

<b>Original signed by</b>	<b>Robyn Pearson</b>	<b>on</b>	<b>22/2/19</b>
<b>Date determined:</b>	<b>21/2/19</b>		
<b>Date operates:</b>	<b>22/2/19</b>		
<b>Date lapses:</b>	<b>22/2/24</b>		

## **Development Consent No. 327/18**

### **Notice of Determination**

Section 4.18 of the Environmental Planning and Assessment Act 1979 (“the Act”)  
Clause 100 of the Environmental Planning and Assessment Regulation 2000 (“the Regulation”)

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#### **Applicant’s Name**

Peter Princi Architects

#### **Land to which this applies**

46 Burlington Street, Crows Nest  
Lot No.: 1, DP: 443178

#### **Proposal**

Change of use to Health Consulting Rooms, hours of operation, and associated alterations to dwelling.

#### **Determination of Development Application**

Subject to the provisions of Section 4.17 of the Environmental Planning and Assessment Act 1979, approval has been granted subject to conditions in the notice of determination.

#### **Reason for approval**

The proposed development is permitted within the R2 Low Density Residential zone and meets the relevant objectives of the zone. The use would operate during business hours general Monday to Saturday and is limited to a maximum of three health care professionals.

The use is considered to be of a low intensity and would not adversely impact the residential amenity of the area. Patients would likely increase the demand for parking within Burlington Street but not unreasonably so because there is parking available as people vacate the two hour parking spaces within Burlington street and nearby streets. The practice is also located in close proximity to the Alexander Street Carpark and regular bus services.

The proposed development would not adversely impact the nature or character of the Heritage Conservation Area.

**Date from which this Consent operates**

22 February 2019

**How were community views taken into account in making the decision**

The Application was notified to the surrounding neighbours and the Precinct Committee. Five submissions were received. The issues raised by the objectors were considered in the context of Council's development standards and provisions applicable to the site. The use is permitted within the zone and the limited intensity would not adversely impact the amenity of the residential area. Nevertheless, Conditions have been recommended to preserve residential amenity

**Period of Consent**

Subject to Section 4.20 of the Act, this consent becomes effective and operates from 22 February 2019. The consent lapses five years after the date of consent in accordance with Section 4.53 of the Act and cannot be extended. To enjoy the benefits of this consent, works must physically commence onsite by 22 February 2024.

**Review of determination and right of appeal**

Within 6 months after the date of determination, a review of this determination can be requested under Division 8.2 of the Act or an appeal to the Land and Environment Court made pursuant to the provisions of Section 8.7 of the Act. If a review is contemplated, it should be lodged within two months of the date of this determination to enable the six month period, which includes Council's review to be met.

**Plans endorsed by the consent authority**

<b>Plan No.</b>	<b>Issue</b>	<b>Title</b>	<b>Dated</b>	<b>Drawn by</b>	<b>Received</b>
DA02	A	Ground Floor Plan	September 2018	Peter Princi Architects	28/09/2018
DA08	B	Car Space	September 2018	Peter Princi Architects	26/11/2018

**Endorsed for and on behalf of North Sydney Council**

ROBYN PEARSON  
TEAM LEADER ASSESSMENTS

22 February 2019  
Date of Endorsement

**(i) Conditions**

Consent is granted subject to the following conditions imposed pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979 (“the *Act*”) and the provisions of the Environmental Planning & Assessment Regulation 2000 (“the *Regulation*”) such conditions being reasonable and relevant to the development as assessed pursuant to Section 4.15 of the Act.

**(ii) Definitions**

Unless specified otherwise, words have the same meaning as defined by the *Act*, the *Regulation* and the *Interpretation Act 1987* as in force at the date of consent.

***Applicant*** means the applicant for this consent.

***Approved Plans*** means the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

***AS*** or ***AS/NZS*** means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

***NCC*** means the National Construction Code as published by the Australian Building Codes Board as in force at the date of issue of any *Construction Certificate*.

***Council*** means North Sydney Council.

***Court*** means the Land and Environment Court.

***Local Native Plants*** means species of native plant endemic to North Sydney LGA.

***Stormwater Drainage System*** means all works, facilities and documentation relating to:

- The collection of stormwater,
- The retention of stormwater,
- The reuse of stormwater,
- The detention of stormwater,
- The controlled release of stormwater; and
- Connections to easements and public stormwater systems.

***Owner*** means the owner of the *site* and successors in title to the *site*.

***Owner Builder*** has the same meaning as in the *Home Building Act 1989*.

***PCA*** means the *Principal Certifying Authority* under the *Act*.

*Principal Contractor* for building work means the person responsible for the overall coordination and control of the carrying out of the building work.

Note: If any residential building work is involved, the principal contractor must be the holder of a contractor licence under the *Home Building Act 1989*.

*Professional Engineer* has the same meaning as in the *NCC*.

*Public Place* has the same meaning as in the *Local Government Act 1993*.

*Road* has the same meaning as in the *Roads Act 1993*.

*SEE* means the final version of the Statement of Environmental Effects lodged by the *Applicant*.

*Site* means the land being developed subject to this consent.

*NSLEP 2013* means *North Sydney Local Environmental Plan 2013*

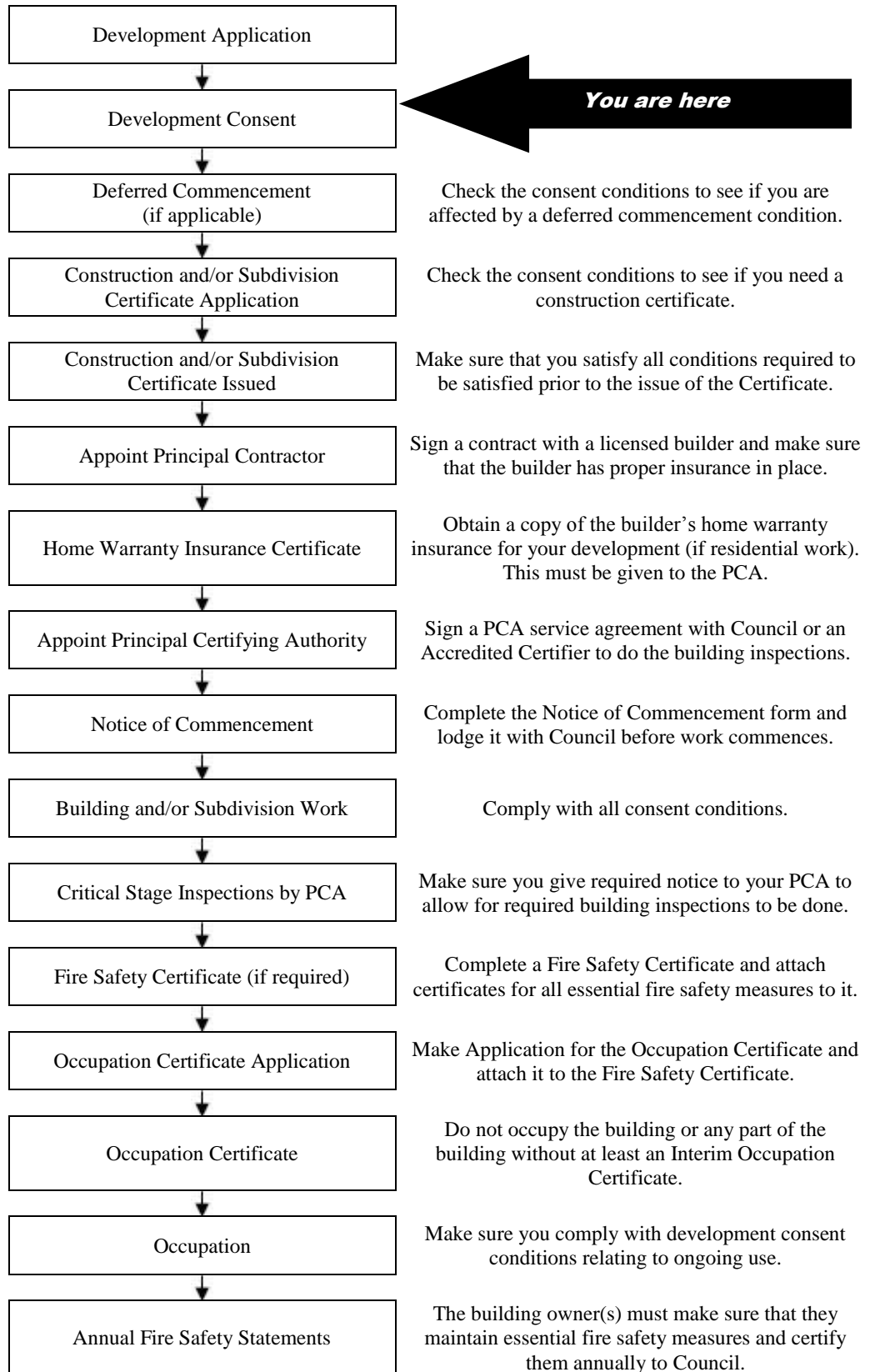
*NSDCP 2013* means *North Sydney Development Control Plan 2013*

*Work* for the purposes of this consent means:

- the use of land in connection with development,
- the subdivision of land,
- the erection of a building,
- the carrying out of any work,
- the use of any site crane, machine, article, material, or thing,
- the storage of any waste, materials, site crane, machine, article, material, or thing,
- the demolition of a building,
- the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
- the delivery to or removal from the *site* of any machine, article, material, or thing, or
- the occupation of the *site* by any person unless authorised by an *occupation certificate*.

Note: **Interpretation of Conditions** – Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

(iii) **The general steps after obtaining development consent from Council which need to be followed is provided below: -**



**Note:** This guide is provided in good faith to assist applicants to understand the broad process. Not every statutory step may apply or has been covered given that each situation may vary in individual circumstances.

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**A. Conditions that Identify Approved Plans**

**Development in Accordance with Plans/documentation**

- A1. The development must be carried out in accordance with the following drawings and documentation and endorsed with Council's approval stamp, except where amended by the following conditions of this consent.

Plan No.	Issue	Title	Dated	Drawn by	Received
DA02	A	Ground Floor Plan	September 2018	Peter Princi Architects	28/09/2018
DA08	B	Car Space	September 2018	Peter Princi Architects	26/11/2018

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information)

**Plans on Site**

- A2. A copy of all stamped approved plans, specifications and documents (including the plans, specifications and documents submitted and approved with the Construction Certificate) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

All documents kept on site in accordance with this condition must be provided to any officer of the Council or the certifying authority upon their request.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance)

**No Demolition of Extra Fabric**

- A3. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

**Signage**

- A4. One Business Identification Sign is to be installed on either the front fence or adjacent to the front door for the purpose of identifying the business. The sign is to have a maximum size of 400mm wide x 200mm high and be designed in accordance with section 9.9 *Signs on Heritage Items and in Conservation Areas* of NSLEP 2013. Notwithstanding those provisions, the sign must not be illuminated at any time.

(Reason: to provide information and identification of the use of the dwelling to the public.)



**C. *Prior to the Issue of a Construction Certificate (and ongoing, where indicated)***

**Waste Management Plan**

- C1. A Waste Management Plan is to be submitted for approval by the Certifying Authority prior to the issue of any Construction Certificate. The plan must include, but not be limited to:
- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
  - b) The design of the on-site waste storage and recycling area; and
  - c) Administrative arrangements for waste and recycling management during the construction process.

The approved Waste Management Plan must be complied with at all times in the carrying out of the development.

(Reason: To encourage the minimisation of waste and recycling of building waste)

**Colours, Finishes and Materials (Conservation Areas)**

- C2. The finishes, materials and exterior colours shall be complementary to the architectural style of the original building and sympathetic to the character of the Conservation Area. A schedule of finishes, materials and external colours shall be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition prior to the release of the Construction Certificate.

(Reason: To ensure that the completed colours, finishes and materials are complementary to the Conservation Area.)

**Accessible parking spaces to be provided**

- C3. One accessible parking spaces shall be provided within the rear setback area in accordance with drawing **DA08** drawn by **Peter Princi Architects**, dated **September 18**. Consideration must be given to the means of access from the car-parking spaces to adjacent buildings, to other areas within the building and to footpath and roads. All details shall be prepared in consideration of, and construction completed in accordance with applicable Australian Standards to achieve compliance with the Disability Discrimination Act. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

(Reason: To ensure equity of access and appropriate facilities are available for people with disabilities in accordance with Federal legislation)

**Bond for Damage and Completion of Infrastructure Works – Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement**

- C4. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$2,000 to be held by Council for the payment of cost for any/all of the following:
- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,
  - b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and [environmental controls](#)) required in connection with this consent
  - c) remedying any defects in any such public work that arise within 6 months after the work is completed.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following: -

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Certifying Authority must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

**Upgrade of existing building – Fire Spread and Safe Egress**

- C5. Pursuant to clause 94 of the EP&A Regulation 2000, aspects of the existing building must be brought into conformity with the Building Code of Australia (BCA).

Work must be carried out as part of the development so as to upgrade the building to bring it into compliance with Sections C, D & E of the NCC BCA 2016, Volume 1.

Plans and specifications showing the upgrading works which must be carried out under this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

Notes:

- 1) The Certifying Authority must be satisfied that the plans and specifications submitted prior to the issue of any Construction Certificate comply with the requirements of this condition.
- 2) The Certifying Authority issuing the Construction Certificate has no power to remove the requirements to upgrade the existing building as required by this condition.
- 3) Where this condition specifies compliance with the performance requirements of the BCA, the Certifying Authority, subject to their level of accreditation, may be satisfied as to such matters.

(Reason: Application of Regulations relating to Fire and Life Safety)

**Provision of Accessible Paths of Travel**

- C6. The building must be designed and constructed to provide access and facilities in accordance with the Building Code of Australia and Disability (Access to Premises – Buildings) Standards 2010. Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

Notes:

1. If, in complying with this condition, amendments to the development are required, the design changes must be submitted for the approval of Council prior to a Construction Certificate being issued. Approval of a modification application may be required.
2. It is not within Council's power to set aside National legislation which requires the upgrade of buildings to meet modern access standards. Such decisions remain the jurisdiction of the Building Professionals Board Access Advisory Committee who may grant an exemption in certain exceptional circumstances.

3. Information on making an application for an “unjustifiable hardship exemption” under the accessibility standards can be found in the website of the NSW Building Professional Boards at:

<http://www.bpb.nsw.gov.au/page/premises-standards>

(Reason: To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards)

### **Security Deposit/ Guarantee Schedule**

- C7. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

<b>Security deposit/ guarantee</b>	<b>Amount (\$)</b>
Footpath Damage Bond	\$2,000.00
<b>TOTAL BONDS</b>	<b>\$2,000.00</b>

(Reason: Compliance with the development consent)

### ***D. Prior to the Commencement of any Works (and continuing where indicated)***

#### **Commencement of Works Notice**

- D1. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least 2 days notice to North Sydney Council of the person’s intention to commence building work, demolition or excavation in accordance with this development consent.

(Reason: To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

### ***E. During Demolition and Building Work***

#### **Removal of Extra Fabric**

- E1. Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

(Reason: To ensure compliance with the terms of this development consent)

### **Site Amenities and Facilities**

- E2. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of work place determines the type of amenities required.

Further information and details can be obtained from the Internet at [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

(Reason: To ensure the health and safety of the community and workers on the site)

### **Health and Safety**

- E3. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site, and provide a contact telephone number for enquiries.

Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the internet at [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

(Reason: To ensure the health and safety of the community and workers on the site)

### **Prohibition on Use of Pavements**

- E4. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

(Reason: To ensure public safety and amenity on public land)

### **Plant & Equipment Kept Within Site**

- E5. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc., must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction zones and the like are available on Council's website at [www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au).

(Reason: To ensure public safety and amenity on public land)

### **Waste Disposal**

E6. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

(Reason: To ensure the lawful disposal of construction and demolition waste)

### **Asbestos Removal**

E7. All demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover Asbestos or "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with National Occupational Health and Safety Commission.

(Reason: To ensure works are carried out in accordance with relevant WorkCover requirements)

***F. Prescribed Conditions imposed under EP&A Act and Regulations and other relevant Legislation***

### **National Construction Code**

F1. All building work must be carried out in accordance with the provisions of the National Construction Code.

(Reason: Prescribed - Statutory)

### **Appointment of a Principal Certifying Authority (PCA)**

F2. Building work, demolition or excavation in accordance with the development consent must not be commenced until the developer has appointed a Principal Certifying Authority for the building work in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

### **Construction Certificate**

- F3. Building work, demolition or excavation in accordance with the development consent must not be commenced until a Construction Certificate for the relevant part of the building work has been issued in accordance with the provisions of the EP&A Act and its Regulations.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

### **Occupation Certificate**

- F4. A person must not commence occupation or use of the whole or any part of a new building (*new building* includes an altered portion of, or an extension to, an existing building) unless an Occupation Certificate has been issued in relation to the building or part. Only the Principal Certifying Authority appointed for the building work can issue an Occupation Certificate.

(Reason: Statutory)

### **Mandatory Critical Stage Inspections**

- F5. Building work must be inspected by the Principal Certifying Authority on the critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed Principal Certifying Authority.

(Reason: Statutory)

### **Commencement of Works**

- F6. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least 2 days' notice to North Sydney Council of the person's intention to commence the erection of the building.

(Reason: Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)

### **Demolition**

- F7. Demolition work must be undertaken in accordance with the provisions of AS2601- Demolition of Structures.

(Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage)

**Site Sign**

- F8. 1) A sign must be erected in a prominent position on the site
- a) stating that unauthorised entry to the work site is prohibited;
  - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
  - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while building work or demolition work is being carried out, but must be removed when the work has been completed.

(Reason: Prescribed - Statutory)

***G. Prior to the Issue of an Occupation Certificate***

**Infrastructure Repair and Completion of Works**

- G1. Prior to the issue of any Occupation Certificate any and all works relating to the development:
- a. in the road reserve must be fully completed; and
  - b. to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of Public assets)

**Access to Premises for People with a Disability**

- G2. Prior to the issue of any Occupation Certificate, a certificate must be prepared an appropriately qualified and practising Civil Engineer certifying that access and facilities for persons with a disability in accordance with the Building Code of Australia and AS Disability (Access to Premises – buildings) Standards 2010 (Premises Standards) has been provided. This certificate must be submitted to, and approved by, the Certifying Authority prior to issue of the Occupation Certificate.

(Reason: Equitable access and facilities for people with a disability)



### **Utility Services**

- G3. All utility services shall be adjusted, to the correct levels and/or location/s required by this consent, prior to issue of an occupation certificate. This shall be at no cost to Council.

(Reason: To ensure compliance with the terms of this consent)

### **I. On-Going / Operational Conditions**

#### **Restriction on Number of Health Care Professionals**

- I1. The number of health Care Professionals permitted to work at the premises at any one time is limited to 3.

(Reason: To ensure compliance with the NSLEP 2013 definition of the use as *health consulting rooms* and limit the potential adverse impact on the amenity of the surrounding residential area.)

#### **Hours of Operation**

- I2. The hours of operation are restricted to:

<b>Monday till Friday inclusive:</b>	<b>8.00am to 6.00pm</b>
<b>Saturday</b>	<b>9.00am to 5.00pm</b>
<b>Sunday</b>	<b>CLOSED</b>

Upon expiry of the permitted hours:

- (a) no patients shall be permitted entry; and
- (b) all patients on the premises must be required to leave within the following half hour.
- (c) the signage must not be illuminated at any time.

(Reason: to ensure that amenity of the surrounding locality is maintained)

#### **Sharps Disposal**

- I3. Sharp disposable instruments (such as needles, lances or blades) are to be placed in a specific sharps disposable container and disposed of in accordance with the "*Skin Penetration Guidelines*" 1991, published by the NSW Health Department.

(Reason: to ensure safe disposal of sharps and medical waste.)

### **Commercial Waste Collection**

- I4. The operator of the premises is to arrange commercial collection of waste and recycling material generated through the operation of the use.

Biomedical and waste containing sharps are to be disposed of by a *NSW Health/NSW Environment Protection Authority* approved medical waste licensed waste contractor and is not to be placed into Council's domestic waste service. Heavy penalties apply for non - compliance with this requirement.

(Reason: to ensure that waste generated by the use are disposed of by a contractor who can lawfully and safely dispose of those materials.

### **Waste Collection**

- I5. Waste and recycling materials, generated by the commercial use, must not be collected between the hours of 10pm and 6am on any day. Bins are to be stored within rear of side setback areas of the site.

(Reason: To ensure the amenity of surrounding properties)

### **Delivery Hours**

- I6. No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

(Reason: To ensure the acoustic amenity of surrounding properties)