



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

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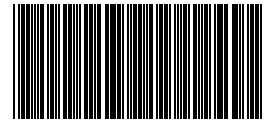
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D0001RCIB9

10 August 2023

NOTICE OF ORDERS MADE

Case number 2023/00037308
Case title JKPB INVESTMENTS PTY LTD v THE COUNCIL OF CAMDEN

On 10 August 2023 the following orders (and/or directions) were made:

The Court orders that:

- (1) The Applicant is granted leave to rely on the amended Development Application.
- (2) Pursuant to section 8.15(3) of the Environmental Planning and Assessment Act 1979, the Applicant is to pay those costs of the Respondent thrown away as a result of the Applicant being allowed to rely upon the amended Development Application agreed in the amount of \$2,000, within 28 days of these Orders.
- (3) The appeal is upheld.
- (4) Development Application No. DA/2022/1027/1, as amended, for the construction of a two-storey 80-place centre-based child care facility with basement car parking and associated site works at 19 Sultana Avenue, Leppington (Lot 55 DP 1260747) 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/2022/1027/1

Development: Construction of a two-storey 80-place childcare centre with basement car parking and associated site works

Site: Lot 55 in DP1260747 and known as 19 Sultana Avenue, Leppington NSW 2179

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

Date of determination: 10 August 2023

Date from which consent takes effect: 10 August 2023

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 55 in DP1260747 and known as 19 Sultana Avenue, Leppington NSW 2179

The conditions of consent are as follows:

Approved Development:

This development consent approves the following development subject to conditions:

- Construction of a 80-place centre-based child care facility.
- Basement car parking for 20 spaces.
- 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
Dwg: A000 Rev: D	Cover Page	Janssen Designs	21 July 2023
Dwg: A001 Rev: D	Calculations and LEP Controls		
Dwg: A002 Rev: D	Site Context Plan		
Dwg: A003 Rev: D	Site Analysis Plan		
Dwg: A004 Rev: D	Site Plan		
Dwg: A005 Rev: D	Basement Plan		
Dwg: A006 Rev: D	Ground Floor Plan		
Dwg: A007 Rev: D	First Floor Plan		
Dwg: A008 Rev: D	Roof Plan		
Dwg: A009 Rev: D	South & East Elevations		
Dwg: A010 Rev: D	North & West Elevations		
Dwg: A011 Rev: D	Section		
Dwg: A012 Rev: D	Perspectives 1 & 2		
Dwg: A013 Rev: D	Perspectives 3 & 4		
Dwg: A015 Rev: D	Shadow Diagrams		

Dwg: 016 Rev: D	Covered Outdoor Area Diagrams		
Dwg: A017 Rev: D	Cut & Fill Plan		
Dwg: A018 Rev: D	Emergency Evacuation Plan		
Dwg: A019 Rev: D	Kitchen Detail Plan		
Dwg: CIVL001 Rev: B	Title Page, Notes and Details	Capital Engineering Consultants	7 June 2023
Dwg: CIVL010 Rev: B	Civil Works Site Plan		
Dwg: CIVL011 Rev: B	B85 Design Vehicle Long Sections		
Dwg: CIVL020 Rev: B	Camden Council Standard Notes		
Dwg: SW001 Rev: B	Cover Sheet	Capital Engineering Consultants	7 June 2023
Dwg: SW010 Rev: B	Basement Plan		
Dwg: SW020 Rev: B	Ground Floor Plan, Notes & Details		
Dwg: ER001 Rev: B	Erosion and Sediment Control Plan		
Dwg: L-01 Rev: C	Landscape Concept	Outside In Design Group	20 July 2023
Dwg: L-02 Rev: C	Landscape Concept – First Floor		

Document Title	Prepared by	Date
Environmental Noise Impact Assessment Ref: 7512-2-21 Rev: A	Day Design Pty Ltd	23 June 2023
Plan of Management Issue B	Janssen Designs	26 July 2023
Traffic Report Ref: 22-105-2	Stanbury Traffic Planning	June 2023
Preliminary Site Investigation Ref: E2269-1	GCA	19 May 2022
Waste Management Plan	Bacani Pty Ltd	08 July 2022

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

- a) Amended plans and specifications are to be prepared by a suitably qualified person demonstrating:

- i) Details of solid construction to be provided on plans for the kitchen, bottle preparation room and garbage room (including walls, fixtures and fittings as per AS4674).
- ii) Wall finishes in the kitchen and bottle preparation are to be provided with compliant finish as per AS 4674 from floor to ceiling. **Note:** Painted plaster is not a compliant finish for a food preparation area.

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

- (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 section 19 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.
- (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) **Protect Existing Vegetation and Natural Landscape Features** - Approval must be sought from Council prior to the removal, pruning, impact upon or any disturbance of the existing vegetation and natural landscape features, other than any existing vegetation and/or natural landscape feature authorised for removal, pruning, impact upon or disturbance by this development consent.

The following procedures shall be strictly observed:

- a) no additional works or access/parking routes, transecting the protected vegetation shall be undertaken without Council approval; and
- b) pedestrian and vehicular access within and through the protected vegetation shall be restricted to Council approved access routes.

The protection of existing trees and other landscape features, other than any existing trees and natural landscape features authorised for removal, pruning, impact upon or

disturbance by this Consent, must be carried out as specified in the Australian Standard AS 4970-2009 Protection of Trees on Development Sites.

All initial procedures for the protection of existing trees and landscape features, as detailed in AS 4970-2009, must be installed prior to the commencement of any earthworks, demolition, excavation or construction works on the Development site.

The works and procedures involved with the protection of existing trees and other landscape features, are to be carried out by suitable qualified and experienced persons or organisations. This work should only be carried out by a fully insured and qualified Arborist.

Suitable qualifications for an Arborist are to be a minimum standard of Australian Qualification Framework (AQF) Level 3 in Arboriculture for the actual carrying out of tree works and AQF Level 5 in Arboriculture for Hazard, Tree Health and Risk Assessments and Reports.

- (7) **Outdoor Lighting** – The approved development must include lighting in all areas that complies with AS 1158 and AS 4282.
- (8) **Reflectivity** - The reflectivity of glass index for all glass used externally shall not exceed 20%.
- (9) **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.
- (10) **Noxious Weeds Management** - Weed dispersion must be minimised and weed infestations must be managed during all stages of the development. Any noxious or environmentally invasive weed infestations that occur during or after works must be fully and continuously suppressed and destroyed by appropriate means. New infestations must be reported to Council.

Pursuant to the *Biosecurity Act 2015* and the *Biosecurity Regulation 2017*, the applicant must at all times ensure that any machinery, vehicles or other equipment entering or leaving the site are clean and free from any noxious weed material to prevent the spread of all weeds to or from the property.

Earth moved containing noxious weed material must be disposed of at an approved waste management facility and be transported in compliance with the *Biosecurity Act 2015* and the *Biosecurity Regulation 2017*.

- (11) **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.

- (15) **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.

- (17) **Restriction on Child Numbers** - The centre is approved to accommodate a maximum of 80 children.

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) **Construction Certificate** - The following information shall be provided to the certifier with the Construction Certificate application:

- a) The proposed 200 x 100 RHS kerb outlet is to be amended with a PVC pipe and kerb adaptor to ensure a 150 x 50 kerb connection is constructed in line with Camden Council's Standard Drawing SD26

- (2) **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.

- (3) **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.

- (4) **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.

- (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 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.
- (6) **Civil Engineering Plans** - Civil engineering plans indicating drainage and stormwater 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.
- (7) **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.
- (8) **Works in Road Reserves** - 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*.
- (9) **Detailed Landscape Plan** - A detailed landscape plan shall be prepared in accordance with Appendix B – Landscape Design Principles of Camden Development Control Plan 2019 prior to the issue of a Construction Certificate (CC) and approved by Council.

The detailed landscape plan must also include:

- i. *Corymbia maculata* to be minimum 200 litre container. All other trees to be minimum 100 litre container size.
- ii. Tree species to be substituted with large canopy tree species with mature height 8-10 and minimum spread of 5m.
- iii. Temporary shade sails to be strategically integrated, alternatively, 400 litre container trees to be incorporated to play areas superseding point a) if implemented.
- iv. Increase the height of the front screening planting with species capable of a minimum height of 2m.
- v. Provide retaining wall details and cross section drawings.

- vi. Trees must be True to type, healthy and free from any active pests or diseases, the crown is to be symmetrical and has not suffered any significant injury that will impact growth habit.
 - vii. Trees must have a clean stem height that is less than 40% of total tree height and that branches are smaller than the stem.
 - viii. Landscaping shall incorporate the relevant ESD and WSUD principals.
 - ix. All tree stock shall be compliant with AS2303 *Tree stock for landscape use*.
 - x. Tree pit design to include sufficient space and access to soil volume. Table 5, Section 4P of the ADG provides the starting point however trees proposed within or adjacent to hardstand areas to include StrataCell or equivalent root management system, with integrated sub-surface irrigation and conditioned soil to be provided to a minimum cell area of 60.75m³, based on the projected mature canopy spread/dripline of proposed trees, or no less than 5m from trunks. Where tree spacing is less than 5m, the StrataCell system must be provided to the entire hardstand area.
- (10) **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.
- (11) **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 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.
- (12) **Food Premises** - 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

Details demonstrating compliance shall be provided to the certifier with the Construction Certificate application.

- (13) **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 certifier with the Construction Certificate application.
- (14) **Sydney Water Trade Waste** - The applicant shall contact the Commercial Trade Waste section of Sydney Water regarding the trade waste requirements and to confirm whether a trade waste agreement is required. If a trade waste agreement is required, a written response from Sydney Water demonstrating compliance shall be provided to the certifier and Council.
- (15) **Provision of Hand Wash Facilities** - Hand wash facilities shall be provided in each treatment room. Details demonstrating compliance shall be provided to the certifier with the Construction Certificate application.
- (16) **Kitchen and bottle preparation rooms (Wall Finishes)** - Wall finishes in the Kitchen and Bottle Preparation rooms are to be tiled from floor to ceiling.
- (17) **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.

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, shall be provided to the principal certifier.
- (12) **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.

- (13) **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.

- (14) **Protection of Trees to be Retained** - Protection of trees to be retained shall be in accordance with Council's Engineering Specifications. The area beneath the canopies of the tree(s) to be retained shall be fenced. Tree protection signage is required to be attached to each tree protection zone, and displayed in a prominent position.

4.0 - During Works

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

- (1) **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.
- (2) **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.

- (3) **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*.
- (4) **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.
- (5) **Building Height** - A survey report prepared by a registered land surveyor confirming that the building height complies with the approved plans or as specified by the development consent, shall be provided to the principal certifier prior to the development proceeding beyond frame stage.
- (6) **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.
- (7) **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.

- (8) **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.

- (9) **Seal Up Existing Redundant Laybacks** – All existing redundant laybacks must be sealed up to match the existing concrete gutter on the road.

- (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) **Location of Stockpiles** - Stockpiles of soil shall not be located on / near any drainage lines or easements, natural watercourses or water bodies, footpath or roadway without first providing suitable protective measures adequate to protect these water bodies. All stockpiles of contaminated materials shall be suitably covered to prevent dust and odour nuisance.
- (16) **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.
- (17) **Delivery Register** - The applicant must maintain a register of deliveries which includes date, time, truck registration number, quantity of fill, origin of fill and type of fill delivered. This register must be made available to Council officers on request and be provided to the Council at the completion of the development.
- (18) **Fill Material (VENM)** - Prior to the importation and/or placement of any fill material on the subject site, an assessment report and sampling location plan for such material must be provided to and approved by the principal certifier.

The assessment report and associated sampling location plan must:

- a) be prepared by a contaminated land specialist; and
- b) be endorsed by a practising engineer with Specific Area of Practice in Subdivisional Geotechnics; and
- c) be prepared in accordance with;

Virgin Excavated Natural Material (VENM):

- i) the Department of Land and Water Conservation publication "Site investigation for Urban Salinity;" and
 - ii) the Department of Environment and Conservation - Contaminated Sites Guidelines "Guidelines for the NSW Site Auditor Scheme (Third Edition) - Soil Investigation Levels for Urban Development Sites in NSW."
- d) confirm that the fill material;
- i) provides no unacceptable risk to human health and the environment;

- ii) is free of contaminants;
- iii) has had salinity characteristics identified in the report, specifically the aggressiveness of salts to concrete and steel (refer Department of Land and Water Conservation publication "Site investigation for Urban Salinity");
- iv) is suitable for its intended purpose and land use; and
- v) has been lawfully obtained.

Sampling of VENM for salinity of fill volumes:

- e) less than 6000m³ - 3 sampling locations; and
- f) greater than 6000m³ - 3 sampling locations with 1 extra location for each additional 2000m³ or part thereof.

For e) and f) a minimum of 1 sample from each sampling location must be provided for assessment.

Sampling of VENM for contamination and salinity must be undertaken in accordance with the following table:

Classification of Fill Material	No of Samples Per Volume	Volume of Fill (m ³)
Virgin Excavated Natural Material	1 (see Note)	1000 or part thereof

Note – Where the volume of each fill classification is less than that required above, a minimum of 2 separate samples from different locations must be taken.

- (19) **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.
- (20) **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).
- (21) **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.
- (22) **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.

- (23) **Salinity Management Plan** - All proposed earthworks, landscaping, buildings and associated infrastructure proposed to be constructed on the land must be carried out or constructed in accordance with Section 3, Appendix B - Salinity Management Guidelines, of the Camden Growth Centre Precincts Development Control Plan 2016.

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) **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 19 Sultana Avenue, Leppington; Prepared by Day Design Pty Ltd; Report no: 7512-2.1; Revision: A; Dated 23 June 2023].
- (4) **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.
- (5) **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.

- (6) **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.
- (7) **Reinstate Verge** - The applicant shall construct and/or reconstruct the unpaved verge area with grass, species and installations approved by Council.
- (8) **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.
- (9) **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.
- (10) **Acoustic Compliance Report** – A report shall be prepared by an independent acoustic consultant and be submitted to the principal certifier certifying that noise levels from mechanical plant will comply with 52dB(A) day and section 6.3 -7.1 of the Environmental Noise Impact Assessment – proposed Child Care Centre 19 Sultana Ave, Leppington prepared by Day Design Pty Ltd report no. 7512-2.1 RevA dated 23 June 2023

Mechanical plant shall be switched off outside these hours.

All noise attenuation materials and structures used for the mitigation and control of noise must be compliant with the conditions of this development consent.

For any non-compliance, the report must make recommendations for compliance or further attenuation of noise sources and these recommendations will be enforced by Council at the cost of the owner/occupier.

The owner/occupier must then provide a supplementary acoustic report to the principal certifier certifying that all compliance works have been completed and that noise levels comply with the above criteria.

- (11) **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.

- (12) **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.
- (13) **Landscape Certification** – Certification is to be provided to the Principal Certifying Authority (PCA) from the designer of the landscape plan that all tree planting/landscape works have been carried out in accordance with the Council endorsed landscape plan. If Council is the PCA, the certification is to be submitted to Council prior to or at the final landscape inspection.
- (14) **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.
- (15) **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.
- (16) **Acoustic Barrier** – Acoustic noise barriers are to be constructed in accordance with the Section 9.2 and appendix C of the approved acoustic report.
- (17) **Acoustic Glazing** – The glazing of all indoor play areas which face the Southeast (Camden Valley Way) must have a minimum Rw29 acoustic rating in accordance with the recommendations of the approved acoustic report.

6.0 - Ongoing Use

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

- (1) **Number of Employees** - The number of people working on the premises (in a full-time capacity) shall not exceed fourteen (14) at any given time.
- (2) **Number of Students/Children** - The number of students/children on the premises shall not exceed eighty (80) at any given time.
- (3) **Manoeuvring of Vehicles** - All vehicles shall enter and exit the site in a forward direction.
- (4) **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.
- (5) **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	Closed
Sunday and Public Holidays	Closed

- (6) **Loading to Occur on Site** - Other than for waste collection, which is to be carried out in accordance with the approved Waste Management Plan, All loading and unloading operations are to be carried out wholly within the building/site.
- (7) **Driveways to be Maintained** - All access crossings and driveways shall be maintained in good order for the life of the development.
- (8) **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.
- (9) **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.
- (10) **No Waste to Be Stored Outside of the Site** – No waste is to be placed on any public land (eg. footpaths, roadways, plazas, reserves, etc.) or any other properties at any time.
- (11) **Maintenance of Landscaping** - Landscaping shall be maintained in accordance with the approved landscape plan.
- (12) **Landscaping Maintenance Establishment Period** - Commencing from the date of practical completion, the applicant will have the responsibility to establish and maintain all hard and soft landscaping elements associated with this consent.

The 12 month maintenance and establishment period includes the applicant's responsibility for the establishment, care and repair of all landscaping elements including all street tree installations, plantings, lawn and hardscape elements including paths, walls, bins, seats, BBQs, shelters, playground equipment and soft fall treatments.

The date of practical completion is taken to mean completion of all civil works, soil preparation and treatment and initial weed control, and completion of all planting, turf installation, street tree installation and mulching.

At the completion of the 12 month landscaping maintenance and establishment period, all hard and soft landscaping elements (including any nature strip and road verge areas, street trees, street tree protective guards and bollards, etc) shall be in an undamaged, safe and functional condition and all plantings have signs of healthy and vigorous growth.

At the completion of the maintenance and establishment period, the landscaping works shall comply with the approved landscape plans and all improvements be in full working order.

- (13) **Outdoor Play Areas** – In accordance with the approved acoustic report the following noise requirements for outdoor play areas are to be implemented:
 - 1. Up to 20 children, 0-2 years old within the ground floor
 - 2. Up to 30 children, 2-3 years old within the ground floor and
 - 3. Up to 30 children, 3-5 years old within the first floor

4. No music is to be played in the outdoor play areas
5. Children must be supervised at all times

- (14) **Acoustic Compliance Report** - A report shall be prepared by an independent acoustic consultant. The Compliance Assessment is to be carried out at the time the centre achieves 80% attendance rates. The report is to be assessed against the criteria outline in the approved Acoustic Assessment.

For any non-compliance, the acoustic compliance report must make recommendations for compliance or further attenuation of noise sources and these recommendations will be enforced by Council at the cost of the owner / occupier. The owner / occupier must then provide a supplementary acoustic report to Council certifying that all compliance works have been completed and that noise levels comply with the above criteria

- (15) **Compliance with Plan of Management** – The child care centre must operate in accordance with the operations listed in the approved Plan of Management dated 26 July 2023.

- (16) **Adequate space** – Adequate space must be provided for the approved food activities.

- (17) **Cold food storage facilities** – Cold food storage equipment shall be of sufficient size to store all potentially hazardous food for use in the childcare facility within the designated kitchen and bottle preparation areas only.

- (18) **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*.

- (19) **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.

- (20) **Department of Education Approval** – The centre must comply with all requirements of the Department of Education. A letter from the Department of Education which details the approved number and age of children to be accommodated at the centre, and any operational conditions, must be submitted to Council prior to the centre becoming operational.

Should the Department of Education approval be subsequently amended at any time the operator of the centre must submit a copy of the amended approval to Council.

- (21) **Waste and Delivery Vehicles** - Waste collection and Delivery vehicles to the site shall only occur between the hours of 7.00am – 6.00pm Monday to Saturday and 8.00am – 6.00pm Sunday and Public Holidays.