



Issued: 2 April 2024 4:38 PM

## JUDGMENT/ORDER

### COURT DETAILS

Court	Land and Environment Court of NSW
Division	Class 1
Registry	Land and Environment Court Sydney
Case number	2023/00212442

### TITLE OF PROCEEDINGS

First Applicant	Builtcom Developments President Square Pty Ltd
First Respondent	Sutherland Shire Council ABN 52018204808

### DATE OF JUDGMENT/ORDER

Date made or given	28 March 2024
Date entered	28 March 2024

### TERMS OF JUDGMENT/ORDER

The Court orders:

- (1) The modification application MA23/0154 is approved.
- (2) Development consent no. DA19/0333 is modified in the terms set out in Annexure A.
- (3) Development consent no. DA19/0333 as modified by the Court is Annexure B.

### SEAL AND SIGNATURE



Signature	S. Froh
Capacity	Registrar
Date	2 April 2024

If this document was issued by means of the Electronic Case Management System (ECM), pursuant to Part 3 of the Uniform Civil Procedure Rules (UCPR), this document is taken to have been signed if the person's name is printed where his or her signature would otherwise appear.

### PERSON PROVIDING DOCUMENT FOR SEALING UNDER UCPR 36.12

Name	Sutherland Shire Council, Respondent 1
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Legal representative	ROSLYN MARY MCCULLOCH
Legal representative reference	
Telephone	02 9262 6188

**FURTHER DETAILS ABOUT Applicant(s)**

First Applicant  
Name Builtcom Developments President Square Pty Ltd  
Address Crowne Plaza Burwood Level 1  
60 Burwood Road  
BURWOOD NSW 2134

Telephone  
Fax  
E-mail  
Client reference

**Legal representative**

Name HARSHANE SUSEEKE KAHAGALLE  
Practicing certificate number 32142  
Address Level 12  
60 CARRINGTON Street  
SYDNEY NSW 2000

DX address DX 262 Sydney NSW  
Telephone 02 8915 1000  
Fax 02 8916 2000  
Email environment@addisons.com  
Electronic service address environment@addisons.com

**FURTHER DETAILS ABOUT Respondent(s)****First Respondent**

Name Sutherland Shire Council  
ABN 52018204808

Address Administration Centre  
4 - 20 Eton Street  
SUTHERLAND NSW 2232

Frequent User Identifier SUTHSC

**ATTACHMENTS TO ORDERS**

(212442.23 Dixon SC Annexure A.pdf)  
(212442.23 Dixon SC Annexure B.pdf)

[attach.]

## Annexure A

### DETERMINATION OF APPLICATION FOR MODIFICATION OF DEVELOPMENT CONSENT

<b>Modification Application No:</b>	MA 23/0154
<b>Development Consent modified:</b>	DA19/0333
<b>Description of development to be carried out under the consent (as previously modified):</b>	Demolition of existing structures; tree removal; construction of a shop top housing development containing a supermarket, liquor store, specialty stores, 120 residential apartments, undercroft and basement car parking; internal fitout and use of the supermarket and liquor store; advertising signs and signage zones; and associated civil infrastructure, public domain and landscape works
<b>Address and particulars of title of land on which development to be carried out:</b>	178-186 Willarong Road, 41-47 President Ave and 51 President Ave, Caringbah also known as Lot B DP 449572, Lot X DP 396618, Lot D DP 387699, Lot A DP 449572, Lot 26 – 29 DP 10068
<b>Description of modification to the development consent:</b>	The modification application seeks to modify Consent 19/0333 to relocate, redesign and increase the number of residential apartments to 130 and make changes to the design of the car park, supermarket and associated infrastructure.

**Determination:** The development consent is modified as follows:

1. Amend Condition 1 to read:

Plan number	Reference	Prepared by	Date
<b>Architectural Plans</b>			
DA003 Rev K	Site Plan	nettletontribe	Prepared 09.09.20
DA004 Rev K	Demolition Plan	nettletontribe	Prepared 09.09.20
DA101 Rev L	Basement 2 Floor Plan	nettletontribe	Prepared 21.08.20
DA102 Rev L	Basement 1 Floor Plan	nettletontribe	Prepared 21.08.20
DA103 Rev L	Ground floor Plan	nettletontribe	Prepared 21.08.20

DA104 Rev M	Level 1 Floor Plan	nettletontribe	Prepared 31.08.20
DA105 Rev L	Level 2 Floor Plan	nettletontribe	Prepared 21.08.20
DA106 Rev L	Level 3 Floor Plan	nettletontribe	Prepared 21.08.20
DA107 Rev L	Level 4 Floor Plan	nettletontribe	Prepared 21.08.20
DA108 Rev L	Level 5 Floor Plan	nettletontribe	Prepared 21.08.20
DA109 Rev L	Level 6 Floor Plan	nettletontribe	Prepared 21.08.20
DA110 Rev L	Level 7 Floor Plan	nettletontribe	Prepared 21.08.20
DA114 Rev L	Roof Plan	nettletontribe	Prepared 21.08.20
DA116 Rev K	Level 1 Mezzanine	nettletontribe	Prepared 18.08.20
DA132 Rev K	Adaptable Unit Types Sheet 01	nettletontribe	Prepared 10.09.20
DA133 Rev K	Adaptable Unit Types Sheet 02	nettletontribe	Prepared 10.09.20
DA134 Rev K	Adaptable Unit Types Sheet 03	nettletontribe	Prepared 10.09.20
DA201 Rev L	North Elevations	nettletontribe	Prepared 21.08.20
DA202 Rev L	East & West Elevations	nettletontribe	Prepared 09.09.20
DA203 Rev L	South Elevations	nettletontribe	Prepared 21.08.20
DA204 Rev M	Signage Elevations 1	nettletontribe	Prepared 31.08.20
DA301 Rev K	Section A & B	nettletontribe	Prepared 09.09.20
DA302 Rev K	Section C	nettletontribe	Prepared 09.09.20
DA303 Rev K	Typical Façade Section	nettletontribe	Prepared 09.09.20
DA304 Rev K	Typical Façade Section	nettletontribe	Prepared 09.09.20
<b><u>DA10-010 Rev DA4</u></b>	<b><u>Site Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>02.02.24</u></b>
<b><u>DA10-070 Rev DA4</u></b>	<b><u>Basement 3 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-080 Rev DA4</u></b>	<b><u>Basement 2 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-090 Rev DA4</u></b>	<b><u>Basement 1 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-100 Rev DA4</u></b>	<b><u>Ground Floor Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-110 Rev DA4</u></b>	<b><u>Level 1 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-115 Rev DA4</u></b>	<b><u>Level 1 Mezzanine Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-120 Rev DA4</u></b>	<b><u>Level 2 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-130 Rev DA4</u></b>	<b><u>Level 3 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-140 Rev DA4</u></b>	<b><u>Level 4 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-150 Rev DA6</u></b>	<b><u>Level 5 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>06.02.24</u></b>

<b><u>DA10-160 Rev DA5</u></b>	<b><u>Level 6 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>02.02.24</u></b>
<b><u>DA10-170 Rev DA5</u></b>	<b><u>Level 7 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>02.02.24</u></b>
<b><u>DA10-180 Rev DA4</u></b>	<b><u>Level 8 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-190 Rev DA5</u></b>	<b><u>Roof Plan (Survey Overlay)</u></b>	<b><u>CQ Studio</u></b>	<b><u>02.02.24</u></b>
<b><u>DA10-200 Rev DA2</u></b>	<b><u>Adaptable Unit Types – Sheet 01</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-201 Rev DA2</u></b>	<b><u>Adaptable Unit Types - Sheet 02</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-202 Rev DA2</u></b>	<b><u>Adaptable Unit Types - Sheet 03</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-203 Rev DA2</u></b>	<b><u>Adaptable Unit Types - Sheet 04</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-204 Rev DA2</u></b>	<b><u>Adaptable Unit Types - Sheet 05</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA20-101 Rev DA5</u></b>	<b><u>West East Elevation</u></b>	<b><u>CQ Studio</u></b>	<b><u>06.02.24</u></b>
<b><u>DA20-102 Rev DA5</u></b>	<b><u>North South Elevation</u></b>	<b><u>CQ Studio</u></b>	<b><u>02.02.24</u></b>
<b><u>DA20-201 Rev DA4</u></b>	<b><u>Internal Courtyard Elevations</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA20-202 Rev DA4</u></b>	<b><u>Internal Courtyard Elevations</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA20-301 Rev DA1</u></b>	<b><u>Signage Elevations</u></b>	<b><u>CQ Studio</u></b>	<b><u>28.02.24</u></b>
<b><u>DA30-001 Rev DA4</u></b>	<b><u>Section DA-01</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA30-002 Rev DA4</u></b>	<b><u>Section DA-02</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DASK-001 Rev DA3</u></b>	<b><u>Mezzanine Details and Sections</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DASK-002 Rev DA2</u></b>	<b><u>Balcony Condenser &amp; Façade Element Details</u></b>	<b><u>CQ Studio</u></b>	<b><u>2.02.24</u></b>
<b><u>DASK-003 Rev DA1</u></b>	<b><u>Typical Façade Plan and Elevation</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DASK-004 Rev DA1</u></b>	<b><u>Light-Weight Awning Details</u></b>	<b><u>CQ Studio</u></b>	<b><u>2.02.24</u></b>
<b>Landscape Plans</b>			
<b><u>LPS34 18 104 Rev A Page 1</u></b>	<b><u>Hardscape / Site Plan</u></b>	<b><u>Conzept Landscape Architects</u></b>	<b><u>Prepared 14.09.20</u></b>
<b><u>LPS34 18 104 Rev A Page 2</u></b>	<b><u>Landscape Plan (Level 2)</u></b>	<b><u>Conzept Landscape Architects</u></b>	<b><u>Prepared 14.09.20</u></b>
<b><u>LPS34 18 104 Rev A Page 3</u></b>	<b><u>Landscape Plan (Level 6)</u></b>	<b><u>Conzept Landscape Architects</u></b>	<b><u>Prepared 11.09.20</u></b>
<b><u>LPS34 18 104 Rev A Page 4</u></b>	<b><u>Specification &amp; Detail</u></b>	<b><u>Conzept Landscape Architects</u></b>	<b><u>Prepared 11.09.20</u></b>
<b><u>L-1000 Rev D</u></b>	<b><u>Landscape Specification</u></b>	<b><u>Group GSA Pty Ltd</u></b>	<b><u>18.01.24</u></b>
<b><u>L-1100 Rev C</u></b>	<b><u>Landscape Plan Level 1</u></b>	<b><u>Group GSA Pty Ltd</u></b>	<b><u>13.12.23</u></b>
<b><u>L-1101 Rev D</u></b>	<b><u>Landscape Plan Public Domain Area</u></b>	<b><u>Group GSA Pty Ltd</u></b>	<b><u>18.01.24</u></b>

<b><u>L-1102 Rev D</u></b>	<b><u>Landscape Plan – Lv2 Overall</u></b>	<b><u>Group GSA Pty Ltd</u></b>	<b><u>18.01.24</u></b>
<b><u>L-1103 Rev D</u></b>	<b><u>Landscape Plan – Lv1 3 of 3</u></b>	<b><u>Group GSA Pty Ltd</u></b>	<b><u>18.01.24</u></b>
<b><u>L-1104 Rev D</u></b>	<b><u>Landscape Plan – Lv2 2 of 3</u></b>	<b><u>Group GSA Pty Ltd</u></b>	<b><u>18.01.24</u></b>
<b><u>L-1105 Rev D</u></b>	<b><u>Landscape Plan – Lv2 3 of 3</u></b>	<b><u>Group GSA Pty Ltd</u></b>	<b><u>18.01.24</u></b>
<b><u>L-1106 Rev D</u></b>	<b><u>Landscape Plan – Lv6</u></b>	<b><u>Group GSA Pty Ltd</u></b>	<b><u>18.01.24</u></b>
<b><u>L-5001 Rev D</u></b>	<b><u>Planting Palette</u></b>	<b><u>Group GSA Pty Ltd</u></b>	<b><u>18.01.24</u></b>
<b>Civil Drawings</b>			
<b><u>CI-000-01 Rev C</u></b>	<b><u>Cover Sheet</u></b>	<b><u>Stantec Engineers</u></b>	
<b><u>CI-060-01 Rev D</u></b>	<b><u>General Arrangement Plan</u></b>	<b><u>Stantec Engineers</u></b>	<b><u>Prepared 10.09.20</u></b>
<b><u>CI-070-01 Rev C</u></b>	<b><u>Erosion &amp; Sediment Control Plan</u></b>	<b><u>Stantec Engineers</u></b>	<b><u>Prepared 10.09.20</u></b>
<b><u>CI-076-01 Rev B</u></b>	<b><u>Erosion &amp; Sediment Control Details</u></b>	<b><u>Stantec Engineers</u></b>	<b><u>Prepared 10.09.20</u></b>
<b><u>CI-100-01 Rev C</u></b>	<b><u>Bulk Earthworks Plan</u></b>	<b><u>Stantec Engineers</u></b>	<b><u>Prepared 10.09.20</u></b>
<b><u>CI-520-01 Rev M</u></b>	<b><u>Stormwater Drainage Plan – Ground</u></b>	<b><u>Stantec Engineers</u></b>	<b><u>Prepared 10.09.20</u></b>
<b><u>CI-520-02 Rev C</u></b>	<b><u>Stormwater Drainage Plan – Basement Level 1</u></b>	<b><u>Stantec Engineers</u></b>	<b><u>Prepared 10.09.20</u></b>
<b><u>CI-526-01 Rev C</u></b>	<b><u>Stormwater Drainage Details - Sheet 01</u></b>	<b><u>Stantec Engineers</u></b>	<b><u>Prepared 10.09.20</u></b>
<b><u>CI-526-02 Rev E</u></b>	<b><u>Stormwater Drainage Details - Sheet 02</u></b>	<b><u>Stantec Engineers</u></b>	<b><u>Prepared 10.09.20</u></b>
<b><u>C090 Rev A</u></b>	<b><u>Stormwater Management Plan – Basement 1</u></b>	<b><u>Xavier Knight</u></b>	<b><u>6.10.23</u></b>
<b><u>C100 Rev C</u></b>	<b><u>Stormwater Management Plan – Ground Floor</u></b>	<b><u>Xavier Knight</u></b>	<b><u>6.10.23</u></b>
<b><u>C101 Rev B</u></b>	<b><u>Stormwater Quality Catchment Plan</u></b>	<b><u>Xavier Knight</u></b>	<b><u>6.04.23</u></b>
<b><u>C102 Rev B</u></b>	<b><u>Stormwater Quality Details</u></b>	<b><u>Xavier Knight</u></b>	<b><u>6.04.23</u></b>
<b><u>C300 Rev B</u></b>	<b><u>Demolition Plan</u></b>	<b><u>Xavier Knight</u></b>	<b><u>6.04.23</u></b>
<b><u>C301 Rev B</u></b>	<b><u>Soil and Water Management Plan</u></b>	<b><u>Xavier Knight</u></b>	<b><u>6.04.23</u></b>
<b><u>C302 Rev B</u></b>	<b><u>Soil and Water Management Details</u></b>	<b><u>Xavier Knight</u></b>	<b><u>6.04.23</u></b>
<b><u>C303 Rev B</u></b>	<b><u>Soil and Water Management Notes</u></b>	<b><u>Xavier Knight</u></b>	<b><u>6.04.23</u></b>
<b>Construction Management Diagrams</b>			

AR-01-0100 Rev B	Site Plan - CMP	CQ Studio	Prepared 15.05.23
AR-01-0101 Rev B	Section – Existing Stormwater	CQ Studio	Prepared 15.05.23

Document	Prepared by	Date
<u>Traffic Management Report</u>	<u>Loka Consulting Engineers</u>	<u>4.12.23</u>
<u>Natural Ventilation Memo</u>	<u>Windtech</u>	<u>4.12.23</u>
<u>BCA Statement</u>	<u>Allcert</u>	<u>14.12.23</u>
<u>Acoustical Report</u>	<u>Koikas Acoustics</u>	<u>12.12.23</u>
<u>Access Report</u>	<u>Certis Access</u>	<u>14.12.23</u>
<u>BASIX Certificate No. 1374312M_04</u>	<u>Ecoplus Consultants Pty Ltd</u>	<u>16.02.24</u>
<u>Green Travel Plan</u>	<u>Loka Consulting Engineers</u>	<u>22.12.23</u>
<u>Arborist Report</u>	<u>Arboreport</u>	<u>31.01.20</u>
<u>Arborist Report</u>	<u>Redgum Horticultural</u>	<u>22.03.23</u>
<u>Waste Management Statement</u>	<u>CQ Design Studio</u>	<u>12.04.23</u>

and any details on the application form and on any supporting information received with the application (as amended) except as amended by the following conditions.

Note: The following must be submitted to Sutherland Shire Council prior to the commencement of any building work.

- (a) A Construction Certificate.
- (b) Notification of the appointment of a Principal Certifying Authority and a letter of acceptance from that Principal Certifying Authority.
- (c) Notification of the commencement of building works with a minimum of 2 days' notice of such commencement.

**(Modified by Land and Environment Court [insert date])**

2. Add Condition 1A:

### **1A Amended Plans and Documents**

Prior to the issue of a Construction Certificate the plans and documents shall be amended as follows:

- (a) Clear glazing (not frosted or obscure) is to be provided to the southern elevation of the Level 1 Mezzanine level voids over the retail units fronting President Avenue.
- (b) The acoustical report prepared by Koikas Acoustics December 12 2023 is to be revised to address the approved plans as well as the updated operational management plan prepared pursuant to condition 28.
- (c) The Access Report prepared by Certis Access is to be revised to address the approved plans.

**(Modified by Land and Environment Court [insert date])**

3. Amend Condition 2 to read:

## 2. Design Changes Required

### A. Design and Construction

The following design changes must be implemented:

- (i) A materials and samples board for the development consistent with the schedule of materials shown on the approved architectural plans referred to in Condition 1 of this Development Consent is to be prepared.
- (ii) Hydrant boosters and meters must be fully enclosed and incorporated within the building fabric or located in an enclosure *at right angles* to the street and screened by planting.
- (iii) The Skylights in the roof of apartments must be Velux (VCS solar powered automatic opening) flat roof skylight with minimum dimensions of 1140x 1180mm.

Details of these design changes must be submitted for the approval of the Director, Shire Planning and included in documentation submitted with the application for the relevant Construction Certificate.

**(Modified by Land and Environment Court [insert date])**

4. Amend Condition 6 to read as:

## 6. Nature and Content of Signage

### A. Ongoing

- (i) All signage must relate to the tenancy to which it is affixed or proximate or be otherwise as shown in the approved Signage Elevations. No general advertising of goods, products or services which does not relate to the tenancy is permitted.
- (ii) Should a tenancy cease to operate at the premises, all approved signage relating to the tenancy must be removed.
- (iii) Any illuminated signage must be fitted with timers and dimmers so that their timing and brightness can be controlled.
- (iv) All of the glazed areas within the First Floor Level of the approved development (including the specialty retail, Coles and the Liquor shop with frontage to Willarong Road, President Avenue or President Lane) must retain a minimum of 80% of the glazed area free from signage. This includes any internal signage attached to the glass.

**(Modified by Land and Environment Court [insert date])**

5. Amend Condition 10 to read as:



## 10. Bicycle Parking and facilities

### A. Prior to the issue of the relevant Construction Certificate

The Applicant shall submit to the satisfaction of the Certifier the approved plans demonstrating compliance with the following:

- (a) All bicycle parking/storage and end of trip facilities are compliant with AS2890.3 and Type A,B and C facilities under Austroads AP-R527-16 Bicycle Parking Facilities Guidelines.
- (b) The bike parking/storage facilities comprise:
  - 36 Type B residential bicycle parking/ storage spaces at basement 2 comprising:
    - 16 type A bicycle parking/ storage spaces (lockers)
    - Type B bicycle parking / storage space (bicycle cage – with provision for 20 bikes using 10 separate U- rails)
  - 16 Commercial bicycle parking/storage spaces at basement 1 comprising:
    - Type B bicycle parking / storage space, comprising 4 separate U- rails to park 8 bikes
    - Type C bicycle parking /storage space, comprising 4 separate U- rails to park 8 bikes
  - 14 visitor bicycle parking/storage spaces at level 1, comprising 7 separate U-rails to park 14 bikes
- (c) The End of Trip facilities (includes showers, toilets, change rooms)
- (d) Elevators 1,2,3 and 4 are of sufficient size and allow for the transport of e-bikes.
- (e) The location of CCTV is identified on the plans for the security of bike parking / storage space areas

### B. Prior to Commencement of Occupation or Commencement of Use

B1. Prior to occupation, the Applicant must submit to the satisfaction of the Certifier evidence of compliance with the following requirements for secure bicycle parking and end of trip facilities

- (a) Provision of a minimum 66 bicycle parking spaces
- (b) The layout, design and security of bicycle facilities must comply with the minimum requirements of the latest version of AS 2890.3:2015 Parking Facilities and Austroads AP-R527-16 Bicycle Parking Facilities Guidelines, and be located in easy to access, well lit areas that incorporate passive and CCTV surveillance,
- (c) The provision of end of trip facilities are in accordance with the approved plans

- (d) Appropriate pedestrian and cyclist advisory and wayfinding signage systems are installed to inform and direct cyclists and pedestrians around the site. This would include but not be limited to directions to bike parking facilities, lifts, entry exit points

B2 Prior to the issue of the Occupation Certificate the Applicant shall submit to the Certifier evidence of the approved Green Travel Plan (GTP) for the residential and commercial activity on the site "Green Travel Plan for 41-51 President Avenue & 178-186 Willarong Rd, Caringbah, NSW" prepared by LOKA Consulting Engineers – Issue Date 15 December 2023.

B3 The purpose of the Green Travel Plan includes but is not limited to:

- (a) Providing strategies that encourage the use of public and active transport and discourage use of private motor vehicles.
- (b) Identifying the number of residents and staff on the site and establishes the base mode share for active transport, public transport and motor vehicle use.
- (c) Identifying mode share targets relevant to Council and State Government Strategies, this includes The Sutherland Shire Integrated Transport Strategy, Active Transport Strategy, Public Transport Strategy, NSW Active Transport Strategy.
- (d) Determining a communication strategy to engage residents, staff and visitors to the site, to use active and public transport more often.
- (e) Including annual travel surveys to be conducted, evaluation processes and how any mitigations or changes will be implemented.
- (f) Providing details on the management and ongoing funding of the GTP i.e role of the Building Manager and Strata management.
- (g) Including mechanisms to monitor the effectiveness of the measures applied in the GTP.

### **C. Post Occupation**

#### **C1 Green Travel Plan**

The Green Travel Plan shall be the responsibility of the Building Manager for both the residential and commercial activities on the site. The GTP shall be reviewed and updated annually by the Building Manager in consultation with key stakeholders this includes but not limited to the Strata Committee, commercial retail owners/ tenants, residents and staff. The Plan will be implemented with the aim to achieve mode share targets, committing to various management actions, including operational procedures, funding and timeframes. The plan (as reviewed and updated annually) shall be implemented by the Building management for the life of the development.

**(Modified by Land and Environment Court [insert date])**

6. Amend Condition 12 to read as:

## 12. Section 7.11 Contributions - Section 7.11 Development Contribution Plan 2016 - Caringbah Centre Precinct

### A. Before Construction

Pursuant to Section 7.11 of the Environmental Planning and Assessment Act 1979 and Sutherland Shire Council Section 7.11 Development Contribution Plan 2016, a total monetary contribution of \$2,500,000.00 must be paid to Sutherland Shire Council toward the cost of regional and local public domain works contained in the Works Programme of the Development Contribution Plan.

This contribution has been assessed and calculated in accordance with the Development Contribution Plan on the basis of 130 proposed residential apartments with a concession for 5 existing allotments.

<b>Infrastructure &amp; Facilities</b>	<b>Contribution Required</b>
Local open space and public domain works	\$1,849,981.00
Regional open space	\$650,019.00

The contribution will be indexed on 1 July in each year in accordance with the Consumer Price Index (All Groups Index) for Sydney.

The formula to index a contribution rate is:

$$\text{New Contribution Rate} = \text{Current Contribution Rate} \times \frac{\text{Current CPI}}{\text{Previous year's CPI}}$$

**(Modified by Land and Environment Court [insert date])**

7. Amend Condition 28 to read as:

## 28. Loading Dock and Commercial Vehicle Access Management Plan

### A. Before Occupation

Prior to the issue of any Occupation Certificate;

- (i) The Coles Caringbah Supermarket Operations Management Plan dated February 2019 shall be updated to reflect the drawings modified by Modification Application No. MA23/0154 and a copy of the amended plan (and any subsequent amendments) is to be provided to Council. The amended plan shall be implemented to control the movement of commercial vehicle access to and from the site.
- (ii) The Management plan shall include restrictions on the movement of 17m Articulated Vehicles as defined in Australian Standard AS.2890.2 such that access to the development site loading dock shall be via Willarong Road.
- (iii) Details of these Management Plan shall be provided to all commercial and retail tenancies and incorporated in all applicable leases, sales documents and shall also form part of all applicable Strata Management Rules.
- (iv) No form of loading for residential or commercial will be permitted from the kerb side lane of Willarong Road, President Avenue, or the private properties known as 39R President Avenue and 178R Willarong Road for the life of the development.

**(Modified by Land and Environment Court [insert date])**

8. Amend Condition 29 to read as:

**29. Landscaping Works**

**A. Design**

The landscaping works must be designed in accordance with the approved Landscape Plan except where modified by the following:

- (i) Two new tree planting pits to accommodate 2x 400lt *Angophora costata* - Smooth Barked Apples are to be introduced to the northern end of the pedestrian pathway, one outside of the northern residential lobby entrance and one on the blistered radius at the north western corner of the building.

The tree planting along this frontage is not to be caged but is to be protected by framed hardwood constructed tree protection measures as specified within the PDDM.

- (ii) Provide minimum soil depths in planter boxes as follows:
- 1200mm for large trees.
  - 900mm for small trees and tall shrubs.
  - 600mm low shrubs.
  - 450mm grass and ground covers.
- (iii) All landscape retaining walls and planter boxes must be constructed in masonry, stone or gabions. Timber is not acceptable.
- (iv) The communal open space areas/ all landscaped areas and all planter boxes on slab must be provided with a water-efficient irrigation system and taps at 25m centres, connected to a pump and the rainwater tank, to enable effective landscape maintenance.
- (v) Two (2) x *Cupaniopsis ancardioides* located within Council lot 39R President Avenue and two (2) x *Eucalyptus botryoides* located within the Road reserve are to be removed and replaced. Replacements must be provided on the site by the same species, with minimum pot sizes of 200L in accordance with the requirements of Council as part of the public domain works.

The applicant must engage a suitably qualified Landscape Designer or Landscape Architect to oversee any design changes to the approved Landscape Plan and amendments required above. Details of these design changes must be included in the documentation submitted with the application for the relevant Construction Certificate.

**Notes:**

A Landscape Designer is a person eligible for membership of the Australian Landscape Designers and Managers and a Landscape Architect is a person eligible for membership of the Australian Institute of Landscape Architects as a Registered Landscape Architect.

If demolition works are to occur prior to any Construction Certificate being issued, tree protection measures must be installed prior to commencement of demolition.

**B. Prior to Occupation/Occupation Certificate**

The landscape works must be completed in accordance with the approved Landscape Plan and amendments required by 'A' above by persons with a minimum AQF Level III certification in Horticulture or Landscape Construction.

A Final Landscape Inspection must be carried out and a certificate issued by Council's landscape officer prior to occupation or the issue of an Occupation Certificate. This certificate is required to ensure that all tree protection measures, landscaping works, replacement tree planting and the deep soil percentage requirements have been carried out in accordance with 'A' above and other conditions within this Development Consent, that all new indigenous plants on the site and within the road reserve are the correct species and that all trees planted within the road reserve are in accordance with the detailed road frontage design where it forms part of the Roads Act Consent.

To arrange a Final Landscape Inspection please phone 9710-0333 a minimum of 48 hours prior to the required inspection date. An inspection fee will be charged in accordance with the current schedule of rates listed on Council's website. Any secondary inspections will incur a reinspection fee.

**C. Ongoing**

All landscaping works required by 'A' above must be maintained for 12 months following the final landscape inspection date. Trees required by this condition must be maintained and protected until they are covered by Council's Controls for Preservation of Trees and Bushland Vegetation (SSCDP 2015 Chapter 39).

Any plants found faulty, damaged, diseased or dead shall be replaced with the same species in the same sized container within one month with all costs borne by the owner.

**Note:** If difficulty is experienced sourcing suitable indigenous plants from other suppliers, plants grown from locally provenance seed may be available from:  
Sutherland Shire Council Nursery  
345 The Boulevarde, Gymea  
Ph: 02 9524 5672

**(Modified by Land and Environment Court [insert date])**

9. Amend Condition 45 to read as:

**45. Dilapidation Report - Adjoining Properties**

To assist in the resolution of any future disputes about damage to properties adjoining the development site.

**A. Before Works**

Prior to commencement of any work on site the Applicant or principal contractor must provide dilapidation reports on all adjoining properties as identified by a qualified geotechnical engineer as being in the zone of influence of the proposed excavation works, including but not limited to the adjacent buildings at Nos 37-39 & 39R President Avenue and 178R Willarong Road Caringbah, including any basements and ancillary structures. The reports must be provided to the Principal Certifier and to the owners of the properties that are the subject of the report.

The reports must be prepared by a suitably qualified and experienced person, such as a structural engineer.

**(Modified by Land and Environment Court [insert date])**

10. Amend Condition 46 to read as:

#### **46. Design Requirements for Adaptable Housing**

##### **A. Design**

The development must provide 20% of the units as Adaptable Housing. A report prepared by a suitably qualified Adaptable Housing Specialist must be submitted with the relevant Construction Certificate, demonstrating that the development complies with the requirements of AS4299 - Adaptable Housing. The report must contain a completed checklist (Appendix A - AS4299) demonstrating compliance with the requirements of a Class C Adaptable House.

##### **B. Before Occupation**

Prior to the occupation of the development, or this issue of the relevant Occupation Certificate, a suitably qualified Adaptable Housing Specialist must certify that the development has been constructed in accordance with the requirements of "A" above. A copy of this certification must accompany the Occupation Certificate.

**(Modified by Land and Environment Court [insert date])**

11. Amend Condition 47 to read as:

#### **47. Design Requirements for Livable Housing**

##### **A. Design**

The development must provide 10% of the units as Livable Housing. These units must be designed to the 'Silver Standard' as outlined in the *Livable Housing Design Guidelines* (prepared by Livable Housing Australia).

Details must be included in documentation submitted with the application for the relevant Construction Certificate.

##### **B. Before Occupation**

Prior to the occupation of the development, or this issue of the relevant Occupation Certificate, a suitably qualified Livable Housing Specialist must certify that the development has been constructed in accordance with the requirements of "A" above. A copy of this certification must accompany the Occupation Certificate.

**(Modified by Land and Environment Court [insert date])**

12. Amend Condition 55 to read as:

#### **55. Street Numbering and Provision of Letter Box Facilities**

##### **A. Before Occupation**

- i). Street / unit / shop numbers must be clearly displayed.
- ii). Suitable letterbox facilities must be provided in accordance with Australia Post specifications and AS4253.
- iii). The dwellings must have the following street address format:

- Building A northern entrance must be known as 180 Willarong Road, Caringbah
- Building A southern entrance must be known as 182 Willarong Road, Caringbah
- Building B western entrance must be known as 49 President Avenue, Caringbah
- Building B eastern entrance must be known as 43 President Avenue, Caringbah
- Coles commercial tenancy must be known as 1 President Lane, Caringbah
- Northern independent speciality retail shop must be known as 3 President Lane, Caringbah
- Eastern independent speciality retail shop must be known as 41 President Avenue, Caringbah
- Western independent speciality retail shop must be known as 51 President Avenue, Caringbah
- Cluster of 3 attached speciality shops must be known as, 1, 2 & 3/45 President Avenue, Caringbah

**(Modified by Land and Environment Court [insert date])**

13. Amend Condition 61 to read as:

**61. Noise Control - Design and Operation (General Use),**

To minimise the impact of noise from the development, the use of the premises and all sound producing plant, equipment, machinery, mechanical ventilation system or refrigeration systems:

**A. Design**

- (i) The use of the premises and all plant and equipment must be designed and / or located so that the noise emitted does not exceed an LAeq sound pressure level of 5dB above the ambient background level when measured at the most affected point on or within any residential property boundary.

Note: The method of measurement of sound must be carried out in accordance with Australian Standard 1055.1.

- (ii) The building design must be in accordance with the recommendations of the acoustic report by Koikas Acoustics dated 12 December 2023 as updated in accordance with condition 1 and as approved as part of this application.

**B. Before Construction**

Details of the acoustic attenuation treatment to satisfy "A" above must accompany the documentation forming part of the relevant Construction Certificate.

**C. Before Occupation**

Prior to the occupation of the building or the issue of any Occupation Certificate, certification demonstrating compliance with the requirements of the acoustic report detailed in "A" above must be provided to the Principal Certifier. This must include all post construction validation test results.

**(Modified by Land and Environment Court [insert date])**

## 14. Add Condition 62:

**62 Basement Tanking**

- a. The basement shall be tanked in accordance with engineering and construction best practice. No ground water shall be pumped out of the basement. Any leakage is to be immediately remedied to ensure no ground water penetration with the basement.

**b. Basement Engineering Design Plans**

To prevent inundation and/or seepage of groundwater, the basement must be designed as a waterproof (tanked basement). Prior to the issue of a construction certificate, the certifying authority is to be provided with detailed engineering plans for construction of the tanked basement from a suitability qualified engineer(s). Tanking the basement must ensure the following is achieved:

Changes to the basement design must not cause any contravention to the minimum landscaped area required by Clause 6.14 from the Sutherland Shire Local Environmental Plan 2015. A Deep Soil Landscape Calculation Plan must be provided. This plan must not be inconsistent with any landscape plan approved with this application.

The footprint of the basement must maintain the setbacks to all property boundaries as shown on the approved plans.

The finished ground level of the basement must not be lower and the basement roof level must not be higher than as shown on the approved plans.

- c. The level of excavation, other than minor excavation must not exceed RL20.500 deep.
- d. The Basement Design must include Engineered Drainage Designs around and underneath the tanked basement that demonstrate natural groundwater flow conditions will be restored once construction is finalised.
- e. All vehicles must be able enter and leave in a forward direction in 3 or less movements. Swept path diagrams must be delineated for all vehicles in accordance with Australian Standard AS2890.1 and AS2890.6.
- f. If tanking the basement causes internal dimension issues and causes noncompliance with AS2890.1 and AS2890.6, compliance can be achieved by:
- Decreasing the area of all storage areas located to the rear of each garage by increasing the basement setbacks to each property boundary.
  - Deleting all enclosed garage parking areas and visitor parking spaces resulting in the basement becoming an open plan area. The deletion of the common walls between the parking areas will increase the internal area within the basement for circulation and manoeuvring compliance.
  - The splayed wall located between the southernmost visitor parking space and the fire egress stair to be changed to right angled as follows:
  - The southern wall of the southernmost visitor parking space must be 8.3m long, measured from the common wall between the visitor parking space and the lift core for Townhouse 6, and
  - The southern basement wall adjacent to the fire egress stair must be 4.2m long, measured from the fire egress door.
- g. All parking spaces must be a minimum 2.4m wide and a minimum 5.4m in depth. The 2.4m width must be independent of any supporting columns within the basement.
- h. The central aisle must be 5.8m wide.



- i. Details of these design changes must be included in documentation submitted with the application for any Construction Certificate.

**(Modified by Land and Environment Court [insert date])**

15. Add Condition 63:

### **63 Management of Groundwater**

#### **A. During Works**

Any groundwater encountered during works must be treated and managed in accordance with an appropriate Construction Dewatering Management Plan under the supervision of an appropriately qualified, experienced and certified environmental consultant.

The discharge of groundwater and stormwater from the site to Council's stormwater drainage system during any works must have a pH of between 6.5 and 8, and must not exceed a suspended sediment concentration of 50mg/L.

The discharge of groundwater to Council's stormwater drainage system must also be undertaken in accordance with, but not limited to:

- (i) Groundwater/ site water that requires discharge to Council's stormwater drainage system must have a pH of between 6.5 and 8, and must not exceed a total suspended solids concentration of 50mg/L.
- (ii) The discharge of groundwater/ site water to Council's stormwater drainage system must also be undertaken in accordance with, but not limited to:
  - (a) Sutherland Shire Council's "Environmental Specification - Environmental Site Management 2020".
  - (b) Sutherland Shire Council's "Environmental Specification - Stormwater Management 2009"
  - (c) Australian & New Zealand Guidelines for Fresh & Marine Water Quality, 2018
  - (d) Managing Urban Stormwater, Soils and Construction, Volume 1, 4th Edition, 2004, Landcom.
  - (e) ANZECC "Australian and New Zealand Guidelines for Fresh and Marine Water Quality" 2022.
  - (f) Managing Urban Stormwater, Soils & Construction, Volume 1, 4th Edition, 2008, Landcom.

#### **B. Prior to Recommencement of Works**

If groundwater is treated and/or managed onsite in accordance with 'A' above; the Supervising Environmental Consultant must verify that the situation was appropriately managed in accordance with relevant NSW EPA and WaterNSW guidelines.

The verification documentation must be submitted to the satisfaction of the Principal Certifying Authority (PCA) and a copy provided to Sutherland Shire Council, Environmental Assessment Officer prior to the recommencement of works.

Notes:

Certified Environmental Consultant

In all cases, the environmental consultant must be certified by one of the following certification schemes:

EIANZ 'Certified Environmental Practitioner' scheme (CEnvP SC).

Soil Science Australia 'Certified Professional Soil Scientist' (CPSS CSAM).

### **C. Prior to Occupation**

Prior to the issue of any Occupation Certificate, the Supervising Environmental Consultant must certify in writing that the management of groundwater was undertaken in accordance with requirements of any WaterNSW Supply Works Approval (if required) and any other approvals required by WaterNSW.

This certification must be provided to the satisfaction of the Principal Certifying Authority, and a copy provided to Sutherland Shire Council.

Note: Management of Groundwater

If dewatering of groundwater is required during works, a Water Supply Works Approval (for groundwater dewatering) from WaterNSW, may be required. Contact WaterNSW for more information via ph 1300 662 077 or [customer.helpdesk@waterNSW.com.au](mailto:customer.helpdesk@waterNSW.com.au)

<mailto:customer.helpdesk@waterNSW.com.au>

**(Modified by Land and Environment Court [insert date])**

16. Add Condition 64:

## **64 Groundwater and Dewatering**

### **A. Before Construction Certificate**

- a. Prior to the issue of any Construction Certificate, a minimum of 3 months of groundwater assessment undertaken by suitably qualified hydrologist must be undertaken within the 6 months prior to the commencement of any works.

The report must include a prediction of the highest groundwater level expected under wet conditions and hydraulic conductivity and detail whether dewatering is required or is likely to be required based on forecast weather during excavation and construction of the basement and must be prepared in accordance with the NSW Department of Planning and Environment, Minimum requirements for building site groundwater investigations and reporting and include any requirements by WaterNSW. The report must be provided to the Principal Certifier and a copy provided to Sutherland Shire Council.

### **B. During Construction**

If the monitoring and reporting required in a. above determines that groundwater (also termed as seepage or perched water) is likely to be encountered during construction, and dewatering activities will be or are likely to be required, prior to the commencement of dewatering, the following actions must be completed to the satisfaction of the Principal Certifier:

- a) The following approvals must be obtained from WaterNSW
  - a. Water supply work approval,
  - b. Water access licence (WAL) - unless an exemption applies,

A copy of the approval is to be kept on site at all times and made available to the Principal Certifier and the Council upon request.

- b) A Dewatering Management Plan (DMP) must be prepared by a suitably qualified Environmental Consultant and provided to WaterNSW with the application for a water supply work approval. The Dewatering Management Plan must be provided to the Principal Certifier and a copy must be made to council upon request. The DMP must as a minimum:
  - State why de-watering is necessary and confirm any required approvals;
  - Clearly state that the DMP will be used as the basis for approval to enable connection and discharge to the stormwater system;
  - Detail the proposed dewatering technique;
  - Outline the anticipated dewatering flow rate and total dewatering duration. Include the volume of water to be extracted and the duration of the water take during dewatering, incorporating both groundwater inflows and matrix removal through excavation, and time required to achieve hydrostatic pressure equilibrium.
  - Detail the proposed dewatering technique.
  - Detail the controls (e.g. settling tank, turbidity curtain etc) and the method of discharge to ensure compliance with any conditions of approval and requirements of the Protection of the Environment Operations Act 1997. The proposed method of measuring and recording the water take volumes;
  - Explain the measures and techniques to monitor and record groundwater and tailwater quality, water discharges, and monitoring results. Groundwater must be discharged directly to the nearest stormwater pit and not spread over any road or footpath areas. Safe passage for pedestrians must be maintained The proposed method of measuring and recording the water take volumes;
  - Provide a contingency plan in case of an emergency situation;
  - Provide details of water quality analysis and testing that has been undertaken by a NATA accredited laboratory, and demonstrate compliance against relevant water quality criteria including the Australian and New Zealand Guidelines for Fresh and Marine Water Quality

(ANZECC/ARMCANZ 2018). Where the ANZECC/ARMAC 2018 guidelines are silent on any elements or chemicals identified in testing, the water discharge is to comply with relevant endorsed guidelines and recommendations issued by the NSW EPA. The DMP must state that further analysis will be undertaken prior to connection to Council's stormwater system;

- Include the results of a groundwater quality analysis to ensure extracted groundwater is suitable for discharge to stormwater in accordance with requirements in **condition 30**. The groundwater samples must be taken by a suitably qualified Environmental Consultant and analysis undertaken by a NATA accredited laboratory.
- State that the release of water into Council's stormwater system is to halt immediately where water quality does not meet discharge criteria identified above;
- State that the water quality monitoring will be certified by an experienced water quality expert.
- State that water quality parameters will be tested bi-weekly.
- Outline the anticipated dewatering flow rate
- Provide a contingency plan in the event the groundwater does not meet discharge Criteria;
- The dewatering management plan must also address the following matters:
  - Any likely impacts on acid sulfate soils onsite and on adjoining sites through groundwater drawdown and proposed measures to avoid drawdown,
  - Any likely impacts on subsoils on adjoining properties through overextraction and proposed measures to avoid any undermining of adjoining properties,
  - Shoring details,
  - Groundwater take estimates, incorporating both groundwater inflows and matrix removal through excavation.
- a. Management of groundwater must also be carried out in accordance with the requirements of the NSW Acid Sulfate Soil Manual (ASSMAC 1998), the National Acid Sulfate Soil Guidance (2018) and the following requirements:
  - (i) Groundwater that requires discharge to Council's stormwater drainage system must have a pH of between 6.5 and 8, and must not exceed a suspended sediment concentration of 50mg/L.
  - (ii) The discharge of groundwater to Council's stormwater drainage system must also be undertaken in accordance with, but not limited to:

- (a) Sutherland Shire Council's "Environmental Specification - Environmental Site Management 2007".
  - (b) Sutherland Shire Council's "Environmental Specification - Stormwater Management 2009"
  - (c) Managing Urban Stormwater, Soils and Construction, Volume 1, 4th Edition, 2004, Landcom.
- b.** If the groundwater does not meet the criteria suitable for discharge to stormwater, a treatment plan for treating the groundwater prior to discharge must be prepared and approved by Sutherland Shire Council's Stormwater Engineer prior to any water being discharged to Council's stormwater infrastructure. The treatment plan must detail the treatment methodology and equipment, frequency of validation sampling, contingency plan where results don't meet discharge criteria and the method of discharge to ensure compliance with discharge criteria.
- If water cannot be treated, or approval for discharge is not provided, alternative methods of off-site disposal to a facility lawfully able to accept such waste shall be utilised.
- c.** Any dewatering must be carried out in accordance with the Dewatering Management Plan required in A.b).above under the supervision of a certified Environmental Consultant.
- d.** If groundwater (also termed as seepage or perched water) is encountered during basement or any other excavation and a dewatering management plan has not been prepared, and approval from NSW Water has not been provided, then works must cease immediately and the following approvals must be obtained from WaterNSW prior to recommencing works.
- a. Water supply work approval,
  - b. Water access licence (WAL) - unless an exemption applies,

**Notes:****Certified Environmental Consultant**

In all cases, the environmental consultant must be certified by one of the following certification schemes:

EIANZ 'Certified Environmental Practitioner' scheme (CEnvP SC).

Soil Science Australia 'Certified Professional Soil Scientist' (CPSS CSAM).

**(Modified by Land and Environment Court [insert date])**

17. Replace Prescribed Conditions with:

## **PRESCRIBED CONDITIONS**

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**The prescribed conditions in accordance with Part 4, Division 2 of the *Environmental Planning and Assessment Regulation 2021* apply:**

- Clause 69 Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989
- Clause 70 Erection of signs
- Clause 71 Notification of Home Building Act 1989 requirements
- Clause 72 Entertainment venues
- Clause 73 Maximum capacity signage
- Clause 74 Shoring and adequacy of adjoining property

**Refer to the NSW Legislation website for the full text of the above clauses under the *Environmental Planning and Assessment Regulation 2021*. The website can be accessed at: <https://legislation.nsw.gov.au>**

**(Modified by Land and Environment Court [insert date])**

## Annexure B

### DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

**Development Application No:** DA 19/0333

**Development:** The modification application seeks to modify Consent 19/0333 to relocate, redesign and increase the number of residential apartments and make changes to the design of the car park, supermarket and associated infrastructure.

**Site:** 178-186 Willarong Road, 41-47 President Ave and 51 President Ave, Caringbah

#### Schedule of Modifications:

Date approved	Modification Application Number	Decision maker (Land and Environment Court or relevant council)	Proceedings Name and Number (if applicable)
28.03.24	MA 23/0154	Land and Environment Court	Builtcom Developments President Square Pty Ltd v Sutherland Shire Council – LEC No. 2023/212442

The above development application has been determined by the granting of consent subject to the conditions specified in this consent.

**Date of determination:** 29 September 2020

**Date from which consent takes effect:** Date the consent is registered on the NSW Planning Portal.

#### TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site” means the land known as 178-186 Willarong Road, 41-47 President Ave and 51 President Ave, Caringbah.

The conditions of consent are as follows:

## 1. Approved Plans and Documents

The development must be undertaken substantially in accordance with the BASIX certificate, details and specifications set out on the following approved plans:

Plan number	Reference	Prepared by	Date
<b>Architectural Plans</b>			
DA003 Rev K	Site Plan	nettletontribe	Prepared 09.09.20
DA004 Rev K	Demolition Plan	nettletontribe	Prepared 09.09.20
DA101 Rev L	Basement 2 Floor Plan	nettletontribe	Prepared 21.08.20
DA102 Rev L	Basement 1 Floor Plan	nettletontribe	Prepared 21.08.20
DA103 Rev L	Ground floor Plan	nettletontribe	Prepared 21.08.20
DA104 Rev M	Level 1 Floor Plan	nettletontribe	Prepared 31.08.20
DA105 Rev L	Level 2 Floor Plan	nettletontribe	Prepared 21.08.20
DA106 Rev L	Level 3 Floor Plan	nettletontribe	Prepared 21.08.20
DA107 Rev L	Level 4 Floor Plan	nettletontribe	Prepared 21.08.20
DA108 Rev L	Level 5 Floor Plan	nettletontribe	Prepared 21.08.20
DA109 Rev L	Level 6 Floor Plan	nettletontribe	Prepared 21.08.20
DA110 Rev L	Level 7 Floor Plan	nettletontribe	Prepared 21.08.20
DA114 Rev L	Roof Plan	nettletontribe	Prepared 21.08.20
DA116 Rev K	Level 1 Mezzanine	nettletontribe	Prepared 18.08.20
DA132 Rev K	Adaptable Unit Types Sheet 01	nettletontribe	Prepared 10.09.20
DA133 Rev K	Adaptable Unit Types Sheet 02	nettletontribe	Prepared 10.09.20
DA134 Rev K	Adaptable Unit Types Sheet 03	nettletontribe	Prepared 10.09.20
DA201 Rev L	North Elevations	nettletontribe	Prepared 21.08.20
DA202 Rev L	East & West Elevations	nettletontribe	Prepared 09.09.20
DA203 Rev L	South Elevations	nettletontribe	Prepared 21.08.20
DA204 Rev M	Signage Elevations 1	nettletontribe	Prepared 31.08.20



DA301 Rev K	Section A & B	nettletontribe	Prepared 09.09.20
DA302 Rev K	Section C	nettletontribe	Prepared 09.09.20
DA303 Rev K	Typical Façade Section	nettletontribe	Prepared 09.09.20
DA304 Rev K	Typical Façade Section	nettletontribe	Prepared 09.09.20
<b><u>DA10-010 Rev DA4</u></b>	<b><u>Site Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>02.02.24</u></b>
<b><u>DA10-070 Rev DA4</u></b>	<b><u>Basement 3 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-080 Rev DA4</u></b>	<b><u>Basement 2 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-090 Rev DA4</u></b>	<b><u>Basement 1 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-100 Rev DA4</u></b>	<b><u>Ground Floor Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-110 Rev DA4</u></b>	<b><u>Level 1 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-115 Rev DA4</u></b>	<b><u>Level 1 Mezzanine Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-120 Rev DA4</u></b>	<b><u>Level 2 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-130 Rev DA4</u></b>	<b><u>Level 3 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-140 Rev DA4</u></b>	<b><u>Level 4 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-150 Rev DA6</u></b>	<b><u>Level 5 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>06.02.24</u></b>
<b><u>DA10-160 Rev DA5</u></b>	<b><u>Level 6 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>02.02.24</u></b>
<b><u>DA10-170 Rev DA5</u></b>	<b><u>Level 7 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>02.02.24</u></b>
<b><u>DA10-180 Rev DA4</u></b>	<b><u>Level 8 Plan</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-190 Rev DA5</u></b>	<b><u>Roof Plan (Survey Overlay)</u></b>	<b><u>CQ Studio</u></b>	<b><u>02.02.24</u></b>
<b><u>DA10-200 Rev DA2</u></b>	<b><u>Adaptable Unit Types – Sheet 01</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-201 Rev DA2</u></b>	<b><u>Adaptable Unit Types - Sheet 02</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-202 Rev DA2</u></b>	<b><u>Adaptable Unit Types - Sheet 03</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-203 Rev DA2</u></b>	<b><u>Adaptable Unit Types - Sheet 04</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA10-204 Rev DA2</u></b>	<b><u>Adaptable Unit Types - Sheet 05</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA20-101 Rev DA5</u></b>	<b><u>West East Elevation</u></b>	<b><u>CQ Studio</u></b>	<b><u>06.02.24</u></b>
<b><u>DA20-102 Rev DA5</u></b>	<b><u>North South Elevation</u></b>	<b><u>CQ Studio</u></b>	<b><u>02.02.24</u></b>
<b><u>DA20-201 Rev DA4</u></b>	<b><u>Internal Courtyard Elevations</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA20-202 Rev DA4</u></b>	<b><u>Internal Courtyard Elevations</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA20-301 Rev DA1</u></b>	<b><u>Signage Elevations</u></b>	<b><u>CQ Studio</u></b>	<b><u>28.02.24</u></b>
<b><u>DA30-001 Rev DA4</u></b>	<b><u>Section DA-01</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DA30-002 Rev DA4</u></b>	<b><u>Section DA-02</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DASK-001 Rev DA3</u></b>	<b><u>Mezzanine Details and Sections</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>
<b><u>DASK-002 Rev DA2</u></b>	<b><u>Balcony Condenser &amp; Façade Element Details</u></b>	<b><u>CQ Studio</u></b>	<b><u>2.02.24</u></b>
<b><u>DASK-003 Rev DA1</u></b>	<b><u>Typical Façade Plan and Elevation</u></b>	<b><u>CQ Studio</u></b>	<b><u>19.01.24</u></b>

<b><u>DASK-004 Rev DA1</u></b>	<b><u>Light-Weight Awning Details</u></b>	<b><u>CQ Studio</u></b>	<b><u>2.02.24</u></b>
<b>Landscape Plans</b>			
<del>LPS34-18-104 Rev A Page 1</del>	<del>Hardscape / Site Plan</del>	<del>Conzept Landscape Architects</del>	<del>Prepared 14.09.20</del>
<del>LPS34-18-104 Rev A Page 2</del>	<del>Landscape Plan (Level 2)</del>	<del>Conzept Landscape Architects</del>	<del>Prepared 14.09.20</del>
<del>LPS34-18-104 Rev A Page 3</del>	<del>Landscape Plan (Level 6)</del>	<del>Conzept Landscape Architects</del>	<del>Prepared 11.09.20</del>
<del>LPS34-18-104 Rev A Page 4</del>	<del>Specification &amp; Detail</del>	<del>Conzept Landscape Architects</del>	<del>Prepared 11.09.20</del>
<b><u>L-1000 Rev D</u></b>	<b><u>Landscape Specification</u></b>	<b><u>Group GSA Pty Ltd</u></b>	<b><u>18.01.24</u></b>
<b><u>L-1100 Rev C</u></b>	<b><u>Landscape Plan Level 1</u></b>	<b><u>Group GSA Pty Ltd</u></b>	<b><u>13.12.23</u></b>
<b><u>L-1101 Rev D</u></b>	<b><u>Landscape Plan Public Domain Area</u></b>	<b><u>Group GSA Pty Ltd</u></b>	<b><u>18.01.24</u></b>
<b><u>L-1102 Rev D</u></b>	<b><u>Landscape Plan – Lv2 Overall</u></b>	<b><u>Group GSA Pty Ltd</u></b>	<b><u>18.01.24</u></b>
<b><u>L-1103 Rev D</u></b>	<b><u>Landscape Plan – Lv1 3 of 3</u></b>	<b><u>Group GSA Pty Ltd</u></b>	<b><u>18.01.24</u></b>
<b><u>L-1104 Rev D</u></b>	<b><u>Landscape Plan – Lv2 2 of 3</u></b>	<b><u>Group GSA Pty Ltd</u></b>	<b><u>18.01.24</u></b>
<b><u>L-1105 Rev D</u></b>	<b><u>Landscape Plan – Lv2 3 of 3</u></b>	<b><u>Group GSA Pty Ltd</u></b>	<b><u>18.01.24</u></b>
<b><u>L-1106 Rev D</u></b>	<b><u>Landscape Plan – Lv6</u></b>	<b><u>Group GSA Pty Ltd</u></b>	<b><u>18.01.24</u></b>
<b><u>L-5001 Rev D</u></b>	<b><u>Planting Palette</u></b>	<b><u>Group GSA Pty Ltd</u></b>	<b><u>18.01.24</u></b>
<b>Civil Drawings</b>			
<del>CI-000-01 Rev C</del>	<del>Cover Sheet</del>	<del>Stantec Engineers</del>	
<del>CI-060-01 Rev D</del>	<del>General Arrangement Plan</del>	<del>Stantec Engineers</del>	<del>Prepared 10.09.20</del>
<del>CI-070-01 Rev C</del>	<del>Erosion &amp; Sediment Control Plan</del>	<del>Stantec Engineers</del>	<del>Prepared 10.09.20</del>
<del>CI-076-01 Rev B</del>	<del>Erosion &amp; Sediment Control Details</del>	<del>Stantec Engineers</del>	<del>Prepared 10.09.20</del>
<del>CI-100-01 Rev C</del>	<del>Bulk Earthworks Plan</del>	<del>Stantec Engineers</del>	<del>Prepared 10.09.20</del>
<del>CI-520-01 Rev M</del>	<del>Stormwater Drainage Plan –Ground</del>	<del>Stantec Engineers</del>	<del>Prepared 10.09.20</del>
<del>CI-520-02 Rev C</del>	<del>Stormwater Drainage Plan - Basement Level 1</del>	<del>Stantec Engineers</del>	<del>Prepared 10.09.20</del>
<del>CI-526-01 Rev C</del>	<del>Stormwater Drainage Details - Sheet 01</del>	<del>Stantec Engineers</del>	<del>Prepared 10.09.20</del>
<del>CI-526-02 Rev E</del>	<del>Stormwater</del>	<del>Stantec Engineers</del>	<del>Prepared 10.09.20</del>

	Drainage Details - Sheet 02		
<b><u>C090 Rev A</u></b>	<b><u>Stormwater Management Plan – Basement 1</u></b>	<b><u>Xavier Knight</u></b>	<b><u>6.10.23</u></b>
<b><u>C100 Rev C</u></b>	<b><u>Stormwater Management Plan – Ground Floor</u></b>	<b><u>Xavier Knight</u></b>	<b><u>6.10.23</u></b>
<b><u>C101 Rev B</u></b>	<b><u>Stormwater Quality Catchment Plan</u></b>	<b><u>Xavier Knight</u></b>	<b><u>6.04.23</u></b>
<b><u>C102 Rev B</u></b>	<b><u>Stormwater Quality Details</u></b>	<b><u>Xavier Knight</u></b>	<b><u>6.04.23</u></b>
<b><u>C300 Rev B</u></b>	<b><u>Demolition Plan</u></b>	<b><u>Xavier Knight</u></b>	<b><u>6.04.23</u></b>
<b><u>C301 Rev B</u></b>	<b><u>Soil and Water Management Plan</u></b>	<b><u>Xavier Knight</u></b>	<b><u>6.04.23</u></b>
<b><u>C302 Rev B</u></b>	<b><u>Soil and Water Management Details</u></b>	<b><u>Xavier Knight</u></b>	<b><u>6.04.23</u></b>
<b><u>C303 Rev B</u></b>	<b><u>Soil and Water Management Notes</u></b>	<b><u>Xavier Knight</u></b>	<b><u>6.04.23</u></b>
<b>Construction Management Diagrams</b>			
<b><u>AR-01-0100 Rev B</u></b>	<b><u>Site Plan - CMP</u></b>	<b><u>CQ Studio</u></b>	<b><u>Prepared 15.05.23</u></b>
<b><u>AR-01-0101 Rev B</u></b>	<b><u>Section – Existing Stormwater</u></b>	<b><u>CQ Studio</u></b>	<b><u>Prepared 15.05.23</u></b>

<b><u>Document</u></b>	<b><u>Prepared by</u></b>	<b><u>Date</u></b>
<b><u>Traffic Management Report</u></b>	<b><u>Loka Consulting Engineers</u></b>	<b><u>4.12.23</u></b>
<b><u>Natural Ventilation Memo</u></b>	<b><u>Windtech</u></b>	<b><u>4.12.23</u></b>
<b><u>BCA Statement</u></b>	<b><u>Allcert</u></b>	<b><u>14.12.23</u></b>
<b><u>Acoustical Report</u></b>	<b><u>Koikas Acoustics</u></b>	<b><u>12.12.23</u></b>
<b><u>Access Report</u></b>	<b><u>Certis Access</u></b>	<b><u>14.12.23</u></b>
<b><u>BASIX Certificate No. 1374312M_04</u></b>	<b><u>Ecoplus Consultants Pty Ltd</u></b>	<b><u>16.02.24</u></b>
<b><u>Green Travel Plan</u></b>	<b><u>Loka Consulting Engineers</u></b>	<b><u>22.12.23</u></b>
<b><u>Arborist Report</u></b>	<b><u>Arboreport</u></b>	<b><u>31.01.20</u></b>
<b><u>Arborist Report</u></b>	<b><u>Redgum Horticultural</u></b>	<b><u>22.03.23</u></b>
<b><u>Waste Management Statement</u></b>	<b><u>CQ Design Studio</u></b>	<b><u>12.04.23</u></b>

and any details on the application form and on any supporting information received with the application (as amended) except as amended by the following conditions.

Note: The following must be submitted to Sutherland Shire Council prior to the commencement of any building work.

- (a) A Construction Certificate.
- (b) Notification of the appointment of a Principal Certifying Authority and a letter of acceptance from that Principal Certifying Authority.
- (c) Notification of the commencement of building works with a minimum of 2 days' notice of such commencement.

**(Modified by Land and Environment Court 28 March 2024)**

## 1A Amended Plans and Documents

Prior to the issue of a Construction Certificate the plans and documents shall be amended as follows:

- (a) Clear glazing (not frosted or obscure) is to be provided to the southern elevation of the Level 1 Mezzanine level voids over the retail units fronting President Avenue.
- (b) The acoustical report prepared by Koikas Acoustics December 12 2023 is to be revised to address the approved plans as well as the updated operational management plan prepared pursuant to condition 28.
- (c) The Access Report prepared by Certis Access is to be revised to address the approved plans.

**(Modified by Land and Environment Court 28 March 2024)**

## 2. Design Changes Required

### A. Design and Construction

The following design changes must be implemented:

- (i) A materials and samples board for the development consistent with the schedule of materials shown on the approved architectural plans referred to in Condition 1 of this Development Consent is to be prepared.
- (ii) Hydrant boosters and meters must be fully enclosed and incorporated within the building fabric or located in an enclosure *at right angles* to the street and screened by planting.
- (iii) Skylights in the roof of apartments must be Velux (VCS solar powered automatic opening) flat roof skylight with minimum dimensions of 1140x 1180mm.

Details of these design changes must be submitted for the approval of the Director, Shire Planning and included in documentation submitted with the application for the relevant Construction Certificate.

**(Modified by Land and Environment Court 28 March 2024)**

## 3. Integrated Development Approval - Requirement of Approval Bodies

### A. General Terms of Approval from Approval Bodies

The development must be undertaken in accordance with all General Terms of Approval (GTA) of the following approval bodies under Section 4.46 of the Environmental Planning and Assessment Act 1979.

- WaterNSW

A copy of each of the GTAs and any further requirements of the approval bodies are attached to this Development Consent. These requirements must be incorporated in the application for the relevant Construction Certificate and where required by the GTAs relevant approvals must be granted prior to the release of the Construction Certificate.

#### **4. Requirements from Other Authorities**

##### **A. Requirements from Other Authorities**

The development must be undertaken in accordance with the requirements of Sydney Trains.

A copy of the Requirements of the Approval Authority(s) are attached to this Development Consent. These requirements must be incorporated in the application for the relevant Construction Certificate and where required, relevant approvals must be obtained prior to the release of the Construction Certificate.

#### **5. Required Deed of Agreement - Council Property or Infrastructure**

##### **A. Before Construction**

Prior to the issue of any Construction Certificate, the applicant/owner/person entitled to act on the Development Consent must enter into a Deed of Agreement with Council in relation to the expunging and relocation of Council's drainage infrastructure burdening Lot D DP387699, Lot X DP396618, Lot B DP449572 & Lot A DP449572 in accordance with Sutherland Shire Council's Release and Relocation of Drainage Easements Policy.

A copy of the executed Deed of Agreement must be submitted to the Principal Certifier to form part of the approved Construction Certificate documentation.

The applicant/owner/person entitled to act on the Development Consent must comply with all terms and conditions of the Deed of Agreement.

Note: The applicant should be aware that this process requires a resolution of Council and may take some months to complete.

#### **6. Nature and Content of Signage**

##### **A. Ongoing**

- (i) All signage must relate to the tenancy to which it is affixed or proximate or be otherwise as shown in the Signage Elevations Plan (Dwg No DA204 Rev M set out in Condition 1 of DA 19/0333). No general advertising of goods, products or services which does not relate to the tenancy is permitted.
- (ii) Should a tenancy cease to operate at the premises, all approved signage relating to the tenancy must be removed.
- (iii) Any illuminated signage must be fitted with timers and dimmers so that their timing and brightness can be controlled.
- (i) All of the glazed areas within the First Floor Level of the approved development (including the specialty retail, Coles and the Liquor shop with frontage to Willarong Road, President Avenue or President Lane) must retain a minimum of 80% of the glazed area free from signage. This includes any internal signage attached to the glass.

**(Modified by Land and Environment Court 28 March 2024)**

## 7. Trunk Drainage Construction

### A. Design

- (i) **The alignment of Council's stormwater drainage infrastructure (pipelines that traverses No.41-45, 47 & 51 President Avenue and 186 Willarong Road) shall be accurately detailed on Construction Management Diagrams sheets AR-01-0100B & AR-01-0101B prepared by CQ Studio.**
- (ii) **The works "exclusion zone" shall be increased in width to accommodate the outer diameter of the pipes + 1m beyond to outer eastern and western wall of the pipelines + the clearance between the pipelines + the associated 1 vertical to 2 horizontal batters.**
- (iii) **A Registered Surveyor must certify the alignment of Council's pipelines and the required "exclusion zone" detailed on the required amended Construction Management Diagrams sheets AR-01-0100B & AR-01-0101B by CQ Studio, as being correct.**

### B. Before Construction

Prior to the issue of any Construction Certificate for bulk excavation or the built form approved by this Development Consent, the realigned trunk drainage pipeline within President Ave, subject property and Willarong Road must be fully operational and to the satisfaction of the Director, Shire Planning.

**Despite the above, excavation and associated preliminary works to the extent detailed in Construction Management Diagrams sheets AR-01-0100B & AR-01-0101B by CQ Studio as amended to accord with Part A (above) is permitted prior to bulk excavation.**

**Note: \*Bulk excavation is all works that exceed the depth and extent set out in the Construction Management Diagrams.**

## 8. Trunk Drainage Design

### A. Design

The stormwater drainage system must be designed in accordance with the approved stormwater drainage design drawing; Australian Standard AS3500.3:2015; Sutherland Shire Council Public Domain Technical Manual. Except where modified by the following:

- (i) All pipes must be Concrete Reinforced Pipes from a reputable pipe manufacturer ii) The pipeline between pits PCUL\_MH2 & PCL\_MH5 must be constructed using jacking techniques or such alternative techniques as may be agreed with Council's Stormwater and Waterways Manager. Such techniques must not in any way jeopardise the retention of Tree 3.
- (iii) A stormwater pipe long-section to be provided detailing pipe grades, levels and benching

### B. Before Construction of Trunk Drainage Pipeline

- (i) Geotechnical investigation must be undertaken to ensure the suitability of the soil profile is suitable for pipe jacking between pits PCUL\_MH2 & PCL\_MH5. ii)

Certification from an Accredited Certifier in Civil Engineering or a Chartered Civil Engineer, to the effect that the drainage design is to their satisfaction and satisfies the design requirements in A. above must accompany the application for a Construction Certificate.

- (iii) Approval from Council's Stormwater and Waterway Manager, to the effect that the drainage design is to their satisfaction and satisfies the design requirements in A. above must accompany the application for a Construction Certificate
- (iv) The deed of agreement between Sutherland Shire Council and the applicant/owner/person entitled to act on the development consent must be executed.

### **C. Prior to Bulk Excavation**

Prior **any bulk excavation occurring on site:**

- (i) A Works-As-Executed drawing (WAED) of the stormwater trunk drainage system must be prepared by a Registered Surveyor. This drawing must detail the alignment of pipelines and pits. An original or a colour copy must be submitted to Sutherland Shire Council.
- (ii) The supervising engineer must certify the WAED of the stormwater trunk drainage system was constructed to their satisfaction and in accordance with the Development Consent, and Public Domain Technical Manual.
- (iii) CCTV and associated condition report of the realigned stormwater trunk drainage system must be provided to Council's Stormwater and Waterway Manager for review and comment.
- (iv) Approval from Council's Stormwater and Waterway Manager, to the effect that the stormwater trunk drainage system is to their satisfaction and satisfies the design requirements in "A" above must accompany the application for a Construction Certificate relating to the built form.

**Note: \*Bulk excavation is all works that exceed the depth and extent set out in the Construction Management Diagrams.**

### **D. Before Occupation Certificate**

Prior to the issue of the Occupation Certificate for the entire development the following must be completed;

- (i) CCTV and associated condition report of the realigned stormwater trunk drainage system must be provided to Council's Stormwater and Waterway Manager for review and comment.

Note: All CCTV and reporting must be completed in accordance with Water Services Association of Australia (WSAA) guidelines.

## **9. Development abutting 39R President Avenue Caringbah**

### **A. On-going**

Nothing in this consent restricts Council or a subsequent owner of Lot 1 DP 1003405 from building to the western boundary of the lot as may be entitled under relevant legislation. Such building may result in the restriction of light to the approved eastern

windows and require necessary modification works to the approved development which must occur at the applicant's cost.

## 10. Bicycle Parking and facilities

### A. Prior to the issue of the relevant Construction Certificate

The Applicant shall submit to the satisfaction of the Certifier the approved plans demonstrating compliance with the following:

- (a) All bicycle parking/storage and end of trip facilities are compliant with AS2890.3 and Type A,B and C facilities under Austroads AP-R527-16 Bicycle Parking Facilities Guidelines.
- (b) The bike parking/storage facilities comprise:
  - 36 Type B residential bicycle parking/ storage spaces at basement 2 comprising:
    - 16 type A bicycle parking/ storage spaces (lockers)
    - Type B bicycle parking / storage space (bicycle cage – with provision for 20 bikes using 10 separate U- rails)
  - 16 Commercial bicycle parking/storage spaces at basement 1 comprising:
    - Type B bicycle parking / storage space, comprising 4 separate U- rails to park 8 bikes
    - Type C bicycle parking /storage space, comprising 4 separate U- rails to park 8 bikes
  - 14 visitor bicycle parking/storage spaces at level 1, comprising 7 separate U- rails to park 14 bikes
- (c) The End of Trip facilities (includes showers, toilets, change rooms)
- (d) Elevators 1,2,3 and 4 are of sufficient size and allow for the transport of e-bikes.
- (e) The location of CCTV is identified on the plans for the security of bike parking / storage space areas

### B. Prior to Commencement of Occupation or Commencement of Use

B1. Prior to occupation, the Applicant must submit to the satisfaction of the Certifier evidence of compliance with the following requirements for secure bicycle parking and end of trip facilities

- (a) Provision of a minimum 66 bicycle parking spaces
- (b) The layout, design and security of bicycle facilities must comply with the minimum requirements of the latest version of AS 2890.3:2015 Parking Facilities and Austroads AP-R527-16 Bicycle Parking Facilities Guidelines, and



be located in easy to access, well lit areas that incorporate passive and CCTV surveillance,

- (c) The provision of end of trip facilities are in accordance with the approved plans
- (d) Appropriate pedestrian and cyclist advisory and wayfinding signage systems are installed to inform and direct cyclists and pedestrians around the site. This would include but not be limited to directions to bike parking facilities, lifts, entry exit points

B2 Prior to the issue of the Occupation Certificate the Applicant shall submit to the Certifier evidence of the approved Green Travel Plan (GTP) for the residential and commercial activity on the site "Green Travel Plan for 41-51 President Avenue & 178-186 Willarong Rd, Caringbah, NSW" prepared by LOKA Consulting Engineers – Issue Date 15 December 2023.

B3 The purpose of the Green Travel Plan includes but is not limited to:

- (a) Providing strategies that encourage the use of public and active transport and discourage use of private motor vehicles.
- (b) Identifying the number of residents and staff on the site and establishes the base mode share for active transport, public transport and motor vehicle use.
- (c) Identifying mode share targets relevant to Council and State Government Strategies, this includes The Sutherland Shire Integrated Transport Strategy, Active Transport Strategy, Public Transport Strategy, NSW Active Transport Strategy.
- (d) Determining a communication strategy to engage residents, staff and visitors to the site, to use active and public transport more often.
- (e) Including annual travel surveys to be conducted, evaluation processes and how any mitigations or changes will be implemented.
- (f) Providing details on the management and ongoing funding of the GTP i.e role of the Building Manager and Strata management.
- (g) Including mechanisms to monitor the effectiveness of the measures applied in the GTP.

### **C. Post Occupation**

#### **C1 Green Travel Plan**

The Green Travel Plan shall be the responsibility of the Building Manager for both the residential and commercial activities on the site. The GTP shall be reviewed and updated annually by the Building Manager in consultation with key stakeholders this includes but not limited to the Strata Committee, commercial retail owners/ tenants, residents and staff. The Plan will be implemented with the aim to achieve mode share targets, committing to various management actions, including operational procedures, funding and timeframes. The plan (as reviewed and updated annually) shall be implemented by the Building management for the life of the development.

**(Modified by Land and Environment Court 28 March 2024)**

## 11. Public Place Environmental, Damage & Performance Security Bond

### A. Before Issuing of any Construction Certificate

Prior to the issue of a Construction Certificate or the commencement of any works on site, whichever occurs first, the person acting on this Development Consent must provide security to Sutherland Shire Council against damage that may be caused to any Council property and/or the environment as a consequence of the implementation of this consent. The security may be provided by way of a deposit with Council or a bank guarantee. A non-refundable inspection/administration fee is included in the bond value.

It is the responsibility of the person acting on this consent to notify Sutherland Shire Council of any existing damage to public areas in the vicinity of the development site by the submission of a current dilapidation report supported by photographs. This information must be submitted to Council at least 2 days prior to the commencement of works.

In the event that the dilapidation report is not submitted 2 days prior to commencement and the public area sustains damage the person acting on this consent may be held liable.

Should any public property and/or the environment sustain damage as a result of the works associated with this consent, or if the works put Council's assets or the environment at risk, Council may carry out any works necessary to repair the damage and/or remove the risk. The costs incurred must be deducted from the bond.

The value of the bond is \$100,000

**Note:** Bond amount includes a non-refundable administration fee, specified in Council's Schedule of Fees and Charges, which must be paid separately if security is provided by way of a deposit with Council or a bank guarantee.

**Use of Bank Guarantee:** As bond releases may occur under different timeframes only one bond amount/bond purpose is permitted on a Bank Guarantee. Multiple bonds will require multiple bank guarantees to be lodged.

A Bank Guarantee may only be used where the minimum bond amount is \$50,000. The Bank Guarantee must also:

- Note Council as the interested party
- Have NO expiry date
- Describe the type of development using the description on the consent
- Include both the address of the development site and the application number
- NOT include the non-refundable administration fee; this must be paid separately.

### B. After Occupation

A request for release of the bond may be made to Sutherland Shire Council after all works relating to this Development Consent have been completed. Such a request must be submitted to Council on the 'Bond Release Request Form' signed by the owner or any person entitled to act on the consent and must be accompanied by a current dilapidation report including photographs.

## 12. Section 7.11 Contributions - Section 7.11 Development Contribution Plan 2016 - Caringbah Centre Precinct

### A. Before Construction

Pursuant to Section 7.11 of the Environmental Planning and Assessment Act 1979 and Sutherland Shire Council Section 7.11 Development Contribution Plan 2016, a total monetary contribution of \$2,500,000.00 must be paid to Sutherland Shire Council toward the cost of regional and local public domain works contained in the Works Programme of the Development Contribution Plan.

This contribution has been assessed and calculated in accordance with the Development Contribution Plan on the basis of 130 proposed residential apartments with a concession for 5 existing allotments.

<b>Infrastructure &amp; Facilities</b>	<b>Contribution Required</b>
Local open space and public domain works	\$1,849,981.00
Regional open space	\$650,019.00

The contribution will be indexed on 1 July in each year in accordance with the Consumer Price Index (All Groups Index) for Sydney.

The formula to index a contribution rate is:

$$\text{New Contribution Rate} = \text{Current Contribution Rate} \times \frac{\text{Current CPI}}{\text{Previous year's CPI}}$$

**(Modified by Land and Environment Court 28 March 2024)**

### B. Contribution Timing

Payment shall be made in accordance with a Deed of Agreement and periodic payment plan, in accordance with Council requirements and the provisions of the Development Contributions Plan. The Deed of Agreement must be executed prior to the issue of any Construction Certificate for bulk earthworks or the built form. Full payment shall be made within 12 months of the date of issue of the construction certificate for bulk excavation works or prior to the issue of any occupation certificate, whichever comes first.

**Note:** Interest is payable at the current maximum interest on overdue rates and charges. This arrangement is subject to indexation which is charged on the 1st July each year on the balance outstanding at the time. All costs associated with this payment arrangement is to be borne by the developer/ consent holder, and any failure to meet any payment, in full, will result in the arrangement becoming void. This shall be reflected in the Deed of Agreement.

## 13. Approvals Required under Roads Act or Local Government Act

### A. Before Construction

No occupation or works are to be carried out on public land (including a road or footpath) or access provided over a public reserve adjacent to the development site without approval being obtained from Sutherland Shire Council and the necessary fee paid under the Roads Act 1993 and/or the Local Government Act 1993. These

approvals must be to the satisfaction of Council for the required development works and may include but are not limited to the following:

- Frontage works including construction of a driveway, footpath, etc.
- Road openings and restoration to provide services to the development.
- Work Zones and hoardings.
- Skip bins.
- Shoring / anchoring.
- Standing of cranes, concrete pumps, etc.

Note: All Plans and Permits are required to be on site, at all times and may be requested by Council officers at any time.

**Note: Approval under the Roads Act or Local Government Act cannot be granted by a Principal Certifying Authority or by a Private Certifier. Failure to obtain approval may result in fines or prosecution.**

## **B. During Works**

There must be no occupation or works on public land (including a road or footpath) or access provided over a public reserve adjacent to the development site without approval being obtained from Sutherland Shire Council. Any work on public land must be undertaken strictly in accordance with the relevant approval issued under the Roads Act 1993 and/or the Local Government Act 1993 by Sutherland Shire Council.

## **14. Design and Construction of Works in Road Reserve & Council Land (Council Design)**

### **A. Design**

Council has determined that the proposed development generates a need for the following works to be undertaken by the applicant in the road reserve. To this end a Detailed Frontage Works application under the Roads Act 1993 must be submitted to Sutherland Shire Council, prior to the release of the relevant Construction Certificate. The form is available on Council's website. A fee applies for the relevant inspections, assessment, coordination, creation of design brief and the issue of permits providing consent to undertake frontage works. The design will be quoted separately by Council's Design Services unit.

This design will generally comply with the approved architectural design drawings and the current website version of Council's Public Domain Design Manual (PDDM) and Public Domain Technical Manual (PDTM) except where modified by/or addressing the following (insofar as the works relate to the frontage of the development site and as affected by the approved development):

- (i) Property alignment/ boundary levels - establish the property alignment/ boundary levels and crossing profiles.
- (ii) Grades - regrade footpath verge to final design levels including new footpath pavement and all associated landscaping. This includes the area around the existing street tree on the corner of President Avenue / Willarong Road to the satisfaction of Council to ensure its retention.
- (iii) Vehicle Crossings - construct 3 vehicle crossings.
- (iv) Redundant Laybacks and Crossings - remove redundant laybacks and vehicle crossings and replace with kerb and gutter (including associated road reconstruction works).

- (v) Stormwater Works - relocate and reconstruct new stormwater pits & pipelines to the satisfaction of Council's Public Domain & Stormwater Engineers to facilitate the redirection of the existing system on President Avenue & Willarong Road.
- (vi) Footpath - install new full width primary footpath pavement along full frontage of site. This includes the area adjacent to 39R President Avenue.
- (vii) Infrastructure Transitions - ensure there are adequate transitions between newly constructed and existing infrastructure as required.
- (viii) Road Pavement - reconstruct road pavement as required by Council.
- (ix) Kerb and Gutter - realign and construct new kerb and gutter around the full frontage of the site including associated road reconstruction as required by Council.
- (x) Parking Bays - construct new parking bays on President Avenue and Willarong Road following the installation of the new stormwater pipelines & pits.
- (xi) Kerb Ramps - reconstruct kerb ramps as required.
- (xii) Raised Threshold - construct a new raised threshold between the kerb ramps on President Lane adjacent to President Avenue. Adjust stormwater pits & pipelines, road pavement, footpath and lighting as required to facilitate this threshold.
- (xiii) Median Fencing - install Type 1 RMS fencing within the median strip of President Avenue between President Lane and Willarong Road.
- (xiv) Street Signage - alter existing and/or install new street signage as required. xv) Trees - retain, remove and replace street trees as required by Council.
- (xv) Undergrounding - provide replacement of existing local distribution power lines and other overhead utilities with subsurface utilities.
- (xvi) Street Lighting - install new street lighting around the full frontage of the site to achieve the appropriate illumination as required for the development.
- (xvii) TFNSW / RMS - Complete any works as required by Transport for NSW / RMS. xix) Utility Services - adjust and relocate public services infrastructure as required.
- (xviii) NBN - the Australian Government has issued a new policy on the provision of telecommunication infrastructure in new developments. The policy is effective from 1 March 2015. Developers are responsible for providing telecommunications infrastructure in their developments. To provide this infrastructure, developers need to contract a carrier to install and operate a telecommunications network.

NBN is the IPOLR (infrastructure provider of last resort) in developments of 100 lots or more within its fixed-line footprint and in new development where its fixed-line network is available, or the NBN rollout has been announced ([www.nbnco.com.au/learn-about-the-nbn/rollout-map.html](http://www.nbnco.com.au/learn-about-the-nbn/rollout-map.html))  
<<http://www.nbnco.com.au/learn-about-the-nbn/rollout-map.html>>).

If you use NBN, you will need to provide six months' notice before your network needs to be available.

Evidence of the lodgement of this application must be provided to the PCA prior to the release of the relevant Construction Certificate

## **B. Before Construction**

- (i) Prior to the release of the relevant Construction Certificate property alignment levels and crossing profiles must be obtained from Sutherland Shire Council.

- (ii) Prior to the release of the relevant Construction Certificate the deed of agreement relating to the realignment of the trunk drainage system must be executed.

### **C. Before Occupation**

Prior to the occupation of the building or the issue of an Occupation/Subdivision Certificate the following certification must be provided to Sutherland Shire Council:

- (i) The supervising engineer must certify that the road frontage works were constructed in accordance with the Development Consent and associated approval under the Roads Act 1993 including the approved drawings and specification.

## **15. Site Management Plan**

### **A. Before Commencement of Works including Demolition**

An Environmental Site Management Plan must accompany the Construction Certificate. If demolition is to commence prior to the issue of a Construction Certificate the applicant must submit to Sutherland Shire Council a separate Demolition Site Management Plan. These plans must satisfy the Objectives and Controls of Sutherland Shire Development Control Plan 2015 relating to environmental site management and must incorporate the following throughout demolition and construction:

- (i) Safe access to and from the site during construction and demolition.
- (ii) Safety and security of the site, road and footpath area including details of proposed fencing, hoarding and lighting.
- (iii) Method of loading and unloading excavation machines, building materials.
- (iv) How and where, construction materials, excavated and waste materials will be stored.
- (v) Methods to prevent material being tracked off the site onto surrounding roadways.
- (vi) Erosion and sediment control measures.
- (vii) All trees and their protection zones on and around the site identified for retention are to be protected according to Australian Standard AS 4970 - 2009 Protection of Trees on Development Sites using the methods outlined in that Standard.

### **B. During Works**

The site management measures set out in the above plan must remain in place and be maintained throughout the period of works and until the site has been stabilised and landscaped.

### **C. Before Occupation**

Before the issue of any Occupation Certificate, all foundations / materials associated with construction works (that do not form part of the approved works) must be

removed. This includes but is not limited to foundations for tower cranes, vehicle access ways, stockpiles, building waste etc.

## **16. Pre-commencement Inspection**

### **A. Before Works**

A Pre-commencement Inspection/meeting is to be convened by the Applicant on-site a minimum 5 days prior to any demolition and/or construction activity and between the hours of 8.00 am and 4.30 pm Monday to Friday. The meeting must be attended by a representative of Council's Public Domain Assets Branch, the Principal Certifying Authority, the builder/site manager of the building/civil construction company and where necessary the supervising engineer. The attendance of the owner is required when it is intended to use more than one builder/principal contractor throughout the course of construction.

The purpose of the meeting is to:

- (i) Ensure safe passage for pedestrians, Work and Hoarded Zones are maintained in accordance with Council requirements.
- (ii) Check the installation and adequacy of all traffic management devices.
- (iii) Confirm that the supervising engineer has a copy of Council's Specification for Civil Works Associated with Subdivisions and Developments.

**Note:** An inspection fee must be paid to Council prior to the lodgement of the Notice of Commencement. Please refer to Sutherland Shire Council's Adopted Schedule of Fees and Charges.

## **17. Supervising Engineer**

### **A. Before Construction**

The applicant must engage an Accredited Certifier in civil engineering works or a Chartered Civil Engineer to supervise construction of any:

- (i) Road frontage works.
- (ii) Construction / installation of stormwater drainage.
- (iii) Rainwater harvesting and reuse.
- (iv) All other works that form part of a subdivision.

The PCA must be informed of the supervising engineer's name and contact details, in writing, prior to the commencement of any construction works.

### **B. During Construction**

The engineer must supervise the works as listed above to ensure compliance with:

- (i) All relevant conditions of this Development Consent.
- (ii) Any Consent issued under the Roads Act for this development.

**C. Before Occupation**

The supervising engineer must certify the works required in A. above were undertaken and completed in accordance with the requirements of this Development Consent and to their satisfaction.

**18. Internal Driveway, Parking and Manoeuvring****A. Design**

The internal driveway profile, parking and manoeuvring areas must be designed in accordance with the approved architectural plans except where modified by the following:

- (i) Align with Access and Alignment levels issued by Council's Public Domain Unit.
- (ii) All "one way" traffic aisles in the car parking area must be clearly identified by signposting and pavement marking.
- (iii) The ingress and egress crossing must be clearly identified by signage.
- (iv) The proposed loading and delivery area must be clearly defined with suitable signposting.
- (v) The car park must be line marked.
- (vi) The internal driveway and car parking area must be paved or concreted.
- (vii) Provide adequate sight distance for the safety of pedestrians using the footpath area.
- (viii) Provide a maximum grade of 5% for the first 3 metres inside the property boundary for the residential basement ramp.
- (ix) Comply with AS2890.1 (2004) user class 1A for residential and 3A for retail, in relation to the design of vehicular access, parking and general manoeuvring for the B85 vehicle.
- (x) Comply with AS2890.2 (2002) in relation to the design of vehicular access, parking and general manoeuvring for the AV vehicle.
- (xi) The maximum longitudinal grade of the driveway must not exceed 25% for retail and residential parking levels and 15.4% for the loading dock.

**B. Construction**

Certification from an appropriately qualified engineer to the effect that the design requirements of A. above have been met must accompany the Main Construction Certificate.

**C. Occupation**

Prior to the occupation of the development or the issue of any Occupation Certificate a suitably qualified engineer must certify that the works required in A. above were undertaken and completed to their satisfaction and in accordance with the



requirements of this Development Consent. This certification must be provided to the PCA and a copy also provided to Council.

#### **D. On-going**

The approved parking must be used exclusively for car parking as approved for the life of the development.

### **19. Basement Car Park Design and Construction**

#### **A. Design**

The basement car park must be designed in accordance with the approved architectural drawings, subject to the following modifications:

- (i) A minimum headroom of 2.2m measured from the parking floor to the underside of any beam, ventilation duct or service conduit, or to the underside of any door including a security door and fittings when those doors are in an open position in accordance with clause 5.3 of AS2890.1.
- (ii) Parking bays must not be enclosed, caged or a door provided.
- (iii) All parking bays must provide a minimum clear parking envelop in accordance with figure 5.2 of AS2890.1.
- (iv) The security door fitted to the car parking area entrance must be independently mounted on rubber pads to prevent vibration noise transmission through the concrete walls and / or columns.

#### **B. Prior to Construction**

Certification from a Chartered Civil Engineer or a Registered Surveyor, to the effect that the car park layout and vehicle access-way design has been prepared in accordance with A above must accompany the relevant Construction Certificate.

#### **C. Occupation**

Prior to the occupation of the development or the issue of any Occupation Certificate a Chartered Civil Engineer or a Registered Surveyor must certify that the works required in "A" above have been completed to their satisfaction and in accordance with the requirements of this Development Consent. This certification must be provided to the PCA and a copy provided to Council.

#### **D. On-going**

The approved parking must be used exclusively for car parking for the life of the development.

### **20. Stormwater Drainage**

#### **A. Design**

The stormwater drainage system must be designed in accordance with the approved stormwater drainage design drawing; Australian Standard AS3500.3:2015; the BASIX Certificate issued for this development; Sutherland Shire Environmental Specification - Stormwater Management. Except where modified by the following:

- (i) The stormwater tank must have a minimum capacity of 15m<sup>3</sup>.

- (ii) All levels reduced to Australian Height Datum. iii) Harvested rainwater must be used for irrigation
- (iii) The pipeline within the footpath verge must be a hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 millimetres or reinforced concrete.
- (iv) Where pipelines are located within the “tree protection zone” of significant vegetation to be retained, the lines shall be excavated by hand or by directional underboring techniques to reduce any adverse impact on the root zone of the trees.

#### **B. Before Construction**

- i) Certification from an Accredited Certifier in Civil Engineering or a Chartered Civil Engineer, to the effect that the drainage design is to their satisfaction and satisfies the design requirements in A. above must accompany the application for the relevant Construction Certificate.

#### **C. Before Occupation**

Prior to the issue of an Occupation Certificate:

- (i) A Works-As-Executed drawing (WAED) of the stormwater drainage system must be prepared by a Registered Surveyor. This drawing must detail the alignment of pipelines, pits and the rainwater tanks. An original or a colour copy must be submitted to Sutherland Shire Council.
- (ii) The supervising engineer must certify the WAED of the stormwater drainage system that the stormwater drainage works, rainwater harvesting facility and rainwater reuse systems were constructed to their satisfaction and in accordance with the Development Consent, and Public Domain Technical Manual. Prior to the occupation or use of the building the Applicant / Owner must submit to Council a copy of the aforementioned letter of certification.

#### **D. Ongoing**

- i) The operation of all devices or appliances installed within the development approved by this consent as required by conditions pertinent to rainwater harvesting and rainwater reuse must be maintained in good operating order at all times.

## **21. Flood Requirements**

### **A. Design**

- (i) The design of the structure, including all levels for entrances, floors, car parking, and driveway crests must be consistent (not lower) with the Bewsher Review of Flooding Modelling and Flood Risk letter dated 22 July 2020 and Flood Risk Management Report dated 22 July 2020 prepared by Stantec and the approved architectural plans.
- (ii) All building materials must be flood resistant, or flood compatible to a height of the 1% AEP level plus 500mm or PMF level (whichever is higher).
- (iii) All internal electrical switches, power points or similar utilities liable to flood damage must be set above the levels detailed above in ii).

- (iv) A suitably qualified engineer must certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy up to and including the 1%AEP plus 500mm freeboard.

#### **B. Before Construction**

- (v) Before the issue of the relevant Construction Certificate a suitably qualified engineer with experience in flooding is to certify that levels shown on Construction Certificate drawings, including driveway crest levels, are consistent with that of the approved DA19/0333 plans, Flood Risk Management Report dated 22 July 2020 prepared by Stantec and Bewsher Review of Flooding Modelling and Flood Risk letter dated 22 July 2020.

A copy of this certification must form part for the support documents within the relevant Construction Certificate

#### **C. During Construction**

The minimum habitable floor level and driveway crest levels must be constructed to the levels detailed above in "A". The floor levels must be certified by a registered surveyor prior to placing of the concrete floor slab or installation of flooring (where there is no slab).

#### **D. Before Occupation**

- (i) The certification referred to in C. above must form part of the application for an Occupation Certificate.
- (ii) Before occupation or prior to the issue of any Occupation Certificate a site flood emergency response plan must be prepared and any required flood warning system must be installed and fully tested. A copy of this plan must be submitted to the Principal Certifier and to Council.
- (iii) Certification from a suitably qualified engineer to the effect that this plan has been prepared and where required, the flood warning system has been installed and tested, must be included with the Occupation Certificate.

#### **D. Ongoing**

- (i) The site flood emergency response warning systems and plan are to be regularly maintained, reviewed and/or updated and should be in good working order at all times.

## **22. Stormwater Treatment**

#### **A. Before Construction**

Appropriate stormwater treatment measures, selected and designed in accordance with Engineers Australia (2006) Australian Runoff Quality - A guide to Water Sensitive Urban Design, Argue J R (2013) WSUD: Basic Procedures for 'Source Control' of Stormwater - A Handbook for Australian practice, or other relevant industry design guidelines, must be provided as part of the permanent site stormwater quality management system. Details of the design, construction and maintenance must accompany the relevant Construction Certificate.

**B. Before Occupation**

The work required by A. above must be completed to the satisfaction of the supervising engineer before occupation of the site or the issue of the relevant Occupation Certificate.

**C. Ongoing**

The stormwater treatment measure must be maintained in accordance with the manufacturers' or designer's specification for the life of the development.

**Note:** Upon approval of the stormwater management designs a notation will be added to the Section 10.7 certificate in relation to any required stormwater treatment device.

**23. Design of Structures Adjoining Drainage Easements****A. Design**

The proposed development adjoins a drainage easement. To ensure the structural integrity of both the pipeline within the easement and any structure adjoining the easement are maintained it must be designed as follows:

- (i) All footings within 2m of the drainage easement must be designed in such a manner that they are supported by foundations set at a minimum of 300mm below pipe invert levels or, alternatively, founded on sound rock.
- (ii) The walls of the dwelling / pool or of any structure adjoining the easement must be designed to withstand all necessary forces should excavation be required within the easement down to the existing pipe invert levels.

**B. Before Construction**

Certification of A. above from an appropriately qualified engineer must accompany the relevant Construction Certificate.

**C. Before Occupation**

Prior to the occupation of the development or the issue of any Occupation Certificate, certification from an appropriately qualified engineer detailing that the development has been constructed in accordance with A. above must be submitted to the PCA.

**24. Waste Collection****A. Design**

The waste collection point must be designed in accordance with the following requirements:

- (i) A "HRV" sized loading bay must be provided in accordance with AS2890.2 within the subject property for waste collection use.
- (ii) The maximum long and cross section grade of the loading bay and temporary bin holding area must be  $\pm 5\%$ .
- (iii) The temporary bin holding area is to be adjacent to the loading bay to facilitate ease of access for Council staff on collection day. The bin holding area must be suitably wide to allow the temporary storage of all allocated bins for the development.
- (iv) Clear and direct access must be provided from the bin holding areas to the loading bay.

- (v) The permanent communal garbage and/or recycling storage area must have a smooth impervious floor that is graded to a floor waste. A tap and hose must be provided to facilitate regular cleaning of the bins and all waste water must be discharged to the sewer in accordance with the requirements of Sydney Water. Garbage bins must be designed to prevent the escape of any liquid leachate and must be fitted with a lid to prevent the entry of vermin.

#### **B. Before Construction**

Prior to the issue of the relevant Construction Certificate a suitable qualified civil engineer must certify that the waste collection point has been design in accordance with part A. above. A copy of this certification must accompany the relevant Construction Certificate.

#### **C. Before Occupation**

Prior to the occupation of the site or the issue of any Occupation Certificate a suitable qualified civil engineer must certify that the waste collection point has been constructed to their satisfaction and in accordance with part A. above. A copy of this certification must accompany the Occupation Certificate.

#### **D. On-going**

- (i) All ongoing management, maintenance and cleaning of all waste and recycling management facilities, including suitable collection arrangements and how bins are to be moved from waste storage area/s to collection area/s are to carried out in accordance with the approved Waste Management Plan for the development.
- (ii) All waste and recycling bins must be stored wholly within the approved permanent communal garbage and/or recycling storage area. The bins must only be placed in the temporary bin holding area in the evening prior to collection and returned to the permanent communal garbage and/or recycling storage area as soon as possible after pick-up.

### **25. Damage to Adjoining Properties**

#### **A. Before Works**

To minimise vibration damage and loss of support to buildings / structures and properties in close proximity to the development site, a Geotechnical Engineer's Report must be prepared detailing constraints to be placed on earth moving and building plant and equipment and the method of excavation, shoring, underpinning and support. This report must be provided to the person undertaking the excavation and the Principal Certifying Authority.

#### **B. During Works**

The constraints and recommendations of the Geotechnical Engineers Report must be implemented.

### **26. Public Utilities**

This condition is imposed to facilitate the provision of services to the development and reduce conflicts between services and lot boundaries, buildings or associated facilities.

**A. Before Construction**

Suitable arrangements must be made with all relevant utility service providers to ensure the development is appropriately serviced by electricity, gas, telecommunications (including NBN) and the like, and any necessary underground conduits are provided.

The Australian Government has issued a new policy on the provision of telecommunications infrastructure in new development. This policy is effective from 1 March 2015. Developers are responsible for providing telecommunications infrastructure in their developments. To provide this infrastructure, developers need to contract a carrier to install and operate a telecommunications network. NBN is the I POLR (infrastructure provider of last resort). NBN require 6 months' notice in order to make the network available.

A copy of the agreements/contracts with the utility providers must form part of the documentation supporting the relevant Construction Certificate documentation.

**B. Before Occupation/Subdivision**

Prior to issue of any Occupation Certificate, certification must be provided from each utility service provider/approved agent to the effect that each lot has been serviced to their satisfaction.

Prior to the issue of any Occupation Certificate, evidence satisfactory to the Certifying Authority that arrangements have been made for:

- (i) The installation of fibre-ready facilities (conduits and pits) to all individual lots and/or premises/dwelling to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Certification from each carrier/provider must be provided to the PCA that they are satisfied that the fibre ready facilities are fit for purpose.
- (ii) The provision of fixed-line telecommunications infrastructure (cables) in the fibre- ready facilities to all individual lots and/or premises/dwellings must be installed and certification from the carrier/provider must be provided to the PCA stating that the infrastructure has been provided and to their satisfaction.
- (iii) Installation of gas and/or electricity must be constructed/installed by the utility service provider/approved agent to each allotment. Certification must be provided from each provider/agent stating that all allotments have been serviced to their satisfaction.
- (iv) WAE drawings must be prepared by a registered surveyor detailing location and depth of conduits/pits and connection points/ties within allotments. A copy of the WAE drawings must form part of any Occupation Certificate documentation.

Note: Should these requirements result in any significant change to the approved design an application must be made to modify the consent under s.4.55 of the Environmental Planning and Assessment Act.

**27. Endorsement of Linen Plan of Subdivision for Consolidation****A. Before Construction**

Prior to the issue of the relevant Construction Certificate, the Plan of Subdivision for the consolidation of Lots 26, 27, 28 & 29 DP10066, Lot D DP387699, Lot A & B DP449572 and Lot X DP396618 into one lot, must be lodged with NSW Land Registry

Services. This will also include the expungement of any redundant easement and/or covenants.

## **28. Loading Dock and Commercial Vehicle Access Management Plan**

### **A. Before Occupation**

Prior to the issue of any Occupation Certificate;

- (i) The Coles Caringbah Supermarket Operations Management Plan dated February 2019 shall be updated to reflect the drawings modified by Modification Application No. MA23/0154 and a copy of the amended plan (and any subsequent amendments) is to be provided to Council. The amended plan shall be implemented to control the movement of commercial vehicle access to and from the site.
- (ii) The Management plan shall include restrictions on the movement of 17m Articulated Vehicles as defined in Australian Standard AS.2890.2 such that access to the development site loading dock shall be via Willarong Road.
- (iii) Details of these Management Plan shall be provided to all commercial and retail tenancies and incorporated in all applicable leases, sales documents and shall also form part of all applicable Strata Management Rules.
- (iv) No form of loading for residential or commercial will be permitted from the kerb side lane of Willarong Road, President Avenue, or the private properties known as 39R President Avenue and 178R Willarong Road for the life of the development.

**(Modified by Land and Environment Court 28 March 2024)**

## **29. Landscaping Works**

### **A. Design**

The landscaping works must be designed in accordance with the approved Landscape Plan except where modified by the following:

- (i) Two new tree planting pits to accommodate 2x 400lt *Angophora costata* - Smooth Barked Apples are to be introduced to the northern end of the pedestrian pathway, one outside of the northern residential lobby entrance and one on the blistered radius at the north western corner of the building.

The tree planting along this frontage is not to be caged but is to be protected by framed hardwood constructed tree protection measures as specified within the PDDM.

- (ii) Provide minimum soil depths in planter boxes as follows:
  - 1200mm for large trees.
  - 900mm for small trees and tall shrubs.
  - 600mm low shrubs.
  - 450mm grass and ground covers.
- (iii) All landscape retaining walls and planter boxes must be constructed in masonry, stone or gabions. Timber is not acceptable.
- (iv) The communal open space areas/ all landscaped areas and all planter boxes on slab must be provided with a water-efficient irrigation system and taps at

25m centres, connected to a pump and the rainwater tank, to enable effective landscape maintenance.

- (v) Two (2) x *Cupaniopsis ancardioides* located within Council lot 39R President Avenue and two (2) x *Eucalyptus botryoides* located within the Road reserve are to be removed and replaced. Replacements must be provided on the site by the same species, with minimum pot sizes of 200L in accordance with the requirements of Council as part of the public domain works.

The applicant must engage a suitably qualified Landscape Designer or Landscape Architect to oversee any design changes to the approved Landscape Plan and amendments required above. Details of these design changes must be included in the documentation submitted with the application for the relevant Construction Certificate.

**Notes:**

A Landscape Designer is a person eligible for membership of the Australian Landscape Designers and Managers and a Landscape Architect is a person eligible for membership of the Australian Institute of Landscape Architects as a Registered Landscape Architect.

If demolition works are to occur prior to any Construction Certificate being issued, tree protection measures must be installed prior to commencement of demolition.

**B. Prior to Occupation/Occupation Certificate**

The landscape works must be completed in accordance with the approved Landscape Plan and amendments required by 'A' above by persons with a minimum AQF Level III certification in Horticulture or Landscape Construction.

A Final Landscape Inspection must be carried out and a certificate issued by Council's landscape officer prior to occupation or the issue of an Occupation Certificate. This certificate is required to ensure that all tree protection measures, landscaping works, replacement tree planting and the deep soil percentage requirements have been carried out in accordance with 'A' above and other conditions within this Development Consent, that all new indigenous plants on the site and within the road reserve are the correct species and that all trees planted within the road reserve are in accordance with the detailed road frontage design where it forms part of the Roads Act Consent.

To arrange a Final Landscape Inspection please phone 9710-0333 a minimum of 48 hours prior to the required inspection date. An inspection fee will be charged in accordance with the current schedule of rates listed on Council's website. Any secondary inspections will incur a reinspection fee.

**C. Ongoing**

All landscaping works required by 'A' above must be maintained for 12 months following the final landscape inspection date. Trees required by this condition must be maintained and protected until they are covered by Council's Controls for Preservation of Trees and Bushland Vegetation (SSCDP 2015 Chapter 39).

Any plants found faulty, damaged, diseased or dead shall be replaced with the same species in the same sized container within one month with all costs borne by the owner.



**Note:** If difficulty is experienced sourcing suitable indigenous plants from other suppliers, plants grown from locally provenance seed may be available from:  
Sutherland Shire Council Nursery  
345 The Boulevard, Gympie  
Ph: 02 9524 5672

**(Modified by Land and Environment Court 28 March 2024)**

### 30. Tree Removal on Council Land

The removal of the following trees is approved:

- (i) Trees identified on the approved Landscape Plan as “existing tree to be removed” and/or as listed below:

All other vegetation that would require approval to be removed must be protected.

#### A. Tree Replacement

- (i) Thirteen (13x) trees are approved for removal as part of this consent. Where trees are proposed to be removed Sutherland Shire Council requires indigenous replacement canopy tree planting at a ratio of 4:1 on Council land (Council Resolution EHR003-17 of 18 July 2016).
- (ii) Fifty two (52x) replacement trees are required to be planted.
- (iii) A minimum number of forty six (46x) indigenous trees - as shown on the landscape plan and as specified by the landscape works condition - must be planted on the site and/or the street.
- (iv) Trees planted within the site must have a minimum container size of 25 litres.
- (v) Street tree plantings are to be super-advanced specimens as specified in the approved landscape plans or as stated in the Landscape Works consent condition.

**Note:** For the fifty two (52x) replacement trees required by “A ii)” (less the requirements of “A iii)” above), Council offers offsite planting under a ‘Deed of Agreement’ as an alternative to on site planting, at a cost specified in Council’s Schedule of Fees and Charges. Offsite planting will be undertaken as part of Council’s Green Street Program.

‘Deed of Agreement’ forms can be downloaded from Council’s website at [www.sutherlandshire.nsw.gov.au/Development/Development-Applications/Off-Site-Tree-Replacement-and-Deed-of-Agreement](http://www.sutherlandshire.nsw.gov.au/Development/Development-Applications/Off-Site-Tree-Replacement-and-Deed-of-Agreement)

A completed form and payment must be submitted to Council prior to the release of the Occupation Certificate.

#### B. Tree Removal on Council Land

Council has preferred supplier agreements in place with arborists who are approved to carry out arbor works on Council land. Removal / pruning of the tree/s listed below must only be undertaken using Council’s preferred supplier at the applicant’s

expense. The applicant is responsible for contract management and payment of the arborist prior to works being undertaken.

Alternatively, if Council's Contractor is unavailable, the applicant may engage their own contractor with appropriate qualifications, licences and insurances and forward their name and details to Council prior to the commencement of work. This information will be kept on record in the event of any reportable incidents. The applicant is responsible for contract management and payment of the Arborist. Any contractor used must undertake all work according to the Australian Standard for Amenity Pruning (AS4373).

Select from Council's list of preferred suppliers listed on Council's website: <http://www.sutherlandshire.nsw.gov.au/Residents/Trees/Trees-on-Council-or-Public-Land>. Payment of the quoted amount must be made prior to any works commencing on site.

### **C. Prior to Occupation/Occupation Certificate**

The replacement tree planting must be completed in accordance with the approved Landscape Plan/ required street tree planting. Certification will be provided as part of the Final Landscape Inspection by Council's landscape officer (refer to Landscape Works consent Condition).

### **D. Ongoing**

Trees required by this condition must be maintained and protected until they are covered by Council's Controls for Preservation of Trees and Bushland Vegetation (SSDCP 2015 Chapter 39). Any replacement trees found damaged, dying or dead must be replaced with the same species in the same container size within one month with all costs to be borne by the owner.

**Note:** If you have difficulty sourcing suitable indigenous plants from other suppliers, plants grown from local provenance seed may be available from:

Sutherland Shire Council Nursery  
345 The Boulevard, Gymea  
Ph: 02 9524 5672

Opening hours - Monday to Friday 7.00am-3.00pm (excluding public holidays).

## **31. Tree Retention and Protection**

The following condition applies to all trees on the subject site, trees on the adjoining sites (which are potentially affected by the development works), as well as trees on the adjoining Council land that are not approved for removal.

### **A. Before Works**

Prior to the commencement of any demolition, excavation or construction works on site the applicant must engage a suitably qualified and experienced Supervising Consulting Arborist to oversee the measures for the protection of existing trees as listed below.

**Note:** A Consulting Arborist is a person with a current membership of the Institute of Australian Consulting Arboriculturalists (IACA) or alternatively a person who has obtained an Australian Qualifications Framework AQF Level 5 in Arboriculture.

All trees not approved for removal must be protected by the following measures:

- (i) To preserve the trees numbered 1,2, 3,16 and 17, the proposed services that pass through the designated tree protection zones must be installed using under-boring construction techniques within a 12m radius of the trunks (or as otherwise agreed with Council's. This activity is to be overseen by the Supervising Arborist and is to be signed off on the hold point checklist.
- (ii) Any piers must be hand dug and located such that no roots of a diameter greater than 50mm are severed or injured in the process of any site works during the construction period. The location and details of any footings within the Tree Protection Zone (TPZ) shall be detailed in accordance with i) above and on the relevant Construction Certificate Plans.
- (iii) Protective fencing constructed of 1.8m high chain wire mesh supported by robust posts must be installed in accordance with the approved Arborist report prepared by Arboreport dated January 2020. Signage must be erected on the fence with the following words clearly displayed "TREE PROTECTION ZONE, DO NOT ENTER".
- (iv) Any pruning of the trees to be retained and protected must be undertaken under the guidance of the project Arborist.
- (v) The current pavement levels are to be retained around the trees to be retained and are only to be excavated to the base of the pavement sub-base as set out in the arborists report.
- (vi) The tree protection zone within the protective fencing must be mulched with a maximum depth 75mm of suitable organic mulch (woodchips or composted leaf chip mulch) and kept regularly watered for the duration of the works subject to this consent.
- (vii) No development or associated activity is permitted within the fenced tree protection zone for the duration of works subject to this consent. This includes vehicular or pedestrian access, sheds, washout areas, excavations, backfilling, installation of services (including stormwater), removal of top soil, stockpiling of soil or building materials.
- (viii) Where site access/egress is required over the roots of trees identified for retention and protection, provide hardwood rumble boards over a 200mm thick layer of wood chip.
- (ix) Where it is impossible to install protection fencing to the full extent of the specified Tree Protection Zone- install trunk and branch boarding protection as shown in Figure 4 of the Australian Standards AS4970- Protection of Trees on Development Sites (Page 17).

## **B. During Works**

- (i) The tree protection measures detailed in 'A' above must be maintained during construction.
- (ii) The supervising Consulting Arborist must be present during any approved hand excavation or under boring works within the Tree Protection Zone (TPZ)

of any tree identified for retention and protection and have the authority to direct works to ensure the trees long term preservation.

- (iii) The supervising Consulting Arborist must strictly supervise that there is no disturbance or severing of roots greater than 50mm diameter and to cleanly cut those roots between 10-50mm in diameter.
- (iv) If the tree/s identified for retention in 'A' above are damaged or destabilised during construction then works must cease and Council's Tree Assessment Officer (ph. 9710 0333) must be contacted to assess the tree/s and recommend action to be taken.
- (v) Ensure each hold point outlined below within the Tree Protection Schedule is signed off and dated progressively by the Consulting Arborist throughout the various development stages, including preconstruction, construction and post construction. Photographic evidence must also be provided.

Hold Point	Task	Responsibility	Certification	Timing of Inspection	Sign/ Date
1.	Indicate clearly with spray paint trees approval for removal only	Principal Contractor	Supervising Arborist	Prior to demolition and site establishment	
2.	Establishment of tree protection fencing	Principal Contractor	Supervising Arborist	Prior to demolition and site establishment	
3.	Supervise underboring and the relocation of services through the TPZ's of retained trees	Principal Contractor	Supervising Arborist	As required throughout the length of the construction process	
4.	Supervise all excavation works proposed within the TPZ	Principal Contractor	Supervising Arborist	As required prior to the works proceeding adjacent to the tree	
5.	Inspection of trees by Project Arborist	Principal Contractor	Supervising Arborist	Bi-monthly during construction period	
6.	Final inspection of trees by project Arborist	Principal Contractor	Supervising Arborist	Prior to issue of interim/final Occupation Certificate	

**C. Before Occupation**

Prior to the issue of an Occupation Certificate the Supervising Arborist's signed and dated checkpoint list and photographic evidence must be provided to both the Principal Certifier and Council's Landscape Officer at the time of the final landscape inspection.

**32. Supervising Environmental Consultant**

**A. Before Commencement**

The applicant must engage an appropriately qualified, experienced and certified environmental consultant to supervise all aspects of site investigation, remediation, validation and environmental site management as required.

The environmental consultant must be certified by one of the following certification schemes:

- EIANZ 'Certified Environmental Practitioner - Site Contamination' scheme (CEnvP SC); or
- Soil Science Australia 'Certified Professional Soil Scientist - Contaminated Site Assessment & Management' scheme (SSA CPSS CSAM).

#### **B. Before Works and issue of any Construction Certificate**

The applicant must provide evidence of the appointment of the appropriately qualified, experienced and certified environmental consultant to the satisfaction of Sutherland Shire Council, Manager Environmental Science, prior to the commencement of any works and the issue of any construction certificate.

#### **C. During Works**

The certified environmental consultant must supervise all aspects of site investigation, remediation and validation and onsite environmental management to ensure compliance with the approved plans.

### **33. Site Remediation and Validation**

#### **A. Prior to Construction and Issue of the relevant Construction Certificate**

##### **(i) Site Remediation**

The site must be remediated in accordance with the site auditor reviewed Remedial Action Plan; "Remedial Action Plan, 178-186 Willarong Rd, 41-47 and 51 President Ave, Caringbah" by Geo-Logix, July 2018, under the supervision of the supervising environmental consultant.

Any required variations to the RAP, must be notified and approved by the site auditor, prior to implementation.

#### **B. Prior to Occupation the Issue of any Occupation Certificate (ii) Site Validation and Site Audit Statement**

On completion of site remediation, a Validation Report must be prepared by an appropriately qualified and experienced environmental consultant in accordance with, but not limited to, the NSW EPA "Contaminated Land Guidelines - Consultants Reporting on Contaminated Land 2020."

The environmental consultant must be certified by one of the following certification schemes:

- EIANZ 'Certified Environmental Practitioner - Site Contamination' scheme (CEnvP SC); or
- Soil Science Australia 'Certified Professional Soil Scientist - Contaminated Site Assessment & Management' scheme (SSA CPSS CSAM).

The Validation Report must verify that the site has been remediated in accordance with the site auditor reviewed Remedial Action Plan and also verify that the site is suitable for the proposed development and land use.

The Validation Report must be reviewed by a NSW EPA accredited site auditor and a Part A1 Site Audit Statement issued to certify that the land is suitable for the proposed

development and land use. The Site Audit Statement must be submitted to the satisfaction of Sutherland Shire Council, Manager Environmental Science prior to occupation and issue of any occupation certificate.

### **34. Contaminated Land - Unexpected Finds**

#### **A. During Works**

If unexpected soil and/or groundwater contamination is encountered during any works; all work associated with that task must cease and the situation must be promptly evaluated by the supervising environmental consultant.

The contaminated soil and/or groundwater must then be managed under the supervision of the supervising environmental consultant, in accordance with an Unexpected Finds Protocol and the Contingency Plan outlined in the site auditor reviewed Remedial Action Plan.

#### **B. Prior to recommencement of works**

If unexpected, contaminated soil or groundwater is treated and/or managed onsite; the supervising environmental consultant must verify that the situation was appropriately managed in accordance with relevant NSW EPA guidelines.

The verification documentation must be provided to the satisfaction of the NSW EPA accredited site auditor prior to the recommencement of any works.

### **35. Management of Site Soil / Fill Material**

#### **A. During Works**

##### **(i) Disposal of site soils**

Any soils to be excavated and disposed of from the site must be analysed and classified by an appropriately qualified and experienced environmental consultant, in accordance with relevant NSW EPA guidelines including the "Waste Classification Guidelines" 2014, prior to off-site disposal.

The appropriately qualified and experienced environmental consultant must be certified by one of the following certification schemes:

- EIANZ 'Certified Environmental Practitioner' - General or Site Contamination scheme (CEnvP or CEnvP SC); or
- Soil Science Australia 'Certified Professional Soil Scientist - Contaminated Site Assessment & Management' scheme (SSA CPSS CSAM).

Excavated material is to be transported to an appropriately licensed waste facility by an EPA licensed waste contractor in accordance with relevant NSW EPA guidelines. With respect to fill material classified as special waste (asbestos); the waste facility must be licensed to accept asbestos waste.

##### **(ii) Reused soils**

Any existing soils excavated to be reused on the site must be assessed by an appropriately qualified, skilled and experienced environmental consultant in accordance with the National Environment Protection (Assessment of Site Contamination) Measure 1999 (amended 2013) and any relevant guidelines approved under *the Contaminated Land Management Act 1997*; to verify that the material is suitable for the intended land use, prior to reuse.

Any soils not suitable for the intended land use must be removed from site and disposed of in accordance with i) above.

(iii) **Importation of fill material**

Any fill material that is imported onto the site must comprise Virgin Excavated Natural Material (VENM), Excavated Natural Material (ENM) or other suitable material in accordance with the relevant Resource Recovery Exemption issued under the *Protection of the Environment Operations (Waste) Regulation 2014*.

Prior to placing any fill material on the site, appropriate waste classification/ certification documentation that verifies the material is VENM or complies with the requirements of the relevant Resource Recovery Exemption, including ENM, must be provided to the satisfaction of the Sutherland Shire Council, Manager Environmental Science.

### **36. Car Wash Bays**

To prevent contamination of the stormwater drainage system a car-wash bay must be provided on site:

**A. Design**

The wash-bay must be graded to an internal drainage point and connected to the sewer.

**B. Before Construction**

Details of the design satisfying 'A' above must accompany the application for the relevant Construction Certificate.

**C. Before Occupation**

The Principal Certifying Authority must be satisfied that:

- (i) 'A' above has been complied with; and
- (ii) any discharge to the sewer from the premises is in accordance with the requirements of Sydney Water.

**D. Ongoing**

All car-wash, engine degreasing and steam cleaning must be conducted in the wash-bay detailed in 'A' above. Wastewater must be treated in accordance with the requirements of Sydney Water.

### **37. Garbage, Recycling and Waste Storage Area**

To ensure the proper storage of waste from the premises:

**A. Design**

The garbage and recycling storage area must have:

- (i) A smooth impervious floor that is graded to a floor waste. All waste water must be discharged to the sewer in accordance with the requirements of Sydney Water.
- (ii) A tap and hose to facilitate the regular cleaning of the bins

All Garbage bins must be designed to prevent the escape of any liquid leachate and must be fitted with a lid to prevent the entry of vermin.

**B. Before Construction**

Details of compliance with 'A' above must form part of the documentation accompanying the application for the relevant Construction Certificate.

**C. Before Occupation**

The works must be completed prior to the issue of any Occupation Certificate.

**D. Ongoing**

All waste and recycling bins must be stored wholly within the approved waste storage area. The bins must only be put out for collection in the evening prior to pick-up and returned to the storage area as soon as possible after pick-up.

**38. External Lighting - (Amenity)**

To ensure that any lighting on the site does not cause a nuisance to neighbours or motorists on nearby roads:

**A. Design**

All lighting must be designed in accordance with Australian Standard AS4282 - Control of the Obtrusive Effects of Outdoor Lighting.

**B. Ongoing**

All lighting must be operated and maintained in accordance with the Standard above.

**39. Noise Control - Residential Air Conditioning Unit / Heat Pump Water Heater / Any other Pump**

To minimise the noise impact on the surrounding environment:

**A. Design**

The equipment must be located, designed and/or acoustically attenuated so that noise emitted does not exceed a sound pressure level of 5dB LAeq (15 minute) above the ambient background level when measured on or within any other residential property boundary.

**B. Before Occupation**

The equipment must be installed in accordance with the manufacturer's specification and all required noise attenuation measures implemented to ensure that the equipment complies with "A" above.

**C. Ongoing**

(i) All equipment must be operated in accordance with 'A' above.

(ii) For air conditioning units / heat pump water heaters:  
Between the hours of 10.00pm and 8.00am on weekends and public holidays and 10.00pm and 7.00am any other day, noise emitted must not be heard within any residence with its windows and/or doors open or closed.

(iii) For any other pump:



Between the hours of 8.00pm and 8.00am on weekends and public holidays and 8.00pm and 7.00am any other day, noise emitted must not be heard within any residence with its windows and/or doors open or closed.

- (iv) Receipt of a noise complaint from the operation of this equipment will result in the requirement for certification from an acoustic engineer that the equipment is operating in accordance with the requirements of this condition. If the acoustic assessment reveals that the equipment is not operating in accordance with the consent it must make recommendations on what remediation measures are required to bring the equipment into compliance.

NB. Any other pump includes a swimming pool pump, a spa pump, a sump pump, a water cooler that uses a pump any other apparatus or machine for raising, driving, exhausting or compressing fluid by means of a piston, plunger or rotating vanes.

#### **40. Noise Control - Design of Plant and Equipment (Continual Operation)**

To minimise the impact of noise from the development, all sound producing plant, equipment, machinery, mechanical ventilation systems and / or refrigeration systems:

##### **A. Design**

All plant and equipment must be designed and / or located so that the noise emitted does not exceed the Project Specific Noise level when measured at the most affected point on or within any residential property boundary.

The Project Specific Noise level must be the most stringent noise level of the Intrusive and Amenity criteria and be calculated in accordance with the provisions of the NSW Environmental Protection Authority Noise Policy for Industry 2017.

Note: The method of measurement of sound must be carried out in accordance with Australian Standard 1055.1.

##### **B. Before Construction**

Details of the acoustic attenuation treatment required to comply with 'A' above, must be prepared by a qualified acoustic engineer. These details must accompany the application for the relevant Construction Certificate.

##### **C. Before Occupation**

Prior to the occupation of the development or the issue of any Occupation Certificate certification must be provided by a qualified acoustic engineer that all work associated with the installation of the acoustic measures has been carried out in accordance with 'A' above.

##### **D. Ongoing**

All plant and equipment must be operated and maintained in accordance with the 'A' above.

#### **41. Noise and Vibration Control - Residential Car Park**

To minimise noise and vibration from use of the security door in the car park:

**A. Design**

The proposed security door fitted to the car parking area entrance must be independently mounted on rubber pads or otherwise installed to prevent vibration noise transmission through the concrete walls and / or columns.

**B. Before Occupation**

The Principal Certifying Authority must be satisfied that 'A' above has been complied with.

**42. Building Ventilation**

To ensure adequate ventilation for the building:

**A. Design**

The building mechanical and / or natural ventilation systems must be designed, in accordance with the provisions of:

- (i) The Building Code of Australia;
- (ii) AS 1668.1 2015;
- (iii) AS 1668.2 2012;
- (iv) The Public Health Act - 2010;
- (v) The Public Health Regulation 2012;
- (vi) AS 3666.1 -2011;
- (vii) AS 3666.2 -2011; and
- (viii) AS 3666.3 -2011.

**B. Before Construction**

Details of compliance with "A" above must form part of the documentation accompanying the application for the relevant Construction Certificate.

**C. Before Occupation**

- i) Prior to the occupation of the building or the issue of any Occupation Certificate certification must be provided by a qualified mechanical ventilation engineer that the installation of the ventilation system has been carried out in accordance with 'A' above.
- ii) Occupation of the premises must not occur until a registration application has been submitted to Council's Environment and Health Regulation Department for any cooling tower / warm water system

**D. Ongoing**

The ventilation system must be operated and maintained in accordance with 'A' above.

**43. Car Park Ventilation - Alternate System**

To ensure adequate ventilation for the car park:

**A. Design**

As the basement car-park does not appear to comply with the natural ventilation requirements of Section 4 of Australian Standards AS1668.2 -2012, the car-park must be either mechanically ventilated by a system complying with AS1668.2 -2012 or alternatively, the natural ventilation system must be certified by a qualified mechanical

ventilation engineer to the effect that the system is adequate. The certification shall confirm that the system will protect the health of occupants of the car park at any time it is used and satisfies the atmospheric contaminate exposure rates specified in the Worksafe Australia document: Workplace Exposure Standards for Airborne Contaminants.

#### **B. Before Construction**

Details of compliance with 'A' above must form part of the application for the relevant Construction Certificate.

#### **C. Before Occupation**

Prior to the occupation of the building or the issue of any Occupation Certificate certification must be provided by a qualified mechanical ventilation engineer that the installation of the ventilation system has been carried out in accordance with 'A' above.

#### **D. Ongoing**

The ventilation system must be operated and maintained in accordance with 'A' above.

### **44. Demolition Work**

To ensure that demolition of structures is carried out in an environmentally acceptable and safe manner:

#### **A. Before Commencement**

If works involve the removal of more than 10 square metres of asbestos material, a bonded asbestos licence is required. A friable asbestos licence is required to remove, repair or disturb any amount of friable asbestos. For further information contact SafeWork NSW.

#### **B. During Works**

- (i) The demolition of the existing building must be carried out strictly in accordance with Australian Standard 2601 - The Demolition of Structures.
- (ii) The applicant must ensure that the demolition contractor has a current public risk insurance coverage for a minimum of \$5 million. A copy of the Policy must be submitted to the Council prior to demolition.

To ensure that the removal and transportation of any asbestos material, regardless of the quantity, is carried out in an environmentally acceptable and safe manner, all work must comply with the following:

- (a) Health and Safety Act 2011;
- (b) Work Health and Safety Regulation 2017;
- (c) Safe Work Australia Code of Practice - How to Manage and Control Asbestos in the Workplace;
- (d) Safe Work Australia Code of Practice - How to Safely Remove Asbestos;
- (e) Protection of the Environment Operations Act 1997; and
- (f) Protection of the Environment Operations (Waste) Regulation 2014.

Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW EPA to accept asbestos waste. Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m<sup>2</sup> or more of asbestos sheeting must be registered

with the EPA on-line reporting tool WasteLocate. More information can be found at <https://wastelocate.epa.nsw.gov.au>.

#### **45. Dilapidation Report - Adjoining Properties**

To assist in the resolution of any future disputes about damage to properties adjoining the development site.

##### **A. Before Works**

Prior to commencement of any work on site the Applicant or principal contractor must provide dilapidation reports on all adjoining properties as identified by a qualified geotechnical engineer as being in the zone of influence of the proposed excavation works, including but not limited to the adjacent buildings at Nos 37-39 & 39R President Avenue and 178R Willarong Road Caringbah, including any basements and ancillary structures. The reports must be provided to the Principal Certifier and to the owners of the properties that are the subject of the report.

The reports must be prepared by a suitably qualified and experienced person, such as a structural engineer.

**(Modified by Land and Environment Court 28 March 2024)**

#### **46. Design Requirements for Adaptable Housing**

##### **A. Design**

The development must provide 20% of the units as Adaptable Housing. A report prepared by a suitably qualified Adaptable Housing Specialist must be submitted with the relevant Construction Certificate, demonstrating that the development complies with the requirements of AS4299 - Adaptable Housing. The report must contain a completed checklist (Appendix A - AS4299) demonstrating compliance with the requirements of a Class C Adaptable House.

##### **B. Before Occupation**

Prior to the occupation of the development, or this issue of the relevant Occupation Certificate, a suitably qualified Adaptable Housing Specialist must certify that the development has been constructed in accordance with the requirements of "A" above. A copy of this certification must accompany the Occupation Certificate.

**(Modified by Land and Environment Court 28 March 2024)**

#### **47. Design Requirements for Livable Housing**

##### **A. Design**

The development must provide 10% of the units as Livable Housing. These units must be designed to the 'Silver Standard' as outlined in the *Livable Housing Design Guidelines* (prepared by Livable Housing Australia).

Details must be included in documentation submitted with the application for the relevant Construction Certificate.

**B. Before Occupation**

Prior to the occupation of the development, or this issue of the relevant Occupation Certificate, a suitably qualified Livable Housing Specialist must certify that the development has been constructed in accordance with the requirements of "A" above. A copy of this certification must accompany the Occupation Certificate.

**(Modified by Land and Environment Court 28 March 2024)**

**48. Verification of Design for Construction - SEPP 65****A. Design**

Design verification must be provided by a registered Architect in accordance with the requirements of SEPP 65 stating that the design intent approved by the Development Consent has been maintained in the building / architectural plans submitted with the relevant Construction Certificate. This design verification must accompany the relevant application for the relevant Construction Certificate.

**B. Before Occupation**

Prior to the issue of the relevant Occupation Certificate design verification must be provided by a registered Architect in detailing that the development has been completed in accordance with SEPP 65.

**49. External Walls and Cladding Flammability****A. Design**

The external walls of the building, including attachments, must comply with the relevant requirements of the *National Construction Code (NCC)*. This includes the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels

**B. Before Construction**

Details of compliance with "A" above must form part of the application for the relevant Construction Certificate.

**C. Before Occupation**

Prior to the occupation of the development, or the issue of any Occupation Certificate, certification, including an appropriate level of detail to demonstrate compliance with the NCC as built, must be provided to the PC by an appropriately accredited professional that external finishes of the building complies with "A" above.

**50. Certification Requirement of Levels****A. During Construction**

At the following stages of construction:

- (i) Prior to the pouring of each floor or roof slab.

A registered surveyor must provide the Principal Certifying Authority with Certification that the stage of structure complies with the Development Consent in respect of levels.

**B. Before Occupation**

The certification referred to above must form part of the application for an Occupation Certificate.

## 51. Sydney Water Requirements & Section 73 Compliance Certificate

### A. Before Any Works

Prior to the issue of any Construction Certificate for bulk excavation or the built form approved by this Development Consent, the plans approved as part of the relevant Construction Certificate must also be approved by Sydney Water. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Customers will receive an approval receipt which must be included in the relevant Construction Certificate documentation. Please refer to the web site [www.sydneywater.com.au](http://www.sydneywater.com.au).

### B. Before Occupation / Subdivision Certificate

Prior to the issue of an Occupation Certificate or a Subdivision Certificate a Compliance Certificate under Section 73 of the Sydney Water Act, 1994, must be submitted to Council by the Principal Certifying Authority. Sydney Water may require the construction of works and/or the payment of developer charges. This assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to the mains.

#### **Sydney Water Advice on Compliance Certificates:**

Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator. Please make early contact with the Coordinator, since building of water / sewer extensions can be time-consuming and may impact on other services as well as building, driveway or landscaping design.

Go to [www.sydneywater.com.au/section73](http://www.sydneywater.com.au/section73) or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

## 52. Dial Before You Dig

### A. Before Construction

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (this is the law in NSW).

It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

## 53. Noise Control and Permitted Hours for Building and Demolition Work

### A. General

To manage noise impacts to the surrounding properties, demolition, excavation, or construction activities should be managed in accordance with the NSW Department of Environment and Climate Change (now Environment Protection Authority). Interim Construction Noise Guideline (ICNG) 2009 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.

### **Dilapidation reports**

Subject to the receipt of permission of the affected landowner, dilapidation report/s of adjoining buildings are to be prepared by an appropriately qualified practising structural engineer and submitted for the approval of the Principal Certifier -

- (a) prior to the commencement of demolition/excavation works; and
- (b) on completion of construction demolition/excavation works.

Copies are to be provided to affected land owners of adjoining properties.

### **Demolition, Excavation and Construction Noise and Vibration Management Plan**

A site specific noise management plan must be submitted to the Private Certifier and Council prior to issue of any Construction Certificate relevant to that stage of the development.

The Plan must be prepared by a suitably qualified person who is a member, at Member Level, of - the Institution of Engineers Australia and the Australian Acoustic Society; or working for, and under the supervision of, a firm that is a member of the Australasian Association of Acoustic Consultants.

The plan must include but not be limited to the following -

- (a) Identification of noise sensitive receivers near to the site.
- (b) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite.
- (c) A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated Tables 3 and 4 of the Interim Construction Noise Guideline (ICNG) 2009 Section 4 Quantitative Assessment method.

Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property.

- (d) A representative background noise measurement (LA90, 15 minute) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997.
- (e) Confirmation of the level of community consultation that has/is and will be undertaken with Building Managers/ occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- (f) Confirmation of noise monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria Tables 3 and 4 of the Interim Construction Noise Guideline (ICNG) 2009.

- (g) What course of action will be undertaken following receipt of a complaint concerning offensive noise.
- (h) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum.
- (i) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

### **Compliance with Demolition, Excavation and Construction Noise and Vibration Management Plan**

All works conducted on site which form part of this development must be carried out in accordance with the submitted Demolition, Excavation, and Construction Noise and Vibration Management Plan.

The contractor must provide regular, appropriate, and sustained periods of respite in consultation with Council's Environmental Health and Building Unit:

- Where all control measures detailed in the Demolition, Excavation and Construction Noise and Vibration Management Plan have been implemented and the resultant noise and/or vibration levels at any sensitive receiver still exceed the applicable criteria and
- The development is giving rise to sustained complaints.

### **Hours of Operation**

All demolition, excavation and building, work must be carried out only between the hours of:

- 7.00am and 6.00pm Monday to Friday inclusive,
- 8.00am and 3.00pm Saturdays.

No work is to be carried out on Sundays and Public Holidays.

On a maximum of 12 occasions extended hours may be carried out on the site:

- from 7.00am to 8.00pm Monday to Friday, excluding Public Holidays on a week day.

The purpose of the extended hours note reference ICNG 2009 for example, pouring large slab.

In order to activate the extended hours of operation both Council and affected neighbours must be notified a minimum of 48 hours prior to commencement.

Affected neighbours include those in the immediate vicinity, adjacent or adjoining the development site. Notification must be by way of written advice including:

- Date/s the extended hours will be utilised.
- The purpose of the extended hours note reference ICNG 2009 for example, pouring large slab.



- Address of the development works / site.
- Contact name and number of appropriate site officer (supervisor or manager) for enquiries.
- Include a copy of the letter and a map or list identifying those affected neighbours who have been notified.

## 54. Toilet Facilities

### A. During Works

Toilet facilities must be available or provided at the work site at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site before works begin and must be maintained until the works are completed.

Each toilet must:

- (i) be a standard flushing toilet connected to a public sewer, or
- (ii) have an on-site effluent disposal system approved under the Local Government Act 1993, or
- (iii) be a temporary chemical closet approved under the Local Government Act 1993.

## 55. Street Numbering and Provision of Letter Box Facilities

### A. Before Occupation

- i). Street / unit / shop numbers must be clearly displayed.
- ii). Suitable letterbox facilities must be provided in accordance with Australia Post specifications and AS4253.
- iii). The dwellings must have the following street address format:
  - Building A northern entrance must be known as 180 Willarong Road, Caringbah
  - Building A southern entrance must be known as 182 Willarong Road, Caringbah
  - Building B western entrance must be known as 49 President Avenue, Caringbah
  - Building B eastern entrance must be known as 43 President Avenue, Caringbah
  - Coles commercial tenancy must be known as 1 President Lane, Caringbah
  - Northern independent speciality retail shop must be known as 3 President Lane, Caringbah
  - Eastern independent speciality retail shop must be known as 41 President Avenue, Caringbah
  - Western independent speciality retail shop must be known as 51 President Avenue, Caringbah
  - Cluster of 3 attached speciality shops must be known as, 1, 2 & 3/45 President Avenue, Caringbah

**(Modified by Land and Environment Court 28 March 2024)**

## 56. Car parking Areas

### A. Ongoing

To ensure that the car parking area satisfies the demands of the development:

- (i) it must be made available on an unrestricted basis and free of charge at all times for employees' and visitors' vehicles (but is not required to be an unrestricted and free all-day car parking area for public transport commuters). If any proposed restrictions to the hours of parking are proposed for employees or visitor parking such as a ticketing system / number-plate reading etc. further development consent is required.
- (ii) any parking nominated as visitor parking or common property must be continually available as common property.

## 57. Loading and Unloading

To preserve the amenity and ensure the safety of the public:

### A. Ongoing

All loading and unloading of vehicles must be carried out within the site and not from the public roadway. All service/delivery vehicles must enter and leave the site in a forward direction.

## 58. Sale/Consumption of Liquor

### A. Ongoing (On-premises License)

- (a) No liquor may be sold, supplied or consumed on the premises except with the approval and authorisation from the relevant Liquor Authority.
- (b) The primary use of the premises must be that of a packaged liquor outlet.

## 59. Hours of Operation

### A. Occupation Supermarket

The business may only operate between the following hours:

Monday - Saturday 6.00am and midnight  
Sunday 7.00am to 10.00pm

### Liquor Store

The business may only operate between the following hours:

Monday - Tuesday	10.00am to 10.00pm
Wednesday - Friday	10.00am to 9.00pm
Saturday	8.00am to 10.00pm
Sunday	10am to 10pm

## 60. Shopping Trolley Management

### A. Ongoing

The business operator must:

- (i) ensure that all shopping trolleys provided for customers are clearly labelled with the name of the business, including a contact telephone number that can be used to report abandoned trolleys;
- (ii) provide convenient, safe, designated trolley return bays to encourage the orderly management of shopping trolleys;
- (iii) put in place measures to minimise the occurrence of shopping trolleys being taken off the site (e.g. signs, proximity wheel locking devices, coin deposit locks, etc);
- (iv) implement a process to ensure that any trolleys abandoned within the site, any associated car park, and within 100m of the site are collected at least every twice a day by scheduled staff/contractor patrols; and
- (v) ensure that any trolley abandoned outside of the areas specified in (iii) above reported to the business operator by Council or a member of the public is collected within 24 hours.

## **61. Noise Control - Design and Operation (General Use),**

To minimise the impact of noise from the development, the use of the premises and all sound producing plant, equipment, machinery, mechanical ventilation system or refrigeration systems:

### **A. Design**

- (i) The use of the premises and all plant and equipment must be designed and / or located so that the noise emitted does not exceed an LAeq sound pressure level of 5dB above the ambient background level when measured at the most affected point on or within any residential property boundary.

Note: The method of measurement of sound must be carried out in accordance with Australian Standard 1055.1.

- (ii) The building design must be in accordance with the recommendations of the acoustic report by Koikas Acoustics dated 12 December 2023 as updated in accordance with condition 1 and as approved as part of this application.

### **B. Before Construction**

Details of the acoustic attenuation treatment to satisfy "A" above must accompany the documentation forming part of the relevant Construction Certificate.

### **C. Before Occupation**

Prior to the occupation of the building or the issue of any Occupation Certificate, certification demonstrating compliance with the requirements of the acoustic report detailed in "A" above must be provided to the Principal Certifier. This must include all post construction validation test results.

**(Modified by Land and Environment Court 28 March 2024)**

## **62. Basement Tanking**

- (a) The basement shall be tanked in accordance with engineering and construction best practice. No ground water shall be pumped out of the

basement. Any leakage is to be immediately remedied to ensure no ground water penetration with the basement.

**(b) Basement Engineering Design Plans**

To prevent inundation and/or seepage of groundwater, the basement must be designed as a waterproof (tanked basement). Prior to the issue of a construction certificate, the certifying authority is to be provided with detailed engineering plans for construction of the tanked basement from a suitability qualified engineer(s). Tanking the basement must ensure the following is achieved:

Changes to the basement design must not cause any contravention to the minimum landscaped area required by Clause 6.14 from the Sutherland Shire Local Environmental Plan 2015. A Deep Soil Landscape Calculation Plan must be provided. This plan must not be inconsistent with any landscape plan approved with this application.

The footprint of the basement must maintain the setbacks to all property boundaries as shown on the approved plans.

The finished ground level of the basement must not be lower and the basement roof level must not be higher than as shown on the approved plans.

- (c) The level of excavation, other than minor excavation must not exceed RL20.500 deep.
- (d) The Basement Design must include Engineered Drainage Designs around and underneath the tanked basement that demonstrate natural groundwater flow conditions will be restored once construction is finalised.
- (e) All vehicles must be able enter and leave in a forward direction in 3 or less movements. Swept path diagrams must be delineated for all vehicles in accordance with Australian Standard AS2890.1 and AS2890.6.
- (f) If tanking the basement causes internal dimension issues and causes noncompliance with AS2890.1 and AS2890.6, compliance can be achieved by:
  - a. Decreasing the area of all storage areas located to the rear of each garage by increasing the basement setbacks to each property boundary.
  - b. Deleting all enclosed garage parking areas and visitor parking spaces resulting in the basement becoming an open plan area. The deletion of the common walls between the parking areas will increase the internal area within the basement for circulation and manoeuvring compliance.
  - c. The splayed wall located between the southernmost visitor parking space and the fire egress stair to be changed to right angled as follows:
    - The southern wall of the southernmost visitor parking space must be 8.3m long, measured from the common wall between the visitor parking space and the lift core for Townhouse 6, and
    - The southern basement wall adjacent to the fire egress stair must be 4.2m long, measured from the fire egress door.
- (g) All parking spaces must be a minimum 2.4m wide and a minimum 5.4m in depth. The 2.4m width must be independent of any supporting columns within the basement.
- (h) The central aisle must be 5.8m wide.

- (i) Details of these design changes must be included in documentation submitted with the application for any Construction Certificate.

**(Modified by Land and Environment Court 28 March 2024)**

## **63. Management of Groundwater**

### **A. During Works**

Any groundwater encountered during works must be treated and managed in accordance with an appropriate Construction Dewatering Management Plan under the supervision of an appropriately qualified, experienced and certified environmental consultant.

The discharge of groundwater and stormwater from the site to Council's stormwater drainage system during any works must have a pH of between 6.5 and 8, and must not exceed a suspended sediment concentration of 50mg/L.

The discharge of groundwater to Council's stormwater drainage system must also be undertaken in accordance with, but not limited to:

- (i) Groundwater/ site water that requires discharge to Council's stormwater drainage system must have a pH of between 6.5 and 8, and must not exceed a total suspended solids concentration of 50mg/L.
- (ii) The discharge of groundwater/ site water to Council's stormwater drainage system must also be undertaken in accordance with, but not limited to:
  - (a) Sutherland Shire Council's "Environmental Specification - Environmental Site Management 2020".
  - (b) Sutherland Shire Council's "Environmental Specification - Stormwater Management 2009"
  - (c) Australian & New Zealand Guidelines for Fresh & Marine Water Quality, 2018
  - (d) Managing Urban Stormwater, Soils and Construction, Volume 1, 4th Edition, 2004, Landcom.
  - (e) ANZECC "Australian and New Zealand Guidelines for Fresh and Marine Water Quality" 2022.
  - (f) Managing Urban Stormwater, Soils & Construction, Volume 1, 4th Edition, 2008, Landcom.

### **B. Prior to Commencement of Works**

If groundwater is treated and/or managed onsite in accordance with 'A' above; the Supervising Environmental Consultant must verify that the situation was appropriately managed in accordance with relevant NSW EPA and WaterNSW guidelines.

The verification documentation must be submitted to the satisfaction of the Principal Certifying Authority (PCA) and a copy provided to Sutherland Shire Council, Environmental Assessment Officer prior to the commencement of works.

Notes:

Certified Environmental Consultant

In all cases, the environmental consultant must be certified by one of the following certification schemes:

EIANZ 'Certified Environmental Practitioner' scheme (CEnvP SC).

Soil Science Australia 'Certified Professional Soil Scientist' (CPSS CSAM).

### **C. Prior to Occupation**

Prior to the issue of any Occupation Certificate, the Supervising Environmental Consultant must certify in writing that the management of groundwater was undertaken in accordance with requirements of any WaterNSW Supply Works Approval (if required) and any other approvals required by WaterNSW.

This certification must be provided to the satisfaction of the Principal Certifying Authority, and a copy provided to Sutherland Shire Council.

Note: Management of Groundwater

If dewatering of groundwater is required during works, a Water Supply Works Approval (for groundwater dewatering) from WaterNSW, may be required. Contact WaterNSW for more information via ph 1300 662 077 or [customer.helpdesk@waternsw.com.au](mailto:customer.helpdesk@waternsw.com.au)

<mailto:customer.helpdesk@waternsw.com.au>

**(Modified by Land and Environment Court 28 March 2024)**

## **64. Groundwater and Dewatering**

### **A. Before Construction Certificate**

- a. Prior to the issue of any Construction Certificate, a minimum of 3 months of groundwater assessment undertaken by suitably qualified hydrologist must be undertaken within the 6 months prior to the commencement of any works.

The report must include a prediction of the highest groundwater level expected under wet conditions and hydraulic conductivity and detail whether dewatering is required or is likely to be required based on forecast weather during excavation and construction of the basement and must be prepared in accordance with the NSW Department of Planning and Environment, Minimum requirements for building site groundwater investigations and reporting and include any requirements by WaterNSW. The report must be provided to the Principal Certifier and a copy provided to Sutherland Shire Council.

### **B. During Construction**

If the monitoring and reporting required in **a.** above determines that groundwater (also termed as seepage or perched water) is likely to be encountered during construction, and dewatering activities will be or are likely to be required, prior to the commencement of dewatering, the following actions must be completed to the satisfaction of the Principal Certifier:

a) The following approvals must be obtained from WaterNSW

- a. Water supply work approval,
- b. Water access licence (WAL) - unless an exemption applies,

A copy of the approval is to be kept on site at all times and made available to the Principal Certifier and the Council upon request.

b) A Dewatering Management Plan (DMP) must be prepared by a suitably qualified Environmental Consultant and provided to WaterNSW with the application for a water supply work approval. The Dewatering Management Plan must be provided to the Principal Certifier and a copy must be made to council upon request. The DMP must as a minimum:

- State why de-watering is necessary and confirm any required approvals;
- Clearly state that the DMP will be used as the basis for approval to enable connection and discharge to the stormwater system;
- Detail the proposed dewatering technique;
- Outline the anticipated dewatering flow rate and total dewatering duration. Include the volume of water to be extracted and the duration of the water take during dewatering, incorporating both groundwater inflows and matrix removal through excavation, and time required to achieve hydrostatic pressure equilibrium.
- Detail the proposed dewatering technique.
- Detail the controls (e.g. settling tank, turbidity curtain etc) and the method of discharge to ensure compliance with any conditions of approval and requirements of the Protection of the Environment Operations Act 1997. The proposed method of measuring and recording the water take volumes;
- Explain the measures and techniques to monitor and record groundwater and tailwater quality, water discharges, and monitoring results. Groundwater must be discharged directly to the nearest stormwater pit and not spread over any road or footpath areas. Safe passage for pedestrians must be maintained. The proposed method of measuring and recording the water take volumes;
- Provide a contingency plan in case of an emergency situation;
- Provide details of water quality analysis and testing that has been undertaken by a NATA accredited laboratory, and demonstrate compliance against relevant water quality criteria including the Australian and New Zealand Guidelines for Fresh and Marine Water Quality (ANZECC/ARMCANZ 2018). Where the ANZECC/ARMAC 2018 guidelines are silent on any elements or chemicals identified in testing, the water discharge is to comply with relevant endorsed guidelines and recommendations issued by the NSW EPA. The DMP must state that further analysis will be undertaken prior to connection to Council's stormwater system;

- Include the results of a groundwater quality analysis to ensure extracted groundwater is suitable for discharge to stormwater in accordance with requirements in **condition 30**. The groundwater samples must be taken by a suitably qualified Environmental Consultant and analysis undertaken by a NATA accredited laboratory.
- State that the release of water into Council's stormwater system is to halt immediately where water quality does not meet discharge criteria identified above;
- State that the water quality monitoring will be certified by an experienced water quality expert.
- State that water quality parameters will be tested bi-weekly.
- Outline the anticipated dewatering flow rate
- Provide a contingency plan in the event the groundwater does not meet discharge Criteria;
- The dewatering management plan must also address the following matters:
  - Any likely impacts on acid sulfate soils onsite and on adjoining sites through groundwater drawdown and proposed measures to avoid drawdown,
  - Any likely impacts on subsoils on adjoining properties through overextraction and proposed measures to avoid any undermining of adjoining properties,
  - Shoring details,
  - Groundwater take estimates, incorporating both groundwater inflows and matrix removal through excavation.
- a. Management of groundwater must also be carried out in accordance with the requirements of the NSW Acid Sulfate Soil Manual (ASSMAC 1998), the National Acid Sulfate Soil Guidance (2018) and the following requirements:
  - (i) Groundwater that requires discharge to Council's stormwater drainage system must have a pH of between 6.5 and 8, and must not exceed a suspended sediment concentration of 50mg/L.
  - (ii) The discharge of groundwater to Council's stormwater drainage system must also be undertaken in accordance with, but not limited to:
    - (a) Sutherland Shire Council's "Environmental Specification - Environmental Site Management 2007".
    - (b) Sutherland Shire Council's "Environmental Specification - Stormwater Management 2009"



- (c) Managing Urban Stormwater, Soils and Construction, Volume 1, 4th Edition, 2004, Landcom.
- b. If the groundwater does not meet the criteria suitable for discharge to stormwater, a treatment plan for treating the groundwater prior to discharge must be prepared and approved by Sutherland Shire Council's Stormwater Engineer prior to any water being discharged to Council's stormwater infrastructure. The treatment plan must detail the treatment methodology and equipment, frequency of validation sampling, contingency plan where results don't meet discharge criteria and the method of discharge to ensure compliance with discharge criteria.  
  
If water cannot be treated, or approval for discharge is not provided, alternative methods of off-site disposal to a facility lawfully able to accept such waste shall be utilised.
- c. Any dewatering must be carried out in accordance with the Dewatering Management Plan required in A.b).above under the supervision of a certified Environmental Consultant.
- d. If groundwater (also termed as seepage or perched water) is encountered during basement or any other excavation and a dewatering management plan has not been prepared, and approval from NSW Water has not been provided, then works must cease immediately and the following approvals must be obtained from WaterNSW prior to recommencing works.
  - a. Water supply work approval,
  - b. Water access licence (WAL) - unless an exemption applies,

**Notes:**

**Certified Environmental Consultant**

In all cases, the environmental consultant must be certified by one of the following certification schemes:

EIANZ 'Certified Environmental Practitioner' scheme (CEnvP SC).

Soil Science Australia 'Certified Professional Soil Scientist' (CPSS CSAM).

**(Modified by Land and Environment Court 28 March 2024)**

Attached are the prescribed conditions that must be complied with under the Environmental Planning and Assessment Regulations 2021.

## PRESCRIBED CONDITIONS

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**The prescribed conditions in accordance with Part 4, Division 2 of the *Environmental Planning and Assessment Regulation 2021* apply:**

- Clause 69 Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989
- Clause 70 Erection of signs
- Clause 71 Notification of Home Building Act 1989 requirements
- Clause 72 Entertainment venues
- Clause 73 Maximum capacity signage
- Clause 74 Shoring and adequacy of adjoining property

**Refer to the NSW Legislation website for the full text of the above clauses under the *Environmental Planning and Assessment Regulation 2021*. The website can be accessed at: <https://legislation.nsw.gov.au>**

**(Modified by Land and Environment Court 28 March 2024)**