



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

Level 4 225 Macquarie Street SYDNEY NSW 2000
Level 4 GPO Box 3565 SYDNEY NSW 2001
DX 264, Sydney

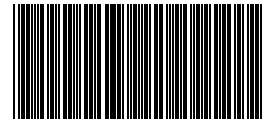
Telephone: 02 9113 8200
Facsimile:
02 91138208

Email: lecourt@justice.nsw.gov.au
Website: <https://www.lec.nsw.gov.au>

ABN: 52 659 114 436

ESKIL JULLIARD
eskil.julliard@northernbeaches.nsw.gov.au

Your Ref:



D0001NU213

6 January 2023

NOTICE OF ORDERS MADE

Case number 2022/00209666
Case title Double Arts Properties Pty Ltd v Northern Beaches Council

On 6 January 2023 the following orders (and/or directions) were made:

The Court orders that:

- (1) pursuant to section 8.15(3) of the Environmental Planning and Assessment Act 1979 the Applicant is to pay the costs of the Respondent that are thrown away as a result of the Court allowing the Applicant to file the Amended Development Application, in the amount of \$3,500;
- (2) the appeal is upheld;
- (3) Development Application No DA2022/0492 for alterations and additions to existing two storey building to provide a centre-based child care facility with associated earthworks, landscaping and at-grade parking at 397 Condamine Street, Allambie Heights, is approved, 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: 2022/0492

Development: Alterations and additions to existing two storey building to provide a centre-based child care facility with associated earthworks, landscaping and at-grade parking.

Site: 397 Condamine Street Allambie Heights

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

Date of determination: 6 January 2023

Date from which consent takes effect: Date of determination

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 [insert details].

The conditions of consent are as follows:

CONDITIONS OF APPROVAL

Application Number:	DA2022/0492 NSW LEC Proceedings 2022/00209666
Land to be developed (Address):	Lot 1 DP 624845, 397 Condamine Street ALLAMBIE HEIGHTS
Proposed Development:	Alterations and additions to existing two storey building to provide a centre-based child care facility with associated earthworks, landscaping and at-grade parking.
Date	[as per NSW LEC]

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

1. **Approved Plans and Supporting Documentation**

The development must be carried out in compliance with the endorsed stamped plans and documentation listed below, except as amended by any other condition of consent: a)

Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DA-01 D Location Plan, Street Elevation, Notes	25.11.2022	Fortey & Grant Architecture
DA-02 D Carpark and Site Plan	25.11.2022	Fortey & Grant Architecture
DA-03 D First Floor (Entry)	25.11.2022	Fortey & Grant Architecture
DA-04 D Ground Floor	25.11.2022	Fortey & Grant Architecture
DA-05 D Elevations and Sections	25.11.2022	Fortey & Grant Architecture
DA-06 D Area Diagram and Calculations	25.11.2022	Fortey & Grant Architecture
DA-07 B Outdoor Play Concept	25.11.2022	Fortey & Grant Architecture

Engineering Plans		
Drawing No.	Dated	Prepared By
Proposed Easement Plan Issue A	4.3.2022	NiTmA Consulting
Erosion and Sediment Control Plan Issue A	4.3.2022	NiTmA Consulting

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Plan of Management - Allambie Heights Childcare Centre	August 2022	Giraffe Childcare Group
Remediation Action Plan E34356BDrpt3-RAPrev1	23.8.2022	JK Environments
Detailed (Stage 2) Site Investigation E34356BDrpt2	10.6.2022	JK Environments
BCA Assessment Report 115290-BCA-r1	1.2.2022	BCA Logic
Arboricultural Impact Assessment Report 2322	9.3.2022	Rain Tree Consulting
Geotechnical Investigation 34356Brpt	15.9.2021	JK Geotechnics
Hazardous Building Materials Survey E34356BLrpt-HAZ	17.9.2021	JK Environments
Supplementary Contamination Details E34356BDlet	9.8.2022	JK Environments
Acoustic Details - Mechanical Plant, Boundary Fences. Appendix A	11.8.2022	Renzo Tonin & Associates
Changes to Noise Screens letter	28.11.2022	Renzo Tonin & Associates

b) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

c) The development is to be undertaken generally in accordance with the following:

Landscape Plans		
Drawing No.	Dated	Prepared By
2106/1 Existing Vegetation Plan	25.11.2022	Pamela Fletcher
2106/2 Landscape Site Plan* *including removal of trees No.15 to No.19 inclusive required for site remediation.	25.11.2022	Pamela Fletcher
2106/3 Planting Plans	25.11.2022	Pamela Fletcher

2106/4 Construction and Care Notes	25.11.2022	Pamela Fletcher
------------------------------------	------------	-----------------

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent will prevail.

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans.

2. Compliance with Other Department, Authority or Service

Requirements The development must be carried out in compliance with all recommendations and requirements, excluding general advice, within the following:

Other Department, Authority or Service	EDMS Reference	Dated
Ausgrid	Ausgrid Referral	20.5.2022
Transport for NSW (TfNSW)	TfNSW Referral Response	16.5.2022

(NOTE: For a copy of the above referenced document/s, please see Application Tracking on Council's website www.northernbeaches.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other departments, authorities or bodies.

3. Approved Land Use

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a *centre based child care facility*.

A centre-based child care facility is defined as:

"(a) a building or place used for the education and care of children that provides any one or more of the following:

- (i) long day care,*
- (ii) occasional child care,*
- (iii) out-of-school-hours care (including vacation care),*
- (iv) preschool care, or*

- (b) an approved family day care venue (within the meaning of the Children (Education and Care Services) National Law (NSW)),*

Note. An approved family day care venue is a place, other than a residence, where an approved family day care service (within the meaning of the Children (Education and Care Services) National Law (NSW)) is provided. but does not include:

- (c) a building or place used for home-based child care or school-based child care, or*
- (d) an office of a family day care service (within the meanings of the Children (Education and Care Services) National Law (NSW)), or*
- (e) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or*

- (f) *a child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium) to care for children while the children's parents are using the facility, or*
- (g) *a service that is concerned primarily with providing lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or providing private tutoring, or*
- (h) *a child-minding service that is provided by or in a health services facility, but only if the service is established, registered or licensed as part of the institution operating in the facility."*

(development is defined by the Warringah Local Environment Plan 2011 (as amended) Dictionary)

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent.

4. No Approval for any Signage

No approval is granted under this Development Consent for signs (as defined under Warringah

Local Environment Plan 2011 and State Environmental Planning Policy No. 64). A separate

Development Application for any signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

Reason: Control of signage. (DACPLB06)

5. No Approval for any Signage above the parapet / roof line

No approval is granted under this Development Consent for the erection of any advertising or business identification signage located above the roof/parapet line. All signage above the roof/parapet shall be deleted.

Reason: Compliance with Warringah Local Environment Plan. (DACPLB07)

6. Prescribed Conditions

- (a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- (b) Where applicable, BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Where applicable, residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
- (i) in the case of work for which a principal contractor is required to be appointed:
 - A. the name and licence number of the principal contractor, and
 - B. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - A. the name of the owner-builder, and
 - B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

- (e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- (i) protect and support the adjoining premises from possible damage from the excavation, and
 - (ii) where necessary, underpin the adjoining premises to prevent any such damage.
 - (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars

of the excavation to the owner of the building being erected or demolished.
 - (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative requirement.

7. General Requirements

- (a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- 7.00 am to 5.00 pm inclusive Monday to Friday,
- 8.00 am to 1.00 pm inclusive on Saturday,
- No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- 8.00 am to 5.00 pm Monday to Friday only.

(Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

- (b) Should any asbestos be uncovered on site, its demolition and removal must be carried out in accordance with WorkCover requirements and the relevant Australian Standards.
- (c) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.
- (d) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.
- (e) Onsite toilet facilities (being either connected to the sewer or an accredited sewer management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.
- (f) Prior to the release of the Construction Certificate, payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply.
- (g) The applicant shall bear the cost of all works associated with the development that occurs on Council's property.
- (h) No skip bins, building materials, demolition or excavation waste of any nature, and no hoist, plant or machinery (crane, concrete pump or lift) shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.
- (i) Demolition materials and builders' wastes are to be removed to approved waste/recycling centres.
- (j) No trees or native shrubs or understorey vegetation on public property (footpaths, roads, reserves, etc.) or on the land to be developed shall be removed or damaged during construction unless specifically approved in this

consent including for the erection of any fences, hoardings or other temporary works.

- (k) Prior to the commencement of any development onsite for:
- i) Building/s that are to be erected ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place iii) Building/s that are to be demolished iv) For any work/s that is to be carried out v) For any work/s that is to be demolished
- The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.
- (l) A "Road Opening Permit" must be obtained from Council, and all appropriate charges paid, prior to commencement of any work on Council property. The owner/applicant shall be responsible for all public utilities and services in the area of the work, shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.
- (m) The works must comply with the relevant Ausgrid Network Standards and SafeWork NSW Codes of Practice.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community.

FEES / CHARGES / CONTRIBUTIONS

8. Policy Controls

Northern Beaches Section 7.12 Contributions Plan 2022

A monetary contribution of \$37,523.11 is payable to Northern Beaches Council for the provision of local infrastructure and services pursuant to section 7.12 of the Environmental Planning & Assessment Act 1979 and the Northern Beaches Section 7.12 Contributions Plan 2022. The monetary contribution is based on a development cost of \$3,752,311.02.

The monetary contribution is to be paid prior to the issue of the first Construction Certificate or Subdivision Certificate whichever occurs first, or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. If the monetary contribution (total or in part) remains unpaid after the financial quarter that the development consent is issued, the amount unpaid (whether it be the full cash contribution or part thereof) will be adjusted on a quarterly basis in accordance with the applicable Consumer Price Index. If this situation applies, the cash contribution payable for this development will be the total unpaid monetary contribution as adjusted.

The proponent shall provide to the Certifying Authority written evidence (receipt/s) from Council that the total monetary contribution has been paid.

The Northern Beaches Section 7.12 Contributions Plan 2022 may be inspected at 725 Pittwater Rd, Dee Why and at Council's Customer Service Centres or alternatively, on Council's website at www.northernbeaches.nsw.gov.au

This fee must be paid prior to the issue of the Construction Certificate. Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To provide for contributions in accordance with the Contribution Plan to fund the provision of new or augmented local infrastructure and services.

9. Security Bond

A bond (determined from cost of works) of \$10,000 and an inspection fee in accordance with Council's Fees and Charges paid as security are required to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection).

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, and details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

To process the inspection fee and bond payment a Bond Lodgement Form must be completed with the payments (a copy of the form is attached to this consent and alternatively a copy is located on Council's website at www.northernbeaches.nsw.gov.au).

Reason: To ensure adequate protection of Council's infrastructure.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

10. Stormwater Disposal

The applicant is to submit Stormwater Engineering Plans for the new development within this development consent, prepared by an appropriately qualified and practicing Civil Engineer, indicating all details relevant to the collection and disposal of stormwater from the site, buildings, paved areas and where appropriate adjacent catchments. Stormwater shall be conveyed from the site to the existing piped system in James St and the kerb in Condamine St.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for disposal and stormwater management arising from the development.

11. Stormwater Treatment Measures – Minor

The applicant must install a filtration device (such as a sediment control pit or absorption trench) that captures organic matter and coarse sediments prior to discharge of stormwater from the land. All stormwater treatment measures must make provision for convenient and safe regular inspection, periodic cleaning, and maintenance.

Details demonstrating compliance are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate.

Reason: Protection of the receiving environment.

12. Construction Traffic Management Plan

As a result of the site constraints, limited vehicle access and parking, a Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to issue of any Construction Certificate.

Truck movements must be agreed with Council's Traffic Engineer prior to submission of the CTMP.

The CTMP must address following:

- The proposed phases of construction works on the site, and the expected duration of each construction phase.
- The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken.
- Make provision for all construction materials to be stored on site, at all times.
- The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period.
- The proposed method of access to and egress from the site for construction vehicles, including access routes and truck routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or reserves being allowed.
- The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site.
- Make provision for parking onsite. All Staff and Contractors are to use the basement parking once available.
- Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council prior.
- Include a Traffic Control Plan prepared by a person with suitable RMS accreditation for any activities involving the management of vehicle and pedestrian safety.

- The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process. It must also specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.
- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.
- The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practising Structural Engineer, or equivalent.
- Proposed protection for Council and adjoining properties.
- The location and operation of any on site crane.

The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

Reason: To ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

13. Submission of Engineering Plans for footpath works

The applicant is to submit Civil Engineering plans to Council for the design of:

- i) a footpath connection on the south side of James Street between Condamine Street and the existing steps to Peronne Avenue.

- ii) a footpath connection no less than 1.1m in width along the eastern edge of the site's driveway and providing a continuous accessible path of travel into the childcare premises. A clear width of 5.5m for vehicular travel along the driveway shall also be provided (No signage or other obstructions reducing the clear width for pedestrian access are to be located on the footpath).
- iii) a length of safety barrier to prevent trucks impacting with site fencing and/or intruding onto the footpath area when parked in the loading and delivery bay.

These are to be generally in accordance with the civil design approved with the Development

Application and Council's specification for engineering works - AUS-SPEC #1 and or Council's Minor Works Policy. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Section 138 and/or 139 applications are to be submitted to Council for approval.

Reason: To ensure safe and convenient pedestrian access and compliance with Council's specification for engineering works.

14. Pedestrian sight distance at property boundary

As a pedestrian sight triangle of 2.0 metres by 2.5m metres, in accordance with AS2890.1:2004 is unable to be provided at the vehicular access to the property where it intersects with James Street due to pre-existing structures, other measures including a northbound approach speed hump, signage for drivers and a convex mirror are to be provided to ensure safety for pedestrians using the James Street footpath. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To maintain pedestrian safety.

15. Amendments to the approved plans

The following amendments are to be made to the approved plans:

- i) The "children's garden boxes", between boundary trees are to be 1.0 metre wide (measured from the front edge to the boundary) positioned along the eastern and southern edge of the "Outdoor Play 3-5 area. The 1.5m curved tree curtilage bases being retained as shown.

- ii) Any replacement boundary fencing for the development to address privacy, security and acoustic requirements is to be provided at the applicants expense. This fencing replacement work is to be annotated on the Construction Certificate plans.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the construction certificate.

Reason: To ensure development minimises unreasonable impacts upon surrounding land.

16. Geotechnical Report Recommendations incorporated into Designs and Structural Plans

The recommendations of the risk assessment required to manage the hazards as identified in the Geotechnical Report referenced in Condition 1 of this consent are to be incorporated into the construction plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure geotechnical risk is mitigated appropriately.

17. Building Code of Australia Upgrade requirements and Fire Safety Upgrade

The Building Code of Australia works and fire upgrading measures to upgrade the building as detailed and recommended in the Building Code of Australia Assessment Report prepared by BCA Logic, dated 1 February 2022, Report Ref No. 115290-BCA-r1 are to be carried out in full to the building.

Details demonstrating compliance are to be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate provision is made for Health, Amenity, access and Fire safety for building occupant health and safety.

18. Vehicle Crossing Reinstatement Application

The Applicant is to submit detailed design plans of the proposed kerb and gutter reinstatement of the existing driveway crossing on Condamine Street to Transport for NSW (TfNSW) in accordance with condition 2 of their letter reference SYD22/00474 dated 16 May 2022.

The fee associated with the assessment and approval of the application is to be in accordance with TfNSW requirements.

An approval is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property.

19. Plans of Kitchen Design, Construction and Fit-out

Prior to any Construction Certificate (CC) being issued, detailed plans that demonstrate compliance with Standard 3.2.3 of the Australian and New Zealand Food Standards Code, the Food Act 2003 and Australian Standard AS 4674 'Design, construction and fit out of food premises', must be submitted to and approved by the Certifying Authority. These plans are to be prepared by a suitably qualified person.

The plans must detail adequate provision for storage including separate storage of food, equipment, chemicals and personal belongings.

Reason: To ensure that the food premises complies with the design construction and fit-out requirements.

20. Plans of Mechanical ventilation

Where Mechanical ventilation is required to be installed in the food premises detailed plans must be submitted to and approved by the Certifying Authority that demonstrate compliance with the following:

- Australian Standard (AS) 1668.2 “The use of ventilation and air-conditioning in buildings Mechanical ventilation in buildings”; and
- Any external exhaust discharge must be above the roofline and discharged in a manner that is not likely to cause an amenity impact.

These plans are to be prepared by a suitably qualified person.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2 and to prevent amenity impacts.

21. Noise - Design and Location of Mechanical Plant

Prior to the issue of a Construction Certificate, the design, specifications and location of noise generating mechanical plant including air conditioning units are to be provided to the Principal Certifier. An acoustic assessment is to be undertaken by a suitably qualified professional such as an acoustic engineer to determine acoustic treatments to control noise emissions from all mechanical plant noise in accordance with the recommendations within the Noise Impact Assessment by Renzo Tonin & Associates dated 25 February 2022, (reference: TM355-01F01 Noise Impact Assessment (r2)) & the letter titled Response to Council RFI by Renzo Tonin & Associates dated 11 August 2022 (reference: TM355-01F01 Response to Council RFI (r1)).

Any design recommendations made by the consultant must be implemented into the plans prior to issuing the Construction Certificate in order to achieve compliance with noted conditions of this consent.

Reason: To maintain amenity of the surrounding area.

22. Updated Remedial Action Plan to be prepared (if Required)

An updated Remedial Action Plan (RAP) is to be prepared if the results of the Contaminated

Land Data gap Analysis Investigation & Report identify that further remediation is required. The

RAP must be prepared in accordance with the relevant guidelines and legislation including Managing Land Contamination Planning Guidelines, SEPP 55–

Remediation of Land and NSW EPA Guidelines including Guidelines for Consultants reporting on contaminated Land.

The RAP is to be prepared by, or reviewed and approved, by a certified consultant as defined under NSW EPA Contaminated Land Consultant Certification Policy. The RAP is to be submitted to the satisfaction of the Principal Certifying Authority and Council's Environmental Health Team.

Reason: Environmental Protections and State Environmental Planning Policy (Resilience and Hazards) 2021 compliance.

23. Contaminated Land Data gap Analysis Investigation

Prior to the issue of any Construction Certificate a data gap analysis investigation is to be undertaken in accordance with the recommendations within Remedial Action Plan (RAP) by JK Environments dated 23 August 2022 (reference: E34356BDrpt3-RAPrev1).

The investigation is to be in accordance with relevant industry guidelines including State Environmental Planning Policy (Resilience and Hazards) 2021 compliance and NSW EPA guidelines.

The report is to be prepared by, or reviewed and approved, by a certified consultant as defined under NSW EPA Contaminated Land Consultant Certification Policy. The report is to be submitted to the satisfaction of the Principal Certifying Authority and Council's Environmental Health Team.

Reason: Protection of the environment, State Environmental Planning Policy (Resilience and Hazards) 2021 compliance

24. Acoustic Report Recommendations

Prior to the issuing of any Construction Certificate, documentation is to be submitted to the satisfaction of the Principal Certifier that recommendations within the Noise Impact Assessment by Renzo Tonin & Associates dated 25 February 2022, (reference: TM355-01F01 Noise Impact Assessment (r2)) & the letter titled Response to Council RFI by Renzo Tonin & Associates dated 11 August 2022 (reference: TM355-01F01 Response to Council RFI (r1)) and incorporating "Changes to Noise Screens" as per *Renzo Tonin & Associates* letter, dated 28 November 2022, have been implemented/incorporated into the design of the premises.

Reason: To maintain acoustic amenity of building occupants and protect surrounding residence from any noise generated by the operation of the development. (DACHPCPCC6)

25. Compliance with Standards

The development is required to be carried out in accordance with all relevant Australian Standards.

Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure the development is constructed in accordance with appropriate standards.

26. External Finishes to Roof

The external finish to new roof elements (such as bin store / new roofed structures) shall have a medium to dark range in order to minimise solar reflections to neighbouring properties. Any roof with a metallic steel finish is not permitted.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that excessive glare or reflectivity nuisance does not occur as a result of the development.

27. On street parking restrictions

A plan demonstrating the following changes to signage and line marking within the local roads that will primarily be used to access the development shall be prepared by a suitably qualified person and submitted for consideration by the Local Traffic Committee prior to the issue of a Construction Certificate.

Plans shall incorporate, as a minimum, the following:

- i) No Parking and No Stopping restrictions on the west side of Pozieres Parade on approach to Fishbourne Road throughout the length of the narrowed section of Pozieres Parade
- ii) No Stopping restrictions for a length of no less than 26m on the inside radius of the junction of James Street and Pozieres Parade
- iii) No Stopping restrictions on the north side of James Street for a length of 20m west of Condamine Street

Note: The applicant is advised that the plan will require approval by the local Traffic Committee as the proposal requires changed to existing parking conditions and hence, no less than 8 weeks should be allowed for this process

Reason: safety and minimising congestion on the local road network (DACTRCPC1)

28. Waste Management Plan

A Waste Management Plan must be prepared for this development. The Plan must be in accordance with the Development Control Plan.

Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure that any demolition and construction waste, including excavated material, is

reused, recycled or disposed of in an environmentally friendly manner.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

29. Tree Removal Within the Property

This consent approves the removal of the following tree(s) within the property (as recommended in the Arboricultural Impact Assessment):

- i) tree numbers 7, 8, 36, 46 and 47 - Bottlebrush; and 12 - Willow Bottlebrush, 38 - Ficus sp, 45 - Snow In Summer, and 52 - Brush Cherry, and including removal of trees No.15 to No.19 inclusive, required for site contamination remediation reasons.
- ii) a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal.

The following exempt species (by species type or height) identified for removal do not require Council consent, however a qualified AQF level 5 Arborist shall identify these trees on site and tag or mark prior to removal:

- i) Species Type: tree numbers 1 to 3 inclusive and 20 to 35 inclusive - Cocus Palms, 10*, 41 and 42 - Privet, 39 and 43 - Cotoneaster, 40 - Silky Oak, 44 - unknown palm, 53 to 58 inclusive - Bird of Paradise, 59 to 61 inclusive - Pygmy Date Palm,
ii) Height: tree numbers 37 - Grevillea, 48 to 51 inclusive and 63 - Bottlebrush, 62 - Coast Banksia, 64 - Cheese Tree.

* The removal of tree 10 – Privet, shall be conducted as follows: 1. cut trunk only to ground level and leave roots in place; 2. followed by poison treatment; 3. Place soil stabilisation fabric over existing tree roots until new tree planting is installed.

Reason: To enable authorised development works.

30. Work Zones and Permits

Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site.

A separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane

Reason: To ensure Work zones are monitored and installed correctly.

31. Road Occupancy Licence

Prior to commencement of the associated works, the applicant shall obtain a Road Occupancy License from the Transport Management Centre for any works that may impact on traffic flows on Condamine Street.

Reason: Requirement of TMC for any works that impact on traffic flow.

32. Demolition Traffic Management Plan

As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) shall be prepared by an suitably accredited person and submitted to and approved by the Northern Beaches Council Traffic Team prior to commencing any demolition work.

The DTMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- The DTMP is to be adhered to at all times during the project.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless prior approval is granted by Council's Traffic Engineers.
- Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath

areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.

- Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- Specify spoil management process and facilities to be used on site.
- Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, the applicant is to undertake remedial treatments such as patching at no cost to Council.

The DTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”.

All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Demolition Traffic Management Plan is submitted.

Reason: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

33. Pre-Construction Dilapidation Report

Dilapidation reports, including photographic surveys, of the following adjoining properties must be provided to the Principal Certifying Authority prior to any works commencing on the site (including demolition or excavation). The reports must detail the physical condition of those properties listed below, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Property / Properties:

- i No.395 Condamine Street;
- i No.399 Condamine Street; and
- i Any other adjacent private property assets potentially affected by site works associated with the development.

The dilapidation report is to be prepared by a suitably qualified person. A copy of the report must be provided to Council, the Principal Certifying Authority and the owners of the affected properties prior to any works commencing.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate, in writing that all reasonable steps have been taken to obtain access. The Principal Certifying Authority must be satisfied that the requirements of this condition have been met prior to commencement of any works.

Note: This documentation is for record keeping purposes and may be used by an applicant or affected property owner to assist in any action required to resolve any civil dispute over damage rising from the works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To maintain proper records in relation to the proposed development.

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

34. Tree and Vegetation Protection

a) Existing trees and vegetation shall be retained and protected, including:

- i) all trees and vegetation within the site not approved for removal, ii) all trees and vegetation located on adjoining properties,
- iii) all road reserve trees and vegetation.

b) Tree protection shall be undertaken as follows:

i) tree protection shall be in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites, including the provision of temporary fencing to protect existing trees within 5 metres of development,

ii) existing ground levels shall be maintained within the tree protection zone of trees to be retained, unless authorised by an Arborist with minimum AQF Level 5 in arboriculture,

iii) removal of existing tree roots at or >25mm (Ø) diameter is not permitted without consultation with an Arborist with minimum AQF Level 5 in arboriculture,

iv) no excavated material, building material storage, site facilities, nor landscape materials are to be placed within the canopy dripline of trees and other vegetation required to be retained,

v) structures are to bridge tree roots at or >25mm (Ø) diameter unless directed by an Arborist with minimum AQF Level 5 in arboriculture on site,

vi) excavation for stormwater lines and all other utility services is not permitted within the tree protection zone, without consultation with an Arborist with minimum AQF Level 5 in arboriculture including advice on root protection measures,

vii) should either or all of v) or vi) occur during site establishment and construction works, an Arborist with minimum AQF Level 5 in arboriculture shall provide recommendations for tree protection measures. Details including photographic evidence of works undertaken shall be submitted by the Arborist to the Certifying Authority,

viii) any temporary access to, or location of scaffolding within the tree protection zone of a protected tree or any other tree to be retained during the construction

works is to be undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of Australian Standard 4970-2009 Protection of Trees on Development Sites,

ix) the activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites shall not occur within the tree protection zone of any tree on the lot or any tree on an adjoining site,

x) tree pruning from within the site to enable approved works shall not exceed 10% of any tree canopy, and shall be in accordance with Australian Standard 4373-2007 Pruning of Amenity Trees,

xi) the tree protection measures specified in this clause must: i) be in place before work commences on the site, and ii) be maintained in good condition during the construction period, and iii) remain in place for the duration of the construction works.

c) Tree protection shall specifically be undertaken in accordance with the recommendations in the Arboricultural Impact Assessment, as listed in the following sections:

i) section 2 Conclusions and Recommendations including 2.2, noting that tree 14 - Brushbox shall be retained.

The Certifying Authority must ensure that:

d) The arboricultural works listed in c) are undertaken and certified by an Arborist as complaint to the recommendations of the Arboricultural Impact Assessment.

e) The activities listed in section 4.2 of Australian Standard 4970-2009 Protection of Trees on Development Sites, do not occur within the tree protection zone of any tree, and any temporary access to, or location of scaffolding within the tree protection zone of a protected tree, or any other tree to be retained on the site during the construction, is undertaken using the protection measures specified in sections 4.5.3 and 4.5.6 of that standard.

Note: All street trees within the road verge and trees within private property are protected under Northern Beaches Council development control plans, except where Council's written consent for removal has been obtained. The felling, lopping, topping, ringbarking, or removal of any tree (s) is prohibited.

Reason: Tree and vegetation protection.

35. Road Reserve

The applicant shall ensure the public footways and roadways adjacent to the site are maintained in a safe condition at all times during the course of the work.

Reason: Public safety.

36. Installation and Maintenance of Sediment and Erosion Controls Council proactively regulates construction sites for sediment management.

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004) and the Erosion and Sediment Control Plan prior to commencement of any other works on site.

Erosion and sediment controls are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed and vegetation cover has been re-established across 70 percent of the site, and the remaining areas have been stabilised with ongoing measures such as jute mesh or matting.

Reason: Protection of the receiving environment.

37. Implementation of Demolition Traffic Management Plan

All works and demolition activities are to be undertaken in accordance with the approved Demolition Traffic Management Plan (DTMP). All controls in the DTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the DTMP be impacted by surrounding major development not encompassed in the approved DTMP, the DTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved DTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

Reason: To ensure compliance and Council's ability to modify the approved Construction Traffic Management Plan where it is deemed unsuitable during the course of the project.

38. Implementation of Construction Traffic Management Plan

All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to Council on request.

Reason: To ensure compliance of the developer/builder in adhering to the Construction Traffic Management procedures agreed and are held liable to the conditions of consent.

39. Ongoing Management

The applicant shall be responsible in ensuring that the road reserve remains in a serviceable state during the course of the demolition and building works.

Reason: To ensure public safety.

40. Geotechnical Requirements

All recommendations (if any) included in the Geotechnical Report referenced in Condition 1 of this consent are required to be complied with during works.

Reason: To ensure geotechnical risk is mitigated appropriately.

41. Requirement to Notify about New Contamination Evidence

Any new information revealed during demolition works that has the potential to alter previous conclusions about site contamination or hazardous materials shall be immediately notified to the Council and the Principal Certifying Authority.

Reason: To protect human health and the environment.

42. Dust Control Measures

Dust control measures, including best practice and in accordance with NSW Workplace Health and Safety Regulations and the Protection of the Environment Operations Act 1997, shall be implemented to minimise dust to neighbouring residents and businesses and ensure any airborne substance is kept within the boundaries of the site.

Measures may include but not be limited to:

- Water sprays
- Bunker storage
- Limiting size of stockpiles and covering stock piles
- Vertical barriers e.g. fencing with fine mesh attached
- Exhaust and capture

Reason: To minimise dust to neighbouring residents and businesses and avoid air pollution.

43. Contamination management

Any Recommendations within the approved *Remedial Action Plan* (RAP) and the *Hazardous Building Materials Survey* by JK Environments dated 17 September 2022 (reference: E34356BLrpt-HAZ) are to be implemented during works must be followed during works.

Reason: Protection of the environment, State Environmental Planning Policy (Resilience and Hazards) 2021 compliance.

44. Asbestos

All removal, repair or disturbance of or to asbestos materials must comply with the relevant guidelines and legislation including the following:

- The Work Health and Safety Act 2011;
- The Work Health and Safety Regulation 2017;
- NSW SafeWork Code of Practice - How to Safely Remove Asbestos; and
- NSW SafeWork Code of Practice - How to Manage and Control Asbestos in the Workplace.

All asbestos waste must be disposed of at a lawful waste disposal facility that accepts asbestos waste.

Upon completion of tipping operations, the applicant must lodge to the Principal Certifying Authority, all receipts issued by the receiving tip as evidence of proper disposal.

Following the removal of asbestos containing materials an asbestos clearance certificate is to be issued by a suitably qualified and experienced professional such

as an Occupational Hygienist or Licenced Asbestos Assessor before the recommencement of any work.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To protect human health.

45. Onsite Encapsulation of Contaminated Material

No onsite encapsulation of contaminated material is to occur without approval under a separate DA or modification submitted to Council.

Reason: To allow for a proper evaluation of any proposed encapsulation works and to ensure that any contaminated material is effectively capped and managed long term.

46. Classification of Waste & Off-site Disposal of Waste (fill and/or soil material)

Prior to the exportation of waste (fill and/or soil) from the site, the waste materials must be tested and classified in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the NSW EPA Waste Classification Guidelines, Part 1: Classification of Waste (November 2014).

Testing is required prior to off-site disposal. In accordance with DECC Waste Classification Guidelines (2014) materials identified for off-site disposal must be removed by a suitably qualified contractor to an appropriately licensed waste facility.

'Chain of Custody' documentation including receipts shall be kept for the exportation of waste (fill and/or soil material) from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority within seven (7) days of transport and made available to Council upon request.

Reason: Appropriate disposal of waste and protection of the environment.

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE

47. Landscape Completion

Landscape works are to be completed in accordance with the approved Landscape Plans, inclusive of the following requirement:

i) all tree planting shall be a pre-ordered planting size of 75 litres, installed into a planting hole 1m x 1m x 600mm and backfilled with a sandy loam mix or approved similar and mulched to 75mm depth, except as advised in part ii), and shall meet the requirements of Natspec - Specifying Trees,

ii) all trees in middle playground area and carpark area subject of contamination works shall be planted into a prepared planting hole appropriate to their ground environment. In particular: "BH 107" 300mm deep in middle playground area and "BH 104" 300mm deep in carpark near trees proposed along grassed strip area,

iii) tree planting in the middle playground shall be mulched and maintained as a 1m diameter ring or similar shape, and watered until established, and shall be located at least 3.0 metres from buildings,

iv) garden bed planting along the southern and eastern boundary of the outdoor play area (age 3-5) shall ensure a minimum 1 metre wide garden area for garden boxes.

Prior to the issue of an Occupation Certificate, details (from a landscape architect or landscape designer) shall be submitted to the Certifying Authority, certifying that the landscape works have been completed in accordance with any conditions of consent.

Reason: Environmental amenity.

48. Condition of Retained Vegetation - Project Arborist

Prior to the issue of an Occupation Certificate, a report prepared by the project arborist shall be submitted to the Certifying Authority, assessing the health and impact on all existing trees required to be retained, including the following information:

- i) compliance to any Arborist recommendations for tree protection generally and during excavation works,
- ii) extent of damage sustained by vegetation as a result of the construction works, iii) any subsequent remedial works required to ensure the long term retention of the vegetation.

Reason: Tree protection.

49. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified Civil Engineer.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development.

50. Signage and Linemarking – Implementation

The applicant is to install all signage and linemarking, as per any Roads Act approval at no cost to Council. These works are to be completed prior to the issue of any Occupation Certificate.

Reason: To ensure compliance with the Road Act.

51. Disabled Parking Spaces

Where disabled parking spaces are provided they must be in accordance with AS2890.6:2009.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure compliance with Australian Standards.

52. Shared Zone Bollard

A bollard is to be provided at the shared zone between disabled spaces in accordance to Australian Standards AS2890.6:2009.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure compliance with Australian Standards.

53. Footpath Construction

The footpath, in accordance to Council's standard specifications, shall be constructed along the south side of James Street to Council's satisfaction. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To provide pedestrian access to and from the property.

54. Reinstatement of Kerb

The Applicant shall reinstate the redundant laybacks and vehicular crossing on the Condamine Street frontage to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: Transport for NSW requirements.

55. Validation for Remediation

At the completion of remediation works a validation report is to be prepared by, or reviewed and approved, by a certified consultant as defined under NSW EPA Contaminated Land Consultant Certification Policy and submitted to the satisfaction of the Principal Certifying Authority.

The Validation Report must be in accordance with the requirements of the following:

- i State Environmental Planning Policy No 55—Remediation of Land;
- i Contaminated Land Management Act 1997;
- i Relevant NSW EPA guidelines including the NSW EPA Guidelines for Consultants reporting on contaminated Land: Contaminated land guidelines 2020

The report shall document the following:

1. The extent of validation sampling, and the results of the validation testing; and
2. That the remediation and validation of the site has been undertaken in accordance with the Remedial Action Plan prepared for the site.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any Occupation Certificate.

Reason: To ensure environmental amenity is maintained.

56. Registration of Food Businesses

The food business must be registered with the Appropriate Regulatory Authority prior to an Occupation Certificate being issued.

Reason: Food premises are required to be registered with the Appropriate Regulatory Authority.

57. Kitchen Design, Construction and Fit-out of Food Premises Certification

Prior to the issuing of any occupation certificate, certification is to be provided to the Principal Certifier by a suitably qualified person demonstrating that the design, construction and fit out of food premises kitchen is compliant with the requirements of AS 4674 Design, construction and fit out of food premises.

Reason: To ensure that the kitchen complies with Australian Standard design requirements.

58. Mechanical Ventilation certification

Where Mechanical ventilation is required to be installed in the food premises it must comply with the following:

- *Australian Standard (AS) 1668.2* “The use of ventilation and air-conditioning in buildings Mechanical ventilation in buildings”; and
- Any external exhaust discharge must be above the roofline and discharged in a manner that is not likely to cause an amenity impact.

Certification is to be provided to the Principal Certifier by a suitably qualified person that the mechanical ventilation complies with the above requirements.

Reason: To ensure that the installed mechanical ventilation complies with the requirements of the Australian Standard 1668.2 and to prevent amenity impacts.

59. Acoustic Report Certification

Prior to any occupation certificate being issued, a further acoustic assessment is to be undertaken by a qualified and experienced person(s) to confirm compliance with:

- Recommendations within the *Noise Impact Assessment* by *Renzo Tonin & Associates* dated 25 February 2022, (reference: TM355-01F01 Noise Impact Assessment (r2)) & the letter titled *Response to Council RFI* by *Renzo Tonin & Associates* dated 11 August 2022 (reference: TM355-01F01 Response to Council RFI (r1)), and
- Incorporating “Changes to Noise Screens” as per *Renzo Tonin & Associates* letter, dated 28 November 2022, and

- Recommendations within the acoustic assessment for 'noise generating mechanical plant' conducted prior to construction certificate.

Any recommendations made by the consultant/s must be implemented prior to issuing the Occupation Certificate, in order to achieve compliance with noted conditions of this consent.

Reason: To protect the acoustic amenity of neighbouring properties.

60. Waste Management Confirmation

Prior to the issue of a Final Occupation Certificate, evidence / documentation must be submitted to the Principal Certifying Authority that all waste material from the development site arising from demolition and/or construction works has been appropriately recycled, reused or disposed of generally in accordance with the approved Waste Management Plan.

Reason: To ensure demolition and construction waste is recycled or reused and to limit landfill.

61. Fire Safety Matters

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000.

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

62. Landscape Maintenance

If any landscape materials/components or planting under this consent fails, they are to be replaced with similar materials/components. Trees, shrubs and groundcovers required to be planted under this consent are to be mulched, watered and fertilised as required at the time of planting. If any tree, shrub or groundcover required to be planted under this consent fails, they are to be replaced with similar species to maintain the landscape theme and be generally in accordance with the approved Landscape Plan and any conditions of consent.

The approved landscape area shall in perpetuity remain as planting under the development consent.

Reason: To maintain local environmental amenity.

63. Maintenance of Stormwater Treatment Measures - Minor

Stormwater treatment measures must be maintained at all times in accordance with manufacturer's specifications and as necessary to achieve the required stormwater quality targets for the development.

Northern Beaches Council reserves the right to enter the property and carry out appropriate maintenance of the device at the cost of the property owner.

Reason: Protection of the receiving environment.

64. Times for servicing and deliveries

Delivery and service vehicles in excess of 6m in length shall not access the site between the hours of 7am and 9:30am or 3pm and 6pm Monday to Friday

Reason: to avoid peak traffic and peak child arrival/departure times.

65. Compliance with Plan of Management

The requirements of the Operation Plan of Management are to be fully implemented in perpetuity from the issue of the Occupation certificate.

Reason: To maintain a reasonable level of amenity to the area.

66. Noise Management

The following noise management requirements are to be adhered to:

- i Any windows to indoor playrooms shall remain closed during noise activities such as singing and music.
- i No amplified music is permitted at any time within the outdoor play areas.

Reason: To protect the acoustic amenity of neighbouring properties

67. Hours of Operation

The hours of operation* and enrolment capacity is restricted to:

- o Monday to Friday – 7:00am to 6:00pm (subject to operating 50 weeks per year - closing over the Christmas period, as part of the Centre operations.)
- o 150 children maximum enrolment.
- o Outdoor play times are to be maintained in accordance with the *Plan of Management*.

Reason: Information to ensure that amenity of the surrounding locality is maintained.

68. No Illumination

No consent is given or implied for any form of illumination (including LED / electric screen signs) or floodlighting to any sign or building or other external areas other than that approved.

Reason: To ensure appropriate forms of illumination that are consistent with Council's signage and State law / Policy controls (for Main Roads), and do not interfere with amenity of nearby properties.

END OF CONDITIONS