

<b>DATE OF DETERMINATION</b>	20 June 2024
<b>DATE OF PANEL DECISION</b>	19 June 2024
<b>PANEL MEMBERS</b>	Annelise Tuor (Chair), Penelope Holloway, Glennis James, Carol Provan and Luke Murtas
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Panel Briefing held by teleconference on 17 June 2024, opened at 10 am and closed at 11:00am.  
Papers circulated electronically on 18 March 2024.

#### **MATTER DETERMINED**

PPSSH-134 – Sutherland Shire Council – DA23/0196 at 39 Willarong Road, Caringbah, 31 Koonya Circuit, 41-49 Willarong Road, 29 Koonya Circuit – Demolition of existing structures and construction of a medical and childcare centre.

#### **PANEL CONSIDERATION AND DECISION**

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

#### **Application to vary a development standard**

Consideration of a written request from the applicant, made under cl 4.6 (3) of the Sutherland Shire Local Environmental Plan 2015 (LEP), demonstrated:

- a) compliance with cl. 6.14 Landscaped areas of the SSLEP (2015) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 6.14 of the LEP and the objectives for development in the E3 – Productivity Support zone;

#### **Development application**

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

#### **REASONS FOR THE DECISION**

The Panel determined to uphold the clause 4.6 variation to landscaping and approve the application for the reasons outlined in the council assessment report, supplementary report and as indicated below. In particular:

- The application in relation to variation of the minimum 10% landscaped area development standard under clause 6.14 of SSLEP (2015) satisfies the relevant provisions of clause 4.6 and can be varied in respect to this application.
- The conditions contained in Schedule 2 satisfy all outstanding consent requirements.

## CONDITIONS

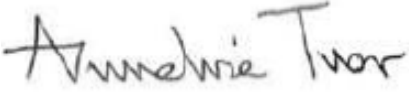




The development application is approved subject to the conditions in the Council supplementary report as amended by the Panel for clarification and included at Schedule 2. Conditions 2, 4, 5, 20, 21 and 44 were amended by the Panel.

## CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition. The panel notes that issues of concern included:

- Car parking
- Traffic impacts
- Adequacy of traffic report
- Impact on locality
- Pedestrian safety

The panel considers that concerns raised by the community have been adequately addressed in the assessment and supplementary reports.

PANEL MEMBERS	
 Annelise Tuor (Chair)	 Penelope Holloway
 Glennis James	 Carol Provan
 Luke Murtas	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSSH-134 – Sutherland Shire Council – DA23/0196
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of a medical and child care centre.
3	STREET ADDRESS	31 Koonya Circuit (Lot 23 DP 800924) 39 Willarong Road Caringbah (Lot 22 DP 800924) 41-49 Willarong Road (Lot 101 DP 417983) 29 Koonya Circuit (Lot 21 DP 800924)
4	APPLICANT/OWNER	Richard Seaward - Equity Trustees Limited as Custodian for HMC Funds Management Limited
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>○ Environmental planning instruments: <ul style="list-style-type: none"> <li>○ <i>State Environmental Planning Policy (Planning Systems) 2021</i></li> <li>○ <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i></li> <li>○ <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i></li> <li>○ <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i></li> <li>○ <i>Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015)</i></li> </ul> </li> <li>○ Draft environmental planning instruments: Nil</li> <li>○ Development control plans: <ul style="list-style-type: none"> <li>○ <i>Sutherland Shire Development Control Plan 2015 (SSDCP 2015)</i></li> </ul> </li> <li>○ Planning agreements: Nil</li> <li>○ Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>○ Coastal zone management plan: Nil</li> <li>○ The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>○ The suitability of the site for the development</li> <li>○ Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i></li> <li>○ The public interest</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>● Council assessment report: 18 March 2024</li> <li>● Supplementary council assessment report: 7 June 2024</li> <li>● Clause 4.6 statement – Landscaped Area</li> <li>● Written submissions during public exhibition: 6</li> <li>● Total number of unique submissions received by way of objection: 3</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>● Kick Off Briefing: 01/08/2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Annelise Tuor (Chair), Penelope Holloway, Glennis James, Carol Provan and Stephen Nikolovski</li> <li>○ <u>Council assessment staff</u>: Evan Phillips, Amanda Treharne and Sue McMahon</li> <li>○ <u>Applicant representatives</u>: Richard Seaward, Jacob Barsoum and Kieran Corcoran</li> </ul> </li> <li>● Assessment Briefing: 20/11/2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Annelise Tuor (Chair), Penelope Holloway, Glennis James, Carol Provan and Luke Murtas</li> <li>○ <u>Applicant representatives</u>: Richard Seaward, Jacob Barsoum, Kieran Corcoran and Michael Bonnici</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>• Site Inspection: 8/1/023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Annelise Tuor (Chair), Penelope Holloway, Glennis James and Carol Provan</li> <li>○ <u>Council assessment staff</u>: Sue McMahon &amp; Evan Phillips</li> </ul> </li> <li>• Final briefing to discuss council's recommendation: 25/03/2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Annelise Tuor (Chair), Penelope Holloway, Glennis James, Carol Provan and Luke Murtas</li> <li>○ <u>Council assessment staff</u>: Amanda Treharne, Evan Phillips and Sue McMahon</li> </ul> <p><u>Applicant representatives</u>: Richard Seaward, Alex DeJong, Helen Doherty, Jacob Barsoum, Lizzy Henry, Thomas Rozehnal, Ted Lilly, Andrew Boustred and Kieran Corcoran</p> </li> <li>• Determination briefing: 17/06/2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Annelise Tuor, Penelope Holloway, Glennis James, Carol Provan and Luke Murtas</li> <li>○ <u>Council staff</u>: Evan Phillips and Sue McMahon</li> <li>○ <u>Applicant representatives</u>: Richard Seaward, Jacob Barsoum, Chris Wilson, Ben Milano, David Campbell, Barry Neocleous</li> <li>○ <u>Planning Panels team</u>: Lillian Charlesworth, Joel Burgess</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Refer to Schedule 2: Conditions

## SCHEDULE 2 - CONDITIONS

### PART 1 - DEFERRED COMMENCEMENT CONDITIONS

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To enable the submission of further information to clarify or resolve specific aspects of the proposed development this Development Consent is issued as a "Deferred Commencement" Consent under the provisions of Section 4.16(3) of the Environmental Planning and Assessment Act as amended. The Consent does not operate until the applicant satisfies the Council as to the following matters.

**The required information must be submitted within 24 months of the date of issue of this development consent.**

Note- Under the provisions of Clause 76(4) of the Environmental Planning and Assessment Regulation 2021 upon submission of the required information, Council must advise in writing whether or not it is satisfied as to the relevant matters.

#### 1. Existing Development Consent

- A. This development consent overrides all conditions and plans that reference Stage 2 of the development approved under DA16/0223 as modified. Consequently, the following amendments must be made prior to activation of this consent:
  - i. The Ground Level and Level 1 carparking approved under DA16/0223 (as amended) must be amended under Section 4.17 of the Environmental Planning and Assessment Act 1979 to include the accessible and childcare car parking and pedestrian connections as approved under DA23/0196.
  - ii. DA16/0223 (as amended) must be amended under Section 4.17 of the Environmental Planning and Assessment Act 1979 to insert the following new condition of consent:

Insert new Condition No. 1A *'Works marked as stage 2 of this consent are superseded by Consent No. DA23/0196'*

Notice of the amended consent under Section 4.17 of the Environmental Planning and Assessment Act 1979 is to be provided to Council and endorsed by Council's Senior Manager Development Services prior to satisfaction of this Deferred Commencement Development consent.

Upon satisfaction of the details required above, Council shall issue an approval consistent with the Conditions in Part 2, and any conditions reasonably arising from consideration of the details submitted to satisfy the deferred commencement.

### PART 2 - CONDITIONS OF CONSENT

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#### 2. Approved Plans and Documents

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

<b>Plan number</b>	<b>Reference</b>	<b>Prepared by</b>	<b>Date</b>
DA-0001 Revision G	Overall Site Plan	Buchan Group	03.05.2024
DA-0101 Revision F	Site Plan	Buchan Group	03.05.2024
DA-2001 Revision M	Ground Floor Plan	Buchan Group	03.05.2024
A-2002 Revision G	Level 01	Buchan Group	03.05.2024
A-2002 Revision H	Roof Plan	Buchan Group	07.05.2024
DA-4001 Revision H	Elevations	Buchan Group	08.05.2024
DA-4002 Revision A	Elevations - Coloured	Buchan Group	08.05.2024
DA-5001 Revision F	Sections	Buchan Group	03.05.2024
DA-6002 Revision A	Fire Egress Paths	Buchan Group	16.04.2024
000 Issue D	Landscape Coversheet	Site Image Landscape Architects	09.05.2024
100 Issue B	Context Plan	Site Image Landscape Architects	09.05.2024
101 Issue D	Landscape Plan - Ground Floor	Site Image Landscape Architects	09.05.2024
102 Issue B	Landscape Plan - Ground Floor	Site Image Landscape Architects	09.05.2024
201 Issue D	Landscape Plan - Level 01	Site Image Landscape Architects	09.05.2024
501 Issue A	Landscape Details	Site Image Landscape Architects	10.10.2023
701 Issue B	Tree Retention Plan	Site Image Landscape Architects	09.05.2024
C000 Revision 03	Cover sheet	Henry & Hymas	17.04.2024
C100 Revision 04	General Arrangement Plan	Henry & Hymas	22.04.2024
C200 Revision 03	Stormwater Misc Details	Henry & Hymas	17.04.2024
C201 Revision 03	OSD Tank Plan	Henry & Hymas	17.04.2024
SE01 Revision 03	Sediment and Erosion Control Plan	Henry & Hymas	17.04.2024
SE02 Revision 03	Sediment and Erosion Control Details	Henry & Hymas	17.04.2024
N/A	Parking Sign Schedule	One Mile Grid	17 October 2023
N/A	Parking Sign Schedule	One Mile Grid	17 October 2023

and any details on the application form and on any supporting information received with the application 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.

- i) A Construction Certificate.
- ii) Notification of the appointment of a Principal Certifier and a letter of acceptance from that Principal Certifier.
- iii) Notification of the commencement of building works with a minimum of 2 days' notice of such commencement.

### **3. Amendment of DA16/0223**

This development consent overrides all conditions and plans that reference Stage 2 of the development approved under DA16/0223 (as amended).

## 4. Child Care Centre Operation

### A. Design & Ongoing

- i) The centre shall comply at all times with the National Quality Framework for Early Childhood, Education and Care, including the Education and Care Services National Law and National Regulations. Separate service approval / licence shall be issued by the NSW Department of Education and Care Services.
- ii) The centre is to operate in accordance with the document titled 'Plan of Management' for Caringbah Childcare Centre (uploaded to the Planning Portal date - 13 November 2023).
- iii) The centre shall accommodate a maximum of 108 children, or at a lesser capacity as approved / permitted under a licence issued.
- iv) The hours of operation are limited to between 7.00am and 6.30pm Mondays to Fridays, 52 weeks per year. The centre shall be closed on Saturday, Sunday, and public holidays.
- v) The Plan of Management, Part 6.1 and 6.3 updated to include a requirement for all parents upon orientation to be advised to utilise the designated parking area for drop off and pick up at all times. If the centre is made aware of any parents utilising on-street parking for drop off and pick up, they are to be directly reminded that all drop off and pick up related to the centre must be undertaken within the designated area.
- vi) The Plan of Management shall be updated to include the Air Quality Mitigation Measures contained within the Air Quality Impact Assessment prepared by Northstar (Dated 30 October 2023). As part of the National Quality Framework for Early Childhood, Education and Care's *Quality Standard, Quality Area 2 - Childrens Health and Safety*, an annual risk assessment and review of the risk to children's health from air contaminants at the childcare centre shall be undertaken. Air contaminants include PM2.5, PM10, NO2, SO2 and VOC's. The risk assessment shall include recommendations on the need and type of air pollution mitigation measures necessary to ensure the impact from air contaminants on health is minimised. The review shall be undertaken by a suitably qualified air quality consultant.

The updated Plan of Management is to be submitted to the satisfaction, and approval of Council's Senior Manager of Development Services prior to occupation and issue of any Occupation Certificate.

## 5. Medical Centre Operation

### A. Design & Ongoing

- i) The medical centre is to operate in accordance with the document titled 'Plan of Management' for Caringbah Medical Centre (uploaded to Planning Portal date - 22 April 2024) except where modified by any conditions specified below and in this consent.
- ii) The hours of operation are limited to between 7.00am and 6.30pm Mondays to Fridays. The centre shall be closed on Saturday, Sunday, and public holidays.
- iii) The dispensary component of the medical centre is approved only as an ancillary use / function to the medical centre being subordinate / subservient to this dominant purpose. The development consent does not permit the space being used separately and as being defined as a separate shop / retail premises under the Standard Instrument Definition.

The updated Plan of Management is to be submitted to the satisfaction, and approval of Council's Senior Manager of Development Services prior to occupation and issue of any Occupation Certificate.

## **6. 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 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 \$50,500.00.

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 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.

## **7. Section 7.12 Levy - Section 7.12 Development Contribution Plan 2016**

### **A. Before Construction**

Pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979, and Sutherland Shire Council Section 7.12 Development Contribution Plan 2016, a levy of \$93,126.39 must be paid to Sutherland Shire Council. The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of the Section 7.12 Development Contribution Plan.



The rate used to index the contribution rate and outstanding contributions is the Consumer Price Index (All Groups Index) for Sydney. Outstanding levies will be adjusted on the first of July each year in accordance with the following formula:

The formula to review a contribution rate is:

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

Payment must be made before whichever is the first to occur:

- the issue of a Construction Certificate, or
- the release of the Subdivision Certificate/ linen plan, or
- the commencement of the use/occupation of the premises.

## **8. 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 Certifier 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.

## **9. Design and Construction of Works in Road Reserve (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 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:

- i) Establish the property alignment/ boundary levels and crossing profiles, generally, to achieve a crossfall grade of 2.5% (falling to the top of kerb).
- ii) Regrade footpath verge to final design levels including topsoil, turf, and all associated soft landscaping.
- iii) Construct an 8m wide vehicle crossing.
- iv) Remove redundant laybacks and vehicle crossings and replace with kerb and gutter (including associated road reconstruction works).
- v) Construct new stormwater infrastructure as required to facilitate drainage for the proposed development. Convert the existing street pit located within the proposed vehicle crossing to a butterfly pit and a pit as detailed in the approved stormwater drainage design drawings.
- vi) Install new footpath pavement along full frontage of site (as required).
- vii) Ensure there are adequate transitions between newly constructed and existing infrastructure as required.
- viii) Install street trees, as required.
- ix) Adjust public services infrastructure as required.

Evidence of the lodgement of this application must be provided to the Principal Certifier prior to the release of the Construction Certificate

## **B. Before Construction**

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

## **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.

# **10. 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.

# **11. 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 Certifier, 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.

# **12. 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.

The Principal Certifier 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 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.

### **13. Internal Driveway, Parking and Manoeuvring off Willarong Road**

#### **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) Comply with AS2890.1(2004) in relation to the design of vehicular access, parking, and general manoeuvring for the B85 vehicle. All parking bays and the two turning bays (other than the "disable" bays) must comply with "user class" 3 (figure 2.2 & 5.2 of AS2890.1(2004)).
- iii) Comply with AS2890.2(2002) in relation to the design of vehicular access, temporary parking bay, and general manoeuvring for the SRV vehicle.
- iv) All "disable" parking bays and associated shared zones must comply with AS2890.6(2022).
- v) The four motorcycle bays must be reorientated (east west axis) to achieve two motorcycle bays and create a "blind aisle" (clause 2.4.2(c) of AS2890.6(2022)).
- vi) Line mark all parking bays and the "disable" bay and associated shared zone. Provide bay markings and signage to the two turning bays.

#### **B. Construction**

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

### **14. 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) Along the southern and eastern boundaries of lot 22 in Deposited Plan 800924 (except for the location of the driveway and pedestrian access-way), the property must be protected from inundation of stormwater, by retaining walls / earth mounding. The finished upper surface of the retaining walls / mounds must be on an alignment equal to the Probable Maximum Flood (PMF) level, but no lower than the property alignment levels set by Sutherland Shire Council as part of the required Roads Act Consent. Also, the pedestrian access-way adjacent to the southern boundary of lot 22 in Deposited Plan 800924 may require creation of a "crest" set at the abovementioned PMF level.
- ii) The "hatched area denotes portion of pavement to be permeable paving" shall be constructed as a reinforced concrete pavement.
- iii) Where pipelines / pits / retaining wall footings are located within the "tree protection

zone” of significant vegetation to be retained, the pipelines / structures shall be excavated by hand or by directional under-boring techniques to reduce any adverse impact on the root zone of the trees. These works must be overseen by the supervising arborist.

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

- i) Certification from a specialist Flood Engineer to the effect that any required flood protection retaining walls / earth mounds / crest are design is to their satisfaction and satisfies the design requirements in A. above must accompany the application for a Construction Certificate.
- 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.

#### **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, rainwater tank, stormwater treatment device, retaining walls / mound / crest, and the detention facilities. 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**

The stormwater detention / treatment facilities must be:

- Kept clean and free from silt, rubbish, and debris.
- Be maintained so that it functions in a safe and efficient manner.
- Not be altered without prior consent in writing of the Council.

**Note 1:** Upon submission of the Works-As-Executed drawing for the stormwater drainage system a notation will be added to the Section 10.7 certificate advising future owners that their property is burdened by a stormwater detention facility.

**Note 2:** Upon submission of the Certified Works-As-Executed drawing for the stormwater drainage system a notation will be added to the Section 10.7 certificate advising future owners that their property is burdened by a stormwater treatment device that must be maintained, serviced, and cleaned.

### **15. Flood Requirements**

#### **A. Design**

- i) All building materials must be flood resistant, or flood compatible to a height of 9.75mAHD. All internal electrical switches, power points or similar utilities liable to flood damage must be set at a minimum level of 9.75mAHD.
- ii) A suitably qualified engineer must certify that the structure can withstand the forces of floodwater, scour, debris, and buoyancy up to and including 9.75mAHD.
- iii) Details and certification must accompany the Construction Certificate.

**B. During Construction**

- i) The finished floor level of the Medical Centre must be constructed to 9.75mAHD. The floor level must be certified by a registered surveyor prior to placing of the concrete floor slab or installation of flooring (where there is no slab).
- ii) The finished surface level of the Willarong Road carpark must be constructed strictly to those levels shown on the approved architectural design drawings. The finished surface levels must be certified by a registered surveyor prior to placing of the concrete floor slab.

**C. Before Occupation**

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

**16. 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 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 any 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.

**17. 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 IPOLR (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 supporting construction certificate documentation.

**B. Before Occupation/Subdivision**

Prior to issue of any Occupation/Subdivision 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/Subdivision 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 Principal Certifier 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 Principal Certifier 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 to 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/Subdivision 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.

#### **A. Before Subdivision**

Prior to subdivision, easements must be created over the following:

- i) Expunge the drainage easement over lot 23 in Deposited Plan 800924, that serves Lot 22 in Deposited Plan 800924.
- ii) Create a positive covenant over the retaining walls / mounding / crest, constructed to achieve a PMF level protection from flood waters of the development. The covenant must ensure that these structures are maintain and not altered. The area must be identified in the covenant.

The easements and terms thereof must be created under the provisions of s.88B of the Conveyancing Act, 1919.

## **18. Fire & Rescue NSW Hardstand**

### **A. Before Construction**

An application must be lodged with Councils Local Traffic Committee to determine the most appropriate location for the required Hardstand area as required by NSW Fire + Rescue document "Fire Safety Guideline Access for fire brigade vehicles and firefighters".

### **B. Before Occupation**

The location of the hardstand and any associated works approved by Councils Local Traffic Committee must be completed.

## **19. Endorsement of Plan of Consolidation**

### **A. Construction**

Prior to the issue of any Construction Certificate a Plan of Subdivision for the Consolidation of Lot 21, 22 and Lot 23 in Deposited Plan 800924 and Lot 101 in Deposited Plan 417983, must be registered with NSW Land and Property Information.

## **20. Parking within existing Super Centre Carpark**

### **A. Design**

The parking areas must be designed in accordance with the approved architectural plans except where modified by the following:

- i) All parking bays (except for the “disabled” bays) to comply with AS2890.1(2004) in relation to “user class” 3 (figure 2.2 & 5.2).
- ii) The “disabled” parking bays and associated shared zones must comply with AS2890.6(2022).
- iii) For level 9000, provide two motorcycle bays, next to the proposed “disabled” bay. Provide signage that shows exclusive use of the motorcycle and the adjacent “disabled” parking bay, for the Child Care Centre and the Medical Centre.
- iv) For level 11600, line mark eighteen parking bays, including one “disable” bay and associated shared zone. Provide signage for the bays, to show exclusive use for the Child Care Centre during the hours of operation of the Child Care Centre. The parking spaces shall be made available to customers of the Caringbah HomeCo Centre during all other times.

### **B. Construction**

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

## **21. Landscaping Works**

### **A. Design**

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

- i) Clearly show on plan existing trees to be removed /retained including tree numbering in accordance with the Arboricultural Impact Assessment prepared by Arbor Express (dated 22 April 2024) including the 2 existing native trees (species *Corymbia maculata* and *Eucalyptus robusta*) within the frontage of the site adjoining Willarong Road to be retained.
- ii) Tree Protection Zones (TPZ) / the location of tree protective fencing must be shown on plan for all existing trees and/or natural site features to be retained and protected.
- iii) 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.
- iv) All landscape retaining walls and planter boxes must be constructed in masonry, stone or gabions. Timber is not acceptable.



- v) All landscaped areas 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.
- vi) To improve coverage and reduce weeds and maintenance, planting densities in all planting areas including planter boxes must achieve a minimum of 4 plants per square metre.
- vii) To reduce long term maintenance of planting beds turf species must be native grass such as *Zoysia macrantha* 'Nara' or Buffalo grass varieties.
- viii) Provide an additional *Angophora Costata* within the northwestern corner / frontage of the site adjoining Koonya Circuit.
- ix) Provide one street tree (*Tristaniopsis laurina*) every 5m along the Taren Point Road frontage west of the footpath.
- x) Plant five street trees being three (3x) *Eucalyptus racemosa* - Snappy Gum and two (2x) *Eucalyptus botryoides* - Southern Mahogany equally spaced between the existing street tree specimens along the Willarong Road frontage.

Street Trees are to be caged, edged, staked, and mulched according to Council's tree planting specification found on Council's website.

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 a 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 the 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 any 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 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

## **22. 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.

- i) The measures as outlined in the Arboricultural Impact Assessment prepared by Arbor Express (dated 22 April 2024) in relation to the retention and protection of the 2 existing native trees (species *Corymbia maculata* and *Eucalyptus robusta*) within the frontage of the site adjoining Willarong Road are to be implemented:
- ii) Protective fencing constructed of 1.8m high chain wire mesh supported by robust posts must be installed at the distance required by Australian Standards AS4970- Protection of Trees on Development Sites. Signage must be erected on the fence with the following words clearly displayed "TREE PROTECTION ZONE, DO NOT ENTER".
- iii) 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.
- iv) 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.
- v) 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.

### **B. During Construction**

- i) The tree protection measures detailed in 'A' above must be maintained during construction.
- ii) A supervising 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) A supervising Arborist must strictly supervise that there is no disturbance or severing of roots greater than 30mm diameter and to cleanly cut those roots between 10-30mm 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 all excavation works proposed within the TPZs. Specifically, the removal of the existing concrete hardstand on the ROW.	Principal Contractor	Supervising Arborist	As required prior to the works proceeding adjacent to the tree	
4.	Inspection of trees by Project Arborist	Principal Contractor	Supervising Arborist	Bi-monthly during construction period	
5.	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 the Principal Certifier.

## 23. 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, skilled and experienced environmental consultant, in accordance with relevant NSW EPA guidelines including the "Waste Classification Guidelines" 2014, prior to off-site disposal.

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.

**Note:** 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.

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

EIANZ 'Certified Environmental Practitioner' (CEnvP).

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

## **24. Protection for a Potential Item of Aboriginal Heritage**

### **A. During Construction**

Development consent from Council does not imply consent to destroy an Aboriginal site or Aboriginal object as defined under the National Parks and Wildlife Act.

Should any Aboriginal objects be unearthed/exposed during the project, works must temporarily cease within the immediate vicinity and Heritage NSW be contacted to advise on the appropriate course of action.

### **Requirements of National Parks and Wildlife Act 1974**

The National Parks and Wildlife Act is the primary legislation for the protection of Aboriginal cultural heritage in NSW. Under the National Parks and Wildlife Act 1974 it is an offence to desecrate or harm an Aboriginal object without having obtained an Aboriginal Heritage Impact Permit (AHIP) under section 90 or without having exercised due diligence in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW (NSW Department of Environment, Climate Change & Water (DECCW)).

## **25. Supervising Environmental Consultant**

### **A. Before Commencement**

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

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

- EIANZ 'Certified Environmental Practitioner - Site Contamination' scheme (CEnvP SC).
- 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 clear evidence of the appointment of the appropriately qualified, experienced and certified environmental consultant to the satisfaction of Sutherland Shire Council, Environmental Science Assessment Officer, prior to the commencement of any works or the issue of any Construction Certificate, whichever occurs first.

### **C. During Works**

The certified environmental consultant must supervise all aspects of site remediation and

validation and onsite environmental management to ensure compliance with the approved plans including, but not limited to, the Remediation Action Plan, if required.

## **26. Management of Unexpected Soil Contamination - Unexpected Finds Protocol**

### **A. Before Commencement of Works and issue of Construction Certificate**

An Unexpected Finds Protocol (UFP) must be prepared by an appropriately qualified, experienced and certified environmental consultant to manage the discovery of unexpected contaminants which may be encountered during excavation and/or construction works.

The Unexpected Finds Protocol must be submitted to the satisfaction of Sutherland Shire Council, Environmental Science Assessment Officer prior to the commencement of any works or prior to the issue of any Construction Certificate, whichever occurs first.

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

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

### **B. During Works**

If unexpected contamination is encountered during any works, the situation is to be assessed and managed in accordance with the Council endorsed Unexpected Find Protocol under the supervision of the supervising environmental consultant.

## **27. Data Gap Investigation**

### **A. Before Commencement of Works and issue of Construction Certificate**

On completion of demolition of existing buildings, concrete slabs and associated structures, further site contamination investigation must be undertaken to address the data gaps identified in the following report:

- Geo-Logix Pty Ltd, *Detailed Site Investigation, 39 Willarong Road and 31 Koonya Circuit, Caringbah NSW 2229*, report ref: 2401009Rpt01FinalV02\_22Mar24, dated 22 March 2024.

The further investigation must take the form of a Data Gap Investigation and must be undertaken by the appointed and approved appropriately qualified and experienced environmental consultant, certified under one of the following schemes:

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

The Data Gap Investigation must be undertaken in accordance with relevant legislation and guidelines including, but not limited to:

- NSW Contaminated Land Management Act (1997);
- NSW Contaminated Land Management Regulation (2022);
- National Environment Protection Measure - Assessment of Site Contamination (2013);
- NSW EPA Contaminated Land Guidelines 'Consultants reporting on contaminated land' (2020);
- NSW EPA Contaminated Land Guidelines: Sampling Design Part 1 - Application (2022); and,
- NSW EPA Contaminated Land Guidelines: Sampling Design Part 2 - Interpretation (2022).

The Data Gap Investigation must include an assessment of the suitability of the land for the proposed land use and outline remedial measures that may be required to ensure the site is

suitable for the proposed use.

The Data Gap Investigation must be submitted to the satisfaction of Sutherland Shire Council, Environmental Science Assessment Officer. If the findings of the data gap investigation indicate the site is not suitable for the future site usage, a remediation action plan must be prepared and implemented in accordance with the following:

- NSW Contaminated Land Management Act (1997);
- NSW Contaminated Land Management Regulation (2022);
- National Environment Protection Council (NEPC) National Environment Protection (Assessment of Site Contamination) Measure Schedule B1 - *Guideline on Investigation Levels for Soil and Groundwater* (2011);
- National Environment Protection Council (NEPC) National Environment Protection (Assessment of Site Contamination) Measure Schedule B2 - *Guideline on Site Characterisation* (2011);
- ANZECC and ARMCANZ *Guidelines for Fresh and Marine Water Quality* (2000);
- NSW EPA Contaminated Land Guidelines: *Consultants Reporting on Contaminated Land* (2020);
- NSW EPA Contaminated Land Guidelines: *Sampling Design Part 1 - Application* (2022); and,
- NSW EPA Contaminated Land Guidelines: *Sampling Design Part 2 - Interpretation* (2022).

If required, the Remediation Action Plan must be submitted to the satisfaction of Sutherland Shire Council, Environmental Science Assessment Officer and, following this, must be fully implemented, including validation works and supplementary reporting.

## **28. Medical Practices**

### **A. Design**

Medical practices must include the following facilities:

- i) A hand basin located within each patient treatment room, fitted with an adequate supply of potable water from a hot and cold water supply. The taps must be capable of operation without hand contact.
- ii) A splashback above the hand basin not less than 450mm high and extending 150mm either side of the basin. The splashback must be constructed of a smooth impervious material.
- iii) A sink for the cleaning of equipment between procedures that has an adequate supply of potable water mixed from a hot and cold water supply.
- iv) Floors and walls within the patient treatment rooms that are surfaced with smooth, impermeable seamless materials.
- v) Non-porous, smooth and easily cleaned work surfaces to all equipment processing areas.
- vi) Non-return valves fitted to dental units supplying water to intra-oral dental handpieces.

### **B. Before Construction**

Details of compliance with the above must form part of the application for a Construction Certificate.

### **C. Ongoing**

Disposable sharps must be discarded in a clearly labelled puncture-resistant container, which must conform to Australian Standard AS 4031. A licensed waste contractor must be engaged to dispose of the waste.

Contaminated waste must be segregated and placed in a suitable leak proof bag ready for appropriate disposal. Contaminated waste includes microbiological waste or pathological waste, or any other material or item that is soiled or contaminated with blood or other body substances and that is likely to cause infection or injury to any other person.

## **29. Cleanliness and Maintenance of Food Preparation and Storage Areas**

To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation and storage areas:

### **A. Design**

The food preparation and storage area/s must be designed in accordance with;

- i) Food Act 2003.
- ii) Food Regulation 2015.
- iii) Food Safety Standards 3.1.1, 3.2.2 and 3.2.3.
- iv) AS 4674 - 2004 (Design, construction and fit-out of food premises).
- v) Sydney Water Corporation - Trade Waste Section.
- vi) Protection of the Environment Operations (Clean Air) Regulation, 2021.
- vii) AS 1668.1 2015.
- viii) AS 1668.2 2012.

### **B. Before Construction**

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

### **C. Before Occupation**

- i) Prior to the occupation of the premises or the issue of an Occupation Certificate, certification must be provided from a suitably qualified person that all work in connection with the occupation or use of the premises for the preparation, display and storage of food has been carried out in accordance with the terms of the development consent.
- ii) Occupation of the premises must not occur until a registration application has been submitted to Council's Environment and Health Regulation Department for the food business.

## **30. 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 applications for a 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.

## **31. 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.

## **32. 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**

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.

### **B. 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.

### **C. Ongoing**

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

## **33. Noise - Outdoor Play Areas at Childcare Centre**

To minimise the impact on the nearby residents:

### **A. Ongoing**

The Leq, 15min noise level emitted from the outdoor play area shall not exceed the background noise level by more than:

- i) 10 dB(A) for periods of outdoor play if the total hours of outdoor play is up to 2 hours per day (total); or
- ii) 5 dB(A) for periods of outdoor play if the total outdoor play is more than 2 hours per day (total).

As recommended by the Association of Australasian Acoustical Consultants (AAAC)  
Guideline for Child Care Centre Acoustic Assessment



The noise level assessment shall be measured at the most affected point on or within any residential receiver property boundary.

Examples of this location may include:

- 1.5 m above ground level;
- On a balcony on the ground or higher floors;
- Outside a window on the ground or higher floors.

Certification must be provided to both Council and the Principal Certifier, by a qualified acoustic engineer within 12 weeks of occupation confirming that the operational noise requirements specified in 'A' are being achieved. The report is to include post validation results.

### **34. 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 2022;
- 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 a 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.

### **35. 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) Work 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>.

## **36. Access Standards for Child Care Centres**

### **A. Design**

The development must comply with the provisions of AS1428.1 and / or AS 1428.3 Design for Access and Mobility. This includes all internal dimensions, fixtures and fit out of the development (including installation of fixtures and fittings, benches, doors signage, luminance contrast, floor coverings).

### **B. Before Occupation**

Prior to the occupation of the development or the issue of any Occupation Certificate, certification from an appropriately qualified access consultant must be provided demonstrating compliance with "A" above.

A copy of the required certification must accompany the Occupation Certificate.

### **C. Ongoing**

The Child Care Centre must always be operated to comply with the provisions of AS1428.1 and / or AS 1428.3 Design for Access and Mobility.

A copy of the required certification must accompany the Occupation Certificate.

## **37. Design Requirements for Disabled Access**

### **A. Design**

A report prepared by a suitably qualified Access Consultant must be submitted with the Construction Certificate, demonstrating that the development complies with the requirements of AS1428 - Design for Access and Mobility.

### **B. Before Occupation**

Prior to the occupation of the development or the issue of any Occupation Certificate, certification from an appropriately qualified access consultant must be provided demonstrating compliance with "A" above.

A copy of the required certification must accompany the Occupation Certificate.

### **38. Sydney Water Requirements & Section 73 Compliance Certificate**

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

Prior to the commencement of any works on site, including demolition or excavation, the plans approved as part of the 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 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 Certifier. 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.

### **39. 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.

### **40. 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, EPA Draft Construction Noise Guideline 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.

## **41. 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.

## **42. 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: The Child Care Centre shall be No.39 Willarong Road Caringbah and the Medical Centre shall be No.37 Willarong Road, Caringbah

## **43. 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.

## **44. Car Parking Allocation**

### **A. Before Occupation**

Car parking must be allocated to individual businesses on the following basis:

- Medical Centre: 11 spaces (including two "disabled" bays with associated shared zones) and 2 motorcycle bays.
- Child Care Centre: 19 spaces (including one "disabled" bays with associated shared zones) and 2 motorcycle bays.

### **B. Ongoing**

The car-parking provided must only be used in conjunction with the tenancies contained within the development and not for any other purpose.

## **45. 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.

## **46. Safety and Security**

### **A. Design & Ongoing**

- i) Graffiti is to be removed from the property as soon as is practicable from the time of reporting;
- ii) All external lighting, handrails and other fixtures must be made from robust and vandal resistant materials;
- iii) If the facility is used during dark hours, the playgrounds, parking area, access ways, pedestrian routes and communal areas should be lit in accordance with AS/NZS 1158.3.1, and must be compatible with any CCTV system;
- iv) The playgrounds and all entry points to the facility must be fitted with appropriate access control devices. Security systems, access control devices and CCTV cameras are to be installed by a licensed security professional to meet or exceed Australian Standard 4806.

## **47. Waste Collection (On-site Collection)**

### **A. Design**

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

- i) The maximum long and cross section grade of the designated loading area and temporary bin holding area must be  $\pm 5\%$ .
- ii) Clear and direct access must be provided from the bin holding/storage area to the loading area.
- iii) A dedicated secure waste storage room for all medical waste must be provided.

### **B. Before Construction**

Prior to the issue of any 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 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 the responsibility of the Building Manager and are to be carried out in accordance with the approved Waste Management Report.
- ii) All waste and recycling bins must be always stored wholly within the approved permanent garbage and/or recycling storage area.
- iii) All medical waste must be collected by specialist contractor and collected directly from the secure medical waste store room.
- iv) All waste must be collected wholly within the site.

## **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>**