



**Land and Environment
Court**
of New South Wales

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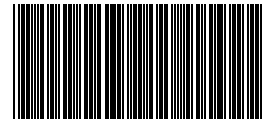
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D0001R3N47

26 July 2023

NOTICE OF ORDERS MADE

Case number 2022/00369278
Case title Domitian (Aust) Pty Ltd v CAMDEN COUNCIL

On 26 July 2023 the following orders (and/or directions) were made:

The Court orders:

(1) The Applicant is to pay the Respondent's costs thrown away as a result of the amendments pursuant to s 8.15(3) of the Environmental Planning and Assessment Act 1979, in a sum to be agreed or assessed.

(2) The Appeal is upheld.

(3) Development Application No. DA/2022/686/1, as amended, for the construction of a 130 place childcare centre over 2 levels with basement parking, earthworks, landscaping and associated works on land legally described at Lot 25 in DP1264505 and known as 120 Lodges Road, Elderslie, NSW, 2570, is determined by the grant of development consent subject to the conditions of consent in Annexure A.

For the Registrar

Annexure A

DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

Development Application No: DA/2022/686/1

Development: Construction of a 130 place childcare centre over 2 levels with basement parking, earthworks, landscaping and associated site works

Site: Lot 25 in DP1264505 and known as 120 Lodges Road, Elderslie, NSW, 2570

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

Date of determination: 26 July 2023

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

TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as Lot 25 in DP1264505 and known as 120 Lodges Road, Elderslie, NSW, 2570

The conditions of consent are as follows:

Approved Development:

This development consent approves the following development subject to conditions:

- Construction of a 130-place centre-based child care facility.
- Basement car parking for 33 spaces.
- Earthworks, landscaping and associated site works.

Schedule A Conditions

1.0 - General Conditions of Consent

The following conditions of consent are general conditions applying to the development.

- (1) **Approved Plans and Documents** – The development must be carried out in accordance with the following plans and documents, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan Reference/ Drawing No.	Name of Plan	Prepared by	Date
Project No. 10165, Drawing No. A004, Issue D.	Site Plan.	Janssen Designs.	31/03/2023.
Project No. 10165, Drawing No. A005, Issue D.	Basement Plan.	Janssen Designs.	31/03/2023.
Project No. 10165, Drawing No. A006, Issue D.	Ground Floor Plan.	Janssen Designs.	31/03/2023.
Project No. 10165, Drawing No. A007, Issue D.	First Floor Plan.	Janssen Designs.	31/03/2023.
Project No. 10165, Drawing No. A008, Issue D.	Roof Plan.	Janssen Designs.	31/03/2023.
Project No. 10165, Drawing No. A010, Issue D.	North & West Elevation.	Janssen Designs.	31/03/2023.
Project No. 10165, Drawing No. A011, Issue E.	Section.	Janssen Designs.	18/05/2023.
Project No. 10165, Drawing	Acoustic Details – Ground Floor.	Janssen Designs.	01/12/2022.

No. A017, Issue C.			
Project No. 10165, Drawing No. A018, Issue C.	Acoustic Details – First Floor.	Janssen Designs.	01/12/2022.
Project No. 10165, Drawing No. A027, Issue D.	Kitchen & Bottle Prep Area.	Janssen Designs.	18/05/2023.
Drawing No. 22-095-02-V3, Sheet 01,	Concept Layout – Proposed Centre Median.	Stanbury Traffic Planning.	14/10/2022.
Project No. SW22173, Drawing No. SW001, Rev D.	Stormwater Layout Plan – Cover Sheet.	Capital Engineering Consultants.	01/06/2023.
Project No. SW22173, Drawing No. SW002, Rev D.	Stormwater Layout Plan – Cover Sheet (Cont.).	Capital Engineering Consultants.	01/06/2023.
Project No. SW22173, Drawing No. SW003, Rev D.	Stormwater Layout Plan and Typical Drainage Notes & Details (1/2).	Capital Engineering Consultants.	01/06/2023.
Project No. SW22173, Drawing No. SW004, Rev D.	Stormwater Layout Plan and Typical Drainage Notes & Details (2/2).	Capital Engineering Consultants.	01/06/2023.
Project No. SW22173, Drawing No. SW010, Rev D.	Stormwater Layout Plan Basement Floor Plan, Notes & Details.	Capital Engineering Consultants.	01/06/2023.
Project No. SW22173, Drawing No. SW011, Rev D.	Stormwater Layout Plan Basement Floor Plan, Notes & Details (Cont.).	Capital Engineering Consultants.	01/06/2023.
Project No. SW22173, Drawing No. SW020, Rev D.	Stormwater Layout Plan Ground Floor Plan, Notes & Detail (1/2).	Capital Engineering Consultants.	01/06/2023.
Project No. SW22173, Drawing No. SW021, Rev D.	Stormwater Layout Plan Ground Floor Plan, Notes & Detail (2/2).	Capital Engineering Consultants.	01/06/2023.
Project No. SW22173,	Stormwater Layout Plan Erosion &	Capital Engineering Consultants.	01/06/2023.

Drawing No. ER001, Rev D.	Sediment Control Plan, Notes & Details.		
Drawing No. L-01, Issue C.	Landscape Concept.	Outside in Design.	01/06/2023.
Drawing No. L-02, Issue C.	Landscape Concept.	Outside in Design.	01/06/2023.
Drawing No. L-03, Issue C.	Lodges Road Streetscape Elevation AA.	Outside in Design.	01/06/2023.
Drawing No. L-04, Issue C.	Western Elevation BB + Northern Elevation CC.	Outside in Design.	01/06/2023.

Document Title	Prepared by	Date
Bushfire Hazard Assessment, Report No. BR-525622-A.	Matthew Noone, Bushfire Planning & Design.	25/08/2022.
Bushfire Report Addendum, Ref. BL-525622-A.	Matthew Noone, Bushfire Planning & Design.	23/02/2023.
Environmental Noise Impact Assessment, Report No. 7539.1.1R Rev B.	Day Design Pty Ltd.	31/05/2023.
Operational Plan of Management.	Janssen Designs.	07/06/2023.
Waste Management Plan.	Domitian (Aust) Pty Ltd.	22/06/2022.

- (2) **General Terms of Approval/Requirements of State Authorities** - The general terms of approval/requirements from state authorities shall be complied with prior to, during, and at the completion of the development.

The general terms of approval/requirements are:

1. NSW Rural Fire Service, General Terms of Approval dated 03 April 2023.
2. Endeavour Energy Letter dated 25 September 2022.
3. Sydney Water Letter dated 20 September 2022.

- (3) **National Construction Code - Building Code of Australia (BCA)** - All building work shall be carried out in accordance with the BCA as in force on the relevant date. In this condition the relevant date has the same meaning as in the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*, section 19.

- (4) **Shoring and Adequacy of Adjoining Property** - If the approved development involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road rail

corridor, the person having the benefit of the development consent must, at the person's own expense:

- a) protect and support the building, structure or work on adjoining land from possible damage from the excavation, and
- b) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land gives written consent to the condition not applying.

A copy of the written consent must be provided to the principal certifier prior to the excavation commencing.

- (5) **Engineering Specifications** - The entire development shall be designed and constructed in accordance with Council's Engineering Specifications.
- (6) **Outdoor Lighting** – The approved development must include lighting in all areas that complies with AS 1158 and AS 4282.
- (7) **Reflectivity** - The reflectivity of glass index for all glass used externally shall not exceed 20%.
- (8) **Roof Mounted Equipment** - All roof mounted equipment such as air conditioning units, etc., required to be installed shall be integrated into the overall design of the building and not appear visually prominent or dominant from any public view.
- (9) **Infrastructure in Road and Footpath Areas** – Infrastructure must not be removed and/or reconstructed without prior written approval from Council. Any costs incurred due to the relocation, restoration or reconstruction of pram ramps, footpath, light poles, kerb inlet pits, service provider pits, street trees or other infrastructure in the street footpath area for the proposed development shall be borne by the applicant, and not Council.

Note. The issue of this development consent does not imply concurrence or approval of any required public infrastructure work associated with the development.

- (10) **Local Traffic Committee Concurrence** - Installation of or changes to regulatory signage, line marking and devices are subject to the concurrence of Council's Local Traffic Committee on local roads, and the Roads and Maritime Services on State roads.

These concurrences (as required) must be obtained prior to the installation of or any changes to regulatory signage, line-marking and devices.

- (11) **Separate Approval for Signs** - A separate development application for any proposed signs shall be provided to and approved by Council prior to the erection or display of those signs (unless the erection or display of those signs is exempt or complying development pursuant to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

2.0 - Prior to Issue of a Construction Certificate

The following conditions of consent shall be complied with prior to the issue of a Construction Certificate.

(1) **Modified Documents and Plans** - The development shall be modified as follows:

- a) Updated section details (with respect to the outdoor play area) must be provided to ensure that the play area finished floor level is set at the proposed height in the architectural plans at 92.265 AHD. The FFL must be achieved whilst ensuring adequate thickness has been provided for both the basement roof slab as well as shock absorption for the synthetic turf.
- b) Structural details of the proposed median island on Lodges Road, Elderslie must be provided in accordance with approve plan titled "Concept Layout – Proposed Centre Median" prepared by Stanbury Traffic Planning, dated 14 October 2022.
- c) Signage must be provided indicating that the general public shall use the eastern side of the car park (or vice versa, staff only on the western end).
- d) An amended landscaping plan is required which substitutes the two Grevillea x 'Coconut Ice' (GRE CCI) and one Corymbia ficifolia 'wildfire' (COR WIF) as outlined by blue circles on approved landscape plan. These must be substituted with a tree species capable of producing a broad canopy and minimum mature height of 10 to 15 metres.

An additional tree must be introduced and be positioned in within the green outline as shown on the approved landscape plan, capable of producing broad canopy and minimum mature height of 10 to 15 metres. Suitable tree species must be derived from Council's preferred tree list. <https://www.camden.nsw.gov.au/assets/pdfs/Environment/Trees/Tree-and-Landscape-Species-List-Appendix-1-Tree-Management-Policy.pdf>

Amended plans or documentation demonstrating compliance shall be provided to the certifier and Council prior to the issue of a Construction Certificate.

(2) **Food premises and Amended Plans:** The design, construction, fit-out, use and ongoing operation of the food premises and/or food storage area shall comply with all applicable Acts, Regulation, codes and standards including:

- a) the Food Act 2003;
- b) the Food Regulation 2015;
- c) Food Standards Australia and New Zealand – Food Standards Code 2003;
- d) AS 1668.1-2015 and 1668.2-2012;
- e) the BCA; and.
- f) AS 4674-2004. Design, construction and fitout of food premises

Amended plans and specifications are to be prepared by a suitably qualified person demonstrating full compliance with the abovementioned requirements, with particular reference to:

- a) Details of solid construction provided on plans for the kitchen, bottle preparation room and garbage room (including walls, fixtures and fittings as per AS4674).
- b) Wall finishes in the kitchen and bottle preparation are to be provided with compliant finish as per AS4674 from floor to ceiling. Note: Painted plaster is not a compliant finish for a food preparation area.

Plans, specifications and suitable details demonstrating compliance shall be provided to the certifier with the Construction Certificate application.

- (3) **Works in Road Reserve** - Where any works are proposed in a public road reservation, the relevant Public Road Activity Approval (Road Works Application, Road Opening Permit and/or Road Occupancy Permit) shall be obtained from Council in accordance with Section 138 of the *Roads Act 1993*.
- (4) **Water Quality Measures – Hydrocarbons** - All carpark and driveway ramp run-off must be collected and directed to an on-site system incorporating a silt and oil arrestor for the purposes of collecting hydrocarbons. Details of water quality measures must be shown on the engineering plans.
- (5) **Performance Bond** - The applicant is to lodge a bond with Council to provide security for works undertaken within the existing public domain in accordance with Council's Development Infrastructure Bonds Policy.

Note. Fees are payable for the lodgement and refund of the bond.

- (6) **Structural Engineer's Details** - The piers/slabs/footings/structural elements shall be designed and certified by a suitably qualified structural engineer and shall take into consideration the recommendations of any geotechnical report applicable to the site. A statement to that effect shall be provided to the accredited certifier including a current copy of the Structural Engineer's Professional Indemnity Insurance.
- (7) **External Walls and Cladding Flammability** – The external walls of the building, including attachments, must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate the accredited certifier must:
 - a) be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use in the construction of external walls, including finishes and claddings such as synthetic or aluminium composite panels, comply with the relevant requirements of the NCC; and
 - b) ensure that the documentation relied upon in the approval processes includes an appropriate level of detail to demonstrate compliance with the NCC as proposed.

- (8) **Civil Engineering Plans** - Civil engineering plans indicating drainage, roads, accessways, earthworks, pavement design, details of line-marking, traffic management, water quality and quantity facilities including stormwater detention and disposal, shall be prepared in accordance with the approved plans and Council's Engineering Design and Construction Specifications. Details demonstrating compliance shall be provided to the certifier with the Construction Certificate application.

A stormwater plan is to be submitted to the certifier to accommodate drainage from the approved development and to protect other property to the satisfaction of the certifier.

Note. Under the *Roads Act 1993*, only the Roads Authority can approve commencement of works within an existing road reserve.

- (9) **Soil, Erosion, Sediment and Water Management** - An erosion and sediment control plan shall be prepared in accordance with 'Managing Urban Stormwater – Soils and Construction ('the blue book')'. Details demonstrating compliance shall be provided to the certifier with the Construction Certificate application.
- (10) Not Used
- (11) **Fibre-Ready Facilities/Telecommunications Infrastructure** – Documentary evidence must be provided to the certifier demonstrating that satisfactory arrangements have been made for:
- a) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. The carrier must confirm in writing that they are satisfied that the fibre-ready facilities are fit for purpose; and
 - b) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

This condition does not apply where an applicable exemption exists under Commonwealth law. Documentary evidence of any exemption relied upon must be provided to the certifier.

- (12) **Damages Bond** - The applicant is to lodge a bond with Council to ensure any damage to existing public infrastructure is rectified in accordance with Council's Development Infrastructure Bonds Policy.

Note. A fee is payable for the lodgement of the bond.

- (13) **Garbage Room** - Plans showing the location and details of garbage room(s) and room(s) used for the washing and storage of garbage receptacles shall be provided to the accredited certifier for approval. Garbage room(s) are to be constructed of solid material and finished as a smooth even surface. Floors are to be impervious, coved, graded and drained to an appropriate floor waste connection. Walls are to be smooth impervious surfaces to ensure no moisture, oils or similar material can soak in. Ventilation, pest proofing and a hose tap must be provided.
- (14) **Driveway Gradients and Design** – The design of all driveways shall comply with AS 2890.1-2004 'Off street car parking' and:
- a) the driveway shall comply with Council's Access Driveway Specifications; <https://www.camden.nsw.gov.au/assets/pdfs/Development/Preparing-a-DA/Development-Guidelines-and-policies/Access-Driveways-Specifications-and-Drawings.pdf>
 - b) the driveway shall be at least 1m from any street tree, stormwater pit or service infrastructure;

- c) the level for the driveway across the footpath area shall achieve a gradient of 4%; and
- d) a Driveway Crossing Approval (PRA) must be obtained prior to the issue of a Construction Certificate.

Details demonstrating compliance shall be provided to the accredited certifier prior to issue of a Construction Certificate.

- (15) **Sydney Water Trade Waste** - The applicant shall contact the Commercial Trade Waste section of Sydney Water regarding the trade waste requirements. A written response from Sydney Water demonstrating compliance shall be provided to the accredited certifier and Council.
- (16) **Mechanical Ventilation** - Any room or area not provided with natural ventilation in accordance with the relevant requirements of the Building Code of Australia must be provided with a system of mechanical ventilation that complies with the requirements of Australian Standard 1668, Parts 1 & 2. Details demonstrating compliance shall be provided to the accredited certifier with the Construction Certificate application.
- (17) **Washing Facilities (Food Premises)** – The following washing facilities must be provided in the business area with a fixed connection to potable water and sewer:
 - a) A permanent designated hand wash basin.
 - b) A permanent designated equipment cleaning sink consisting of:
 - a double bowl sink provided with hot and cold potable water with adequate space for the drying of equipment, or
 - a single bowl sink and dishwasher provided that all equipment is sanitised in the dishwasher.
- (18) **Long Service Levy** - In accordance with the *Building and Construction Industry Long Service Payments Act 1986*, the applicant shall pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council. This applies to building and construction works with a cost of \$250,000 or more.

3.0 - Prior to Commencement of Works

The following conditions of consent shall be complied with prior to any works commencing on the development site.

- (1) **Public Liability Insurance** - The owner or contractor shall take out a Public Liability Insurance Policy with a minimum cover of \$20 million in relation to the occupation of, and works within, public property (i.e. kerbs, gutters, footpaths, walkways, reserves, etc) for the full duration of the proposed works. Evidence of this Policy shall be provided to Council and the certifier.
- (2) **Notice of Principal Certifier** - Notice shall be given to Council at least two (2) days prior to subdivision and/or building works commencing in accordance with the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*. The notice shall include:

- a) a description of the work to be carried out;
 - b) the address of the land on which the work is to be carried out;
 - c) the registered number and date of issue of the relevant development consent;
 - d) the name and address of the principal certifier, and of the person by whom the principal certifier was appointed;
 - e) the certifier's registration number, and a statement signed by the certifier consenting to being appointed as principal certifier; and
 - f) a telephone number on which the principal certifier may be contacted for business purposes.
- (3) **Notice of Commencement of Work** - Notice shall be given to Council at least two (2) days prior to subdivision and/or building works commencing in accordance with the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*. The notice shall include:
- a) the name and address of the person by whom the notice is being given;
 - b) a description of the work to be carried out;
 - c) the address of the land on which the work is to be carried out;
 - d) the registered number and date of issue of the relevant development consent and construction certificate;
 - e) a statement signed by or on behalf of the principal certifier (only where no principal certifier is required) to the effect that all conditions of the consent that are required to be satisfied prior to the work commencing have been satisfied; and
 - f) the date on which the work is intended to commence.
- (4) **Construction Certificate Required** - In accordance with the requirements of the *EP&A Act 1979*, building or subdivision works approved by this consent shall not commence until the following has been satisfied:
- a) a Construction Certificate has been issued by a certifier;
 - b) a principal certifier has been appointed by the person having benefit of the development consent;
 - c) if Council is not the principal certifier, Council is notified of the appointed principal certifier at least two (2) days before building work commences;
 - d) the person having benefit of the development consent notifies Council of the intention to commence building work at least two (2) days before building work commences; and
 - e) the principal certifier is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

- (5) **Sign of Principal Certifier and Contact Details** - A sign shall be erected in a prominent position on the site stating the following:

- a) that unauthorised entry to the work site is prohibited,
- b) the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and
- c) the name, address and telephone number of the principal certifier for the work.

The sign must be maintained while the work is being carried out and removed when the work has been completed.

- (6) **Site is to be Secured** - The site shall be secured and fenced.

- (7) **Sydney Water Approval** – The approved construction certificate plans must also be approved by Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of the development. Go to www.sydneywater.com/tapin to apply.

A copy of the approval receipt from Sydney Water must be submitted to the principal certifier.

- (8) **Soil Erosion and Sediment Control** - Soil erosion and sediment controls must be implemented prior to works commencing on the site in accordance with 'Managing Urban Stormwater – Soils and Construction ('the blue book') and any Sediment and Erosion plans approved with this development consent.

- (9) **Dilapidation Report – Council Property** - A dilapidation report prepared by a suitably qualified person, including a photographic survey of existing public roads, kerbs, footpaths, drainage structures, street trees and any other existing public infrastructure within the immediate area of the site shall be prepared. The report must be submitted to the principal certifier and Council at least 2 days prior to the commencement of works.

Should any public property or the environment sustain damage during the course of and as a result of construction, or if the construction works put Council's assets or the environment at risk, Council may carry out any works necessary to repair the damage or remove the risk. The costs incurred will be deducted from the applicant's damages bond.

- (10) **Traffic Management Plan** - A traffic management plan shall be prepared in accordance with Council's Engineering Specifications and AS 1742.3. The plan must be submitted to the principal certifier.

- (11) **Construction Management Plan** - A construction management plan that includes dust, soil and sediment and traffic management, prepared in accordance with Council's Engineering Design Specification. The construction management plan must also ensure that all site access off Lodges Road and Liz Kernohan Elderslie is restricted, and all access must be via Barter Lane. Details demonstrating compliance shall be provided to the principal certifier.

- (12) **Environmental Management Plan** - An environmental management plan (EMP) prepared in accordance with Council's Engineering Design Specification shall be provided to the principal certifier.

The EMP shall address the manner in which site operations are to be conducted and monitored to ensure that adjoining land uses and the natural environment are not unacceptably impacted upon by the proposal. The EMP shall include but not be necessarily limited to the following measures:

- a) measures to control noise emissions from the site;
- b) measures to suppress odours and dust emissions;
- c) soil and sediment control measures;
- d) measures to control air emissions that includes odour;
- e) measures and procedures for the removal of hazardous materials that includes waste and their disposal;
- f) any other recognised environmental impact;
- g) work, health and safety; and
- h) community consultation.

- (13) **Construction Noise Management Plan** – A construction noise management plan shall be provided to the principal certifier and include the following:

- a) noise mitigation measures;
- b) noise and/or vibration monitoring;
- c) use of respite periods;
- d) complaints handling; and
- e) community liaison and consultation.

- (14) **Protection of Existing Street Trees** - No existing nature strip, street tree, tree guard, protective bollard, garden bed surrounds or root barrier installation shall be disturbed, relocated, removed or damaged during earthworks, demolition, excavation (including any driveway installation), construction, maintenance and/or establishment works applicable to this consent, without Council agreement and/or consent.

The protection methods for existing nature strip, street tree, tree guard, protective bollard, garden bed surrounds or root barrier installation during all works approved by this development consent shall be installed in accordance with AS 4970-2009 Protection of Trees on Development Sites.

- (15) **Construction Waste Management Plan** - A construction waste management plan must be prepared for all construction work on the site. The plan must incorporate the concept of recycling and reuse where practicable, include the requirement to dispose

of material not suitable for reuse or recycling at a licenced waste facility. The plan must be kept on site for compliance until the completion of all construction works.

4.0 - During Works

The following conditions of consent shall be complied with during the construction phase of the development.

- (1) Not Used
- (2) **Work Hours** - All work (including delivery of materials) shall be:
 - restricted to between the hours of 7am to 5pm Monday to Saturday (inclusive), and
 - not carried out on Sundays or public holidays,unless approved in writing by Council.
- (3) **Excavations and Backfilling** - All excavations and backfilling associated with the approved development must be executed safely and protected to prevent them from being dangerous to life or property, and in accordance with the design of a suitably qualified structural engineer.

If an excavation extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road rail corridor, the person causing the excavation must:

- a) protect and support the building, structure or work on adjoining land from possible damage from the excavation,
- b) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation, and
- c) give at least 7 days notice of the intention to excavate to the owner of the adjoining land before excavating.

The above requirements do not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land gives written consent to the requirements not applying.

The principal contractor, owner builder or any person who needs to excavate and undertake building work, shall contact 'Dial Before You Dig' prior to works commencing, and allow a reasonable period of time for the utilities to provide locations of their underground assets.

- (4) **Stormwater – Collection and Discharge Requirements** - The roof of the subject building(s) shall be provided with guttering and down pipes. All drainage lines, including stormwater drainage lines from other areas and overflows from rainwater tanks shall be installed as per the approved hydraulic drainage plan.

Connection to the drainage easement or kerb shall only occur at the designated connection point for the allotment. New connections that require the rectification of an easement pipe or kerb shall only occur with the prior approval of Camden Council.

All roofwater shall be connected to the approved roofwater disposal system immediately after the roofing material has been fixed to the framing members. The principal certifier shall not permit construction works beyond the frame inspection stage until this work has been carried out.

- (5) **Site Management** - The following practices are to be implemented during construction:
- a) stockpiles of topsoil, sand, aggregate, spoil or other material shall be kept clear of any drainage path, easement, natural watercourse, kerb or road surface and shall have measures in place to prevent the movement of such material off site;
 - b) builder's operations such as brick cutting, washing tools, concreting and bricklaying shall be confined to the building allotment. All pollutants from these activities shall be contained on site and disposed of in an appropriate manner;
 - c) waste shall not be burnt or buried on site or any other properties, nor shall wind-blown rubbish be allowed to leave the site. All waste shall be disposed of at a licenced waste disposal facility;
 - d) a waste storage area shall be located on the site;
 - e) all building materials, plant, equipment and waste control containers shall be placed on the building site. Building materials, plant and equipment (including water closets), shall not to be placed on public property (footpaths, roadways, public reserves, etc);
 - f) toilet facilities shall be provided at, or in the vicinity of, the work site at the rate of 1 toilet for every 20 persons or part thereof employed at the site. Each toilet shall:
 - 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*.
- (6) **Finished Floor Level** - A survey report prepared by a registered land surveyor confirming that the finished floor level complies with the approved plans or floor levels specified by the development consent, shall be provided to principal certifier prior to the development proceeding beyond floor level stage.
- (7) **Survey Report** - The building shall be set out by a registered land surveyor. A peg out survey detailing the siting of the building in accordance with the approved plans shall be provided to the principal certifier prior to the pouring of concrete.
- (8) **Traffic Management Plan Implementation** - All traffic management procedures and systems identified in the approved traffic management plan shall be introduced and maintained during construction of the development to ensure safety and to minimise the effect on adjoining pedestrian and traffic systems.
- (9) **Site Signage** - A sign shall be erected at all entrances to the site and be maintained until the development has been completed. The sign shall be constructed of durable materials, be a minimum of 1200mm x 900mm, and read as follows:

“WARNING UP TO \$8,000 FINE. It is illegal to allow soil, cement slurry or other building materials to enter, drain or be pumped into the stormwater system. Camden Council (02 4654 7777) – Solution to Pollution.”

The wording shall be a minimum of 120mm high and the remainder a minimum of 60mm high. The warning and fine details shall be in red bold capitals and the remaining words in dark coloured lower case letters on a white background, surrounded by a red border.

- (10) **Vehicles Leaving the Site** - The construction supervisor must ensure that:
- all vehicles transporting material from the site cover such material so as to minimise sediment transfer;
 - the wheels of vehicles leaving the site:
 - do not track soil and other waste material onto any public road adjoining the site; and
 - fully traverse the site's stabilised access point.
- (11) **Fill Compaction** - All fill must be compacted in accordance with Camden Council's current Engineering Design Specifications.
- (12) **Removal of Waste Materials** - Where there is a need to remove any identified materials from the site that contain fill/rubbish/asbestos, the waste material shall be assessed and classified in accordance with the NSW EPA Waste Classification Guidelines 2014 (refer to: www.epa.nsw.gov.au/wasteregulation/classify-guidelines.htm)
- Once assessed, the materials shall be disposed of to a licensed waste facility suitable for that particular classification of waste. Copies of tipping dockets shall be retained and supplied to Council upon request.
- (13) **Soil, Erosion, Sediment and Water Management – Implementation** - All requirements of the erosion and sediment control plan and/or soil and water management plan shall be maintained at all times during the works and any measures required by the plan shall not be removed until the site has been stabilised.
- (14) **Noise During Work** - Noise levels emitted during works must comply with:
- a) Construction period of 4 weeks and under:
- The LAeq level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- b) Construction period greater than 4 weeks and not exceeding 26 weeks:
- The LAeq level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).
- c) Construction period greater than 26 weeks:

The LAeq level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background level by more than 5 dB(A).

Alternatively, noise levels emitted during works shall be restricted to comply with the NSW Environment Protection Authority Interim Construction Noise Guidelines.

- (15) **Disposal of Stormwater** - Water seeping into any site excavations is not to be pumped into the stormwater system unless it complies with relevant EPA and ANZECC standards for water quality discharge.
- (16) **Offensive Noise, Dust, Odour and Vibration** - All work shall not give rise to offensive noise, dust, odour or vibration as defined in the *Protection of the Environment Operations Act 1997* when measured at the property boundary.
- (17) **Erosion and Sedimentation Control** - Soil erosion and sedimentation controls are required to be maintained for the duration of the works. The controls must be undertaken in accordance with version 4 of the Soils and Construction – Managing Urban Stormwater manual (Blue Book).

Soil erosion and sediment control measures shall only be removed upon completion of the works when all landscaping and disturbed surfaces have been stabilised (for example, with site turfing, paving or re-vegetation).

- (18) **Protection for Existing Trees** – The protection of existing trees (on-site and street trees) must be carried out as specified by AS 4970 Protection of Trees on Development Sites.
- (19) **Unexpected Finds Contingency (General)** - Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc.) be encountered during any stage of works (including earthworks, site preparation or construction works, etc.), such works shall cease immediately until a certified contaminated land consultant has been contacted and conducted a thorough assessment.

In the event that contamination is identified as a result of this assessment and if remediation is required, all works shall cease in the vicinity of the contamination and Council shall be notified immediately.

Where remediation work is required, the applicant will be required to obtain consent for the remediation works.

- (20) **Salinity Management Plan** - All approved development that includes earthworks, imported fill, landscaping, buildings and associated infrastructure must be carried out or constructed in accordance with the management strategies as contained within the approved salinity management plan titled Salinity Investigation Report 120 & 130 Lodges Road Elderslie NSW, prepared by Envirotech, Reference No. REP-18-6368-A and dated 13 August 2018.
- (21) **Seal Up Existing Redundant Laybacks** – All existing redundant laybacks must be sealed up to match the existing concrete gutter on the road.

- (22) **Compliance with BCA** - All building work shall be carried out in accordance with the requirements of the BCA.

5.0 - Prior to Issue of an Occupation Certificate

An Occupation Certificate shall be obtained prior to any use or occupation of the development. The following conditions of consent shall be complied with prior to the issue of an Occupation Certificate.

- (1) **Fire Safety Certificates** - A Fire Safety Certificate shall be provided to the principal certifier in accordance with the requirements of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.
- (2) **Survey Certificate** - A registered surveyor shall prepare a Survey Certificate to certify that the location of the building in relation to the allotment boundaries complies with the approved plans or as specified by this consent. The Survey Certificate shall be provided to the satisfaction of the principal certifier.
- (3) **Driveway Crossing Construction** – A footpath crossing (where required) and a driveway crossing shall be constructed in accordance with this development consent and the driveway crossing approval prior to use or occupation of the development.
- (4) **Services** - Certificates and/or relevant documents shall be obtained from the following service providers and provided to the principal certifier:
 - a) Energy supplier – A Notice of Arrangement for the provision of distribution of electricity from Endeavour Energy to service the proposed development;
 - b) Water supplier – A Section 73 Compliance Certificate demonstrating that satisfactory arrangements have been made with a water supply provider to service the proposed development.

The assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains. 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 (WSC). Go to www.sydneywater.com.au/section73 or phone 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

- (5) **External Walls and Cladding Flammability** – The external walls of the building, including attachments, must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of an Occupation Certificate principal certifier must:
 - a) be satisfied that suitable evidence is provided to demonstrate that the products and systems used in the construction of external walls, including finishes and claddings such as synthetic or aluminium composite panels, comply with the relevant requirements of the NCC; and
 - b) ensure that the documentation relied upon in the approval processes includes an appropriate level of detail to demonstrate compliance with the NCC as built.

- (6) **Acoustic Barrier** - A solid acoustic barrier is to be constructed around the perimeter of outdoor play areas in accordance with sections 6.4 and 8.2 of the approved Acoustic Report titled Environmental Noise Impact Assessment, Proposed Child Care Centre 120 Lodges Road Elderslie NSW, prepared by Day Design Pty Ltd, Report No. 7539-1.1R Rev B, dated 31 May 2023.
- (7) **Compliance with Acoustic Requirements** - Documentary evidence shall be provided to the principal certifier confirming the building/s has been constructed in accordance with the approved acoustic report Environmental Noise Impact Assessment, Proposed Child Care Centre 120 Lodges Road Elderslie NSW, prepared by Day Design Pty Ltd, Report No. 7539-1.1R Rev B, dated 31 May 2023.
- (8) **Acoustic Glazing** - South-eastern facing glazing of the first floor indoor play area is to be constructed from 6.38mm laminated glass to achieve a minimum Rw 31 rating.
- (9) **Reinstate Verge** - The applicant shall construct and/or reconstruct the unpaved verge area with grass, species and installations approved by Council.
- (10) **Waste Management Plan** - The principal certifier shall ensure that all works have been completed in accordance with the approved waste management plan referred to in this development consent.
- (11) **Waste Collection Contract** - The building owner shall ensure that there is a contract with a licensed contractor for the removal of all waste. A copy of the contract is to be held on the premises at all times.
- (12) **Completion of Landscape Works** - All landscape works, including the removal of noxious weed species, are to be undertaken in accordance with the approved landscape plan and conditions of this development consent.
- (13) **Inspection of Existing Street Trees** – All existing street trees must be inspected by Council to ensure that they are undamaged and in a healthy condition.
- (14) **Mechanical Exhaust System** - A Certificate of Compliance prepared by a suitably qualified engineer confirming that the mechanical exhaust systems have been designed, constructed and installed in accordance with the relevant requirements of Clause F4.12 of the BCA and AS1668 Parts 1 and 2, shall be provided to the principal certifier. Certification shall be provided that the air handling system as installed has been tested and complies with the approved plans and specifications, including ventilation requirements and fire precautions.
- (15) **Food Premises Notification** - Council shall be notified that the premises is being used for the preparation, manufacture or storage of food for sale, or food intended for sale. A 'Notification of Food Premises' form can be found on Council's website.

6.0 - Ongoing Use

The following conditions of consent are operational conditions applying to the development.

- (1) **Plan of Management** – The child care centre is to operate strictly in accordance with the approved Plan of Management.
- (2) **Commercial Food Contractor** - All hot meals provided at the premises shall be prepared off site by a contractor in an approved commercial kitchen and details of the

contractor (including the location/s of the premises where food is to be prepared) are to be provided to Council's Environmental Health Officer prior to first service.

Note: The appointment of a commercial food contractor must not cause to result in the requirement for any additional bin(s) without first providing an amended waste management plan to the satisfaction of Camden Council.

- (3) **Limitations of Food Handling** - The child care centre is to be limited to food activities for the purpose of:
- a) Storage of food in pantry/fridges/freezers.
 - b) Heating hot meals that are pre-packaged off-site by a commercial contractor in an approved commercial kitchen.
 - c) Cutting / slicing of fruit, vegetables and cheese.
 - d) Making of sandwiches / toast / cereal.
 - e) Service of pre-packaged food.
- (4) **Cold Food Storage Facilities** - Cold food storage equipment shall be of sufficient size to store all potentially hazardous food for use in the child care facility within the designated kitchen and bottle preparation areas only.
- (5) **Catering Contract Records** - A copy of the details of the food service contractor/s and receipts of payment to the contractor/s shall be kept on site for 12 months and be produced to Council's Officer upon request.
- (6) **Amenity** – The approved development must be conducted and patrons controlled at all times so that no interference occurs to the amenity of the area, the footpath, adjoining occupations or residential/business premises.
- (7) **Pollution Control** – The use and operation of the premises shall not give rise to the discharge (by air, water or land) of any pollutant which may degrade the environment or be prejudicial to its inhabitants, in accordance with the requirements of the *Protection of the Environment Operations Act 1997*.
- (8) **Number of Children** – The centre is approved to accommodate a maximum of 130 children. However this maximum number shall be reduced to any lower number of children that is separately approved for the centre by the Department of Education.
- (9) **Number of Children at Outdoor Play** - In accordance with the Approved Acoustic report, the ground floor outdoor play area is to be restricted to a maximum of 50 children (2-5 years old) and 20 children (0-2years old) at any one time.
- In addition, the outplay area southwest of the ground floor access ramp is to be restricted to a maximum of 20 children at any one time.
- The first floor play area is to be restricted to a maximum 30 children (3-5 years old) at any one time.
- (10) **Passive Play Area** - In accordance with the Approved Acoustic report, the area within 5m of the south-western boundary of the ground floor outdoor play area shall be limited to passive play activities only.
- (11) **Windows to be Closed** - All doors and windows located along the south-eastern and south-western perimeter of the centre are to remain closed during operation.

North-western facing sliding doors are to remain closed while the indoor play area is in use.

- (12) **Alternative Ventilation for Rooms** - Where rooms require windows to be closed (but not necessarily sealed) to meet internal noise criteria the provision of alternative ventilation (possibly mechanical provided there is a fresh air intake) that meets the requirements of the Building Code of Australia (BCA) will need to be provided to ensure fresh airflow inside the building. Consultation with a mechanical engineer to ensure that BCA and AS1668 are achieved may be required.
- (13) **Manoeuvring of Vehicles** - All vehicles shall enter and exit the site in a forward direction.
- (14) **Removal of Graffiti** - The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within 48 hours of its application.
- (15) **Hours of Operation** - The property is only to be open for business and used for the purpose approved within the following hours:

Day	Hours of Operation
Monday – Friday	7AM – 6PM.
Saturday, Sunday, Public Holidays.	Closed.

Note: Staff are permitted to arrive from 6:45AM.

- (16) **Loading to Occur on Site** - All loading and unloading operations are to be carried out wholly within the building/site.
- (17) **Driveways to be Maintained** - All access crossings and driveways shall be maintained in good order for the life of the development.
- (18) **Parking Areas to be Kept Clear** - At all times, the loading docks, car parking spaces, driveways and footpaths shall be kept clear of goods and shall not be used for storage purposes.
- (19) **Offensive Noise and Noise Compliance** - The use and occupation of the premises including all plant and equipment shall not give rise to any offensive noise within the meaning of the *Protection of the Environment Operations Act 1997*. Noise must also comply with the NSW Noise Policy for Industry 2017.
- (20) **No Waste to Be Stored Outside of the Site** – No waste is to be placed on any public land (e.g. footpaths, roadways, plazas, reserves, etc.) or any other properties at any time.
- (21) **Maintenance of Landscaping** - Landscaping shall be maintained in accordance with the approved landscape plan.