Centre
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Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space allocated to a particular unit / tenancy shall be line marked and numbered or signposted to indicate the unit / tenancy to which it is allocated.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: *To ensure that adequate parking facilities to service the development are provided on site. (DACPLG01)*