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Contact: Michael Doyle

Ref: DA0144/20

18 August 2021

Ku-ring-gai Council
Attention : Mr Andrew Watson
Ku-Ring-Gai Council
818 Pacific Highway
GORDON NSW 2072

Dear Sir

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION BY THE SYDNEY NORTH PLANNING PANEL

SECTION 4.18 ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

Application No.:	DA0144/20
Proposed Development:	Significant alterations and additions to upgrade Marian Street Theatre (249 seats), including new theatrette (63 seats), new rehearsal space (60 seats), café, lifts, signage, amendments to loading and parking arrangements, extensive landscaping works to adjoining Selkirk Park to include tree removal, accessible pathways and new outdoor amphitheatre (50 seats)
Property:	2-2A Marian Street and Selkirk Park KILLARA NSW 2071

Pursuant to Section 4.18 of the Act, notice is given that the above Development Application has been determined by the granting of consent, subject to the conditions specified in this Notice.

Date of determination:	11/08/2021
Date from which consent operates:	18/08/2021
Date consent lapses:	19/08/2026

The conditions of consent are as follows:

CONDITIONS THAT IDENTIFY APPROVED PLANS:

1. Approved architectural plans and documentation (alterations and additions)

The development must be carried out in accordance with work shown in colour on the plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this Development Consent.

Plan no.	Drawn by	Dated
<i>Architectural Plans</i>		
A-000 Cover Page – Rev A	Tonkin Zulaikha Greer	9.04.2021
A-004 Proposed Site Plan – Rev A	Tonkin Zulaikha Greer	9.04.2021
A-020 Level 0 Demolition Floor Plan – Rev A	Tonkin Zulaikha Greer	9.04.2021
A-021 Level 1 Demolition Floor Plan – Rev A	Tonkin Zulaikha Greer	9.04.2021
A-022 Level 2 Demolition Floor Plan – Rev A	Tonkin Zulaikha Greer	9.04.2021
A-023 Roof Demolition Plan – Rev A	Tonkin Zulaikha Greer	9.04.2021
A-024 Demolition Elevations – 1 – Rev A	Tonkin Zulaikha Greer	9.04.2021
A-025 Demolition Elevations – 2 – Rev A	Tonkin Zulaikha Greer	9.04.2021
A-100 Level 0 Floor Plan – Rev A	Tonkin Zulaikha Greer	9.04.2021
A-101 Level 1 Floor Plan	Tonkin Zulaikha Greer	9.04.2021
A-102 Level 2 Floor Plan	Tonkin Zulaikha Greer	9.04.2021
A-103 Level 3 Roof Plan – Rev A	Tonkin Zulaikha Greer	9.04.2021
A-104 Roof Plan – Rev A	Tonkin Zulaikha Greer	9.04.2021
A-200 Elevations – 1 – Rev A	Tonkin Zulaikha Greer	9.04.2021
A-201 Elevations – 2 – Rev A	Tonkin Zulaikha Greer	9.04.2021
A-300 Sections – 1 – Rev A	Tonkin Zulaikha Greer	9.04.2021
A-301 Sections – 2 – Rev A	Tonkin Zulaikha Greer	9.04.2021
A-405 Signage Plans – 1	Tonkin Zulaikha Greer	9.04.2021
<i>Landscape Plans</i>		
L-001 Cover Page	Spackman Mossop Michaels	7/04/2021
L-002 Design Statement	Spackman Mossop Michaels	7/04/2021
L-002 Landscape Plan	Spackman Mossop Michaels	7/04/2021
L-003 Existing Tree Plan	Spackman Mossop Michaels	7/04/2021
L-004 Demolition Plan	Spackman Mossop Michaels	7/04/2021
L-102 Detail Plan - North	Spackman Mossop Michaels	7/04/2021
L-103 Detail Plan - South	Spackman Mossop Michaels	7/04/2021
L-104 Detail Plan – Outdoor Amphitheatre	Spackman Mossop Michaels	7/04/2021
L-201 Section AA & BB	Spackman Mossop Michaels	7/04/2021
L-202 Detail Sections	Spackman Mossop Michaels	7/04/2021
L-301 Material Palette	Spackman Mossop Michaels	7/04/2021
L-302 Planting Palette	Spackman Mossop Michaels	7/04/2021
L-303 Lighting Strategy	Spackman Mossop Michaels	7/04/2021
<i>Stormwater Management Plans</i>		
DA1.01 Coversheet, Drawing Schedule and Locality Plan Rev 2	Northrop	24/01/2020
DA2.01 Concept Sediment and Erosion Control Plan Rev 2	Northrop	24/01/2020
DA2.11 Sediment and Erosion Control Details Rev 2	Northrop	24/01/2020
DA3.01 Concept Siteworks and Stormwater Plan Rev 4	Northrop	23/03/2021
DA4.01 Road Longitudinal Section – Sheet 1 Rev 3	Northrop	23/03/2021
DA4.02 Road Longitudinal Section – Sheet 2 Rev 3	Northrop	23/03/2021

Document(s)	Dated
Accessibility Review prepared by Funktion Ref: Issue 3	28/01/2020
Noise Impact Assessment Report prepared by Resonate Ref: Rev D	29/01/2020
Asbestos Building Materials Register & Management Plan prepared by Getex Ref: Rev 0	23/07/2018
Development Application Advice prepared by Resonate	26/03/2021
Arboricultural Development Assessment Report prepared by Moore Trees Ref: Final	December 2019
Biodiversity Development Assessment Report prepared by Niche Ref: Rev 2	7/02/2020
Building Code of Australia Assessment Report prepared by Blackett Maguire + Goldsmith Ref: Rev 4	30/01/2020
Building Code of Australia Compliance Statement prepared by Blackett Maguire + Goldsmith Ref: Rev 4	30/01/2020
Construction Management Plan (Preliminary), prepare by Ku-ring-gai Council	January 2020
Contamination Preliminary Site Investigation prepared by assetgeoenviro Ref: Rev 1	31/01/2020
Crime Prevention Through Environmental Design Report prepared by Ethos Urban Ref: RFI Update	14/04/2021
Fire Engineering Support prepared by Affinity Fire Engineering	28/01/2020
Geotechnical Report prepared by assetgeoenviro Ref: Rev 1	3/02/2020
Lighting Design Report prepared by Northrop Ref: D	22/03/2021
Operational Plan of Management Ethos Urban	20/04/2021
Traffic Impact Assessment prepared by ptc Ref: Issue 7	29/01/2020
Structural Statement prepared by SDA	28/01/2020
Waste Management Plan prepared by MRA Ref: Final	22/01/2020
Proposed Changes and Traffic Response to Council's RFIs prepared by ptc	15/04/2021

Reason: To ensure that the development is in accordance with the Development Consent.

2. Inconsistency between documents

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

Reason: To ensure that the development is in accordance with the Development Consent.

CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION:

3. Asbestos works

All work involving asbestos products and materials, including asbestos-cement-sheeting (ie. fibro), must be carried out in accordance with the guidelines for asbestos work published by Safework NSW.

Reason: To ensure public safety.

4. Biodiversity offset requirements

To offset the residual biodiversity impacts of the development the class and number of ecosystem/species credits listed in table below must be retired.

The requirement to retire credits may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator (the amount payable to discharge an offset obligation will be determined at the time of payment).

Impacted plant community/Species type	Number of ecosystem/Species credits	IBRA region	Plant community type(s)/species credits that can be used to offset the impacts from development
PCT 1237- Sydney Blue Gum - Blackbutt - Smooth-barked Apple moist shrubby open forest on shale ridges of the Hornsby Plateau, Sydney Basin Bioregion	1	Cumberland, Burragorang, Pittwater, Sydney Cataract, Wollemi and Yengo. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Blue Gum High Forest in the Sydney Basin Bioregion This includes PCT's: 1237

Details demonstrating compliance with the requirement to retire credits or make payment to the Biodiversity Conservation Fund must be provided to Principal Certifier and copied to Council's Ecological Assessment Officer prior to issue of any Construction Certificate.

Reason: To offset the residual biodiversity impacts of the development.

5. Site contamination

The recommendations of the Section 3.2 of the Preliminary Site Investigation report, prepared by Asset Geoenviro dated 31/1/202, shall be complied with during the construction of the development.

Reason: To protect residential amenity.

6. Notice of commencement

At least 48 hours prior to the commencement of any demolition, excavation or building works, a notice of commencement of building works or subdivision lodgement form and appointment of the Principal Certifier form shall be submitted to Council.

Reason: Statutory requirement.

7. Notification of builder's details

Prior to the commencement of any works, the Principal Certifier shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

Reason: Statutory requirement.

8. Dilapidation survey and report (private property)

Prior to the commencement of any works, the Applicant must obtain a dilapidation report on **4-8 Marian Street (east side)** and the Principal Certifier shall be satisfied that a dilapidation report on the visible and structural condition of all structures on this property/properties has been completed and submitted to Council:

The dilapidation report must include a photographic record of this property/properties detailing their physical condition, both internally and externally, including such items as walls ceilings, roof and structural members. The report must be completed by a consulting structural/geotechnical engineer as determined necessary by that professional based on the excavations for the proposal and the recommendations of the submitted geotechnical report.

In the event that access for undertaking the dilapidation survey is denied by a property owner, the Applicant must demonstrate in writing to the satisfaction of the Principal Certifier that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

Note: A copy of the dilapidation report is to be provided to Council prior to the commencement of any works. The dilapidation report is for record keeping purposes only and may be used by the Applicant or affected property owner to assist in any civil action required to resolve any dispute over damage to adjoining properties arising from works.

Reason: To record the structural condition of likely affected properties before works commence.

9. Construction traffic management plan

A construction traffic management plan (CTMP) is to be submitted to Council and approved prior to the commencement of any works. The plan is to consist of a report with traffic control plans attached.

The report is to contain commitments which must be followed by the demolition and excavation contractor, builder, owner and subcontractors. The CTMP applies to all persons associated with demolition, excavation and construction of the development. The report is to contain the following:

- construction vehicle routes for approach and departure to and from all directions, showing loaded and empty vehicles
- a site plan showing entry and exit points
- swept paths on the site plan showing access and egress for a 12.5 metres long heavy rigid vehicle and 19.0 metres articulated vehicle
- swept path analysis plans showing the existing trees being retained and their tree protective fencing requirements (consistent with this Development Consent) these plans shall be to scale to ensure that truck access and tree fencing requirements do not conflict
- show locations for site offices and materials storage areas which are to be located outside the tree protection zones

The traffic control plans are to be prepared by a TfNSW accredited consultant. One traffic control plan must be provided to Council for each of the following stages of the works:

- demolition
- excavation

- concrete pour
- construction of vehicular crossing and reinstatement of footpath
- traffic control for vehicles reversing into or out of the site

Traffic controllers must be in place at the site entry and exit points to control heavy vehicle movements in order to maintain the safety of pedestrians and other road users.

No loaded trucks on Treatts Road or Park Avenue railway bridge will be permitted.

Other railway bridges will require the applicant to provide approval from Transport for NSW (TfNSW) for all vehicles over 4.5t gross vehicle mass as well as obtaining a permit under the National Heavy Vehicle Regulator (NHVR) if required by Heavy Vehicle National Law (HVNL)

When a satisfactory CTMP is received and the relevant fees paid in accordance with Council's adopted fees and charges, a letter of approval will be issued with conditions attached. Traffic management at the site must comply with the approved CTMP as well as any conditions in the letter issued by Council. No works may be carried out unless Council has approved the CTMP.

Reason: To ensure that appropriate measures have been made to minimise impacts upon surrounding roads during the construction phase.

10. Work zone

Prior to the commencement of any works, a works zone is to be provided in Marian Street, subject to the approval of the Ku-ring-gai Local Traffic Committee.

No loading or unloading must be undertaken from the public road or nature strip unless within a works zone which has been approved and paid for.

In the event the work zone is required for a period beyond that initially approved by the Ku-ring-gai Local Traffic Committee, the Applicant shall make a payment to Council for the extended period in accordance with Council's schedule of fees and charges for work zones prior to the extended period commencing.

Reason: To ensure that appropriate measures have been made to minimise impacts upon surrounding roads during the construction phase.

11. Temporary construction exit

A temporary construction exit, together with necessary associated temporary fencing, shall be provided prior to commencement of any work on the site and shall be maintained throughout the duration of construction works.

Reason: To reduce or prevent the transport of sediment from the construction site onto public roads.

12. Sediment controls

Prior to any works commencing, sediment and erosion control measures shall be installed along the contour immediately downslope of any future disturbed areas.

The form of the sediment controls to be installed on the site shall be determined by reference to the Landcom manual '*Managing Urban Stormwater: Soils and Construction*'. The erosion controls shall be maintained in an operational condition until the development activities have been completed and the site is fully stabilised. Sediment shall be removed

from the sediment and erosion control measures following each heavy or prolonged rainfall period.

Reason: To protect and enhance the natural environment.

13. Erosion and drainage management

No works shall commence until an erosion and sediment control plan is submitted to and approved by the Principal Certifier. The plan shall comply with the guidelines set out in the Landcom manual '*Managing Urban Stormwater: Soils and Construction*'. Erosion and sediment control works shall be implemented in accordance with the erosion and sediment control plan.

Reason: To protect the natural environment.

14. Tree protective fencing type galvanised mesh

Prior to the commencement of any works, tree protection fencing shall be constructed of galvanised pipe at 2.4 metres spacing and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres.

Reason: To protect existing trees.

15. Tree protection signage

Prior to the commencement of any works, tree protection signage is to be attached to the tree protection fencing, displayed in a prominent position and repeated at 10 metres intervals or closer where the fence changes direction. Each sign shall contain in a clearly legible form the name, address, and telephone number of the developer/builder and project arborist as well as the words:

- Tree protection zone/No access.
- This fence has been installed to prevent damage to the tree/s and their growing environment both above and below ground.

Reason: To protect existing trees.

16. Tree protection mulching

Prior to the commencement of any works, the tree protection zone is to be mulched to a depth of 100mm with composted organic material.

The mulch is to be replenished so as to be consistent with the above requirement throughout the duration of construction works.

Reason: To protect existing trees.

17. Inspection of tree protection measures

Upon installation of the required tree protection measures, an inspection is to be conducted by the project arborist or the Principal Certifier to verify that tree protection measures comply with all relevant conditions of this Development Consent.

Reason: To protect existing trees.

18. Project arborist

Prior to the commencement of any works, a project arborist shall be engaged to ensure all tree protection measures and works are carried out in accordance with the conditions of this Development Consent.

The project arborist shall have a minimum AQF Level 5 qualification with a minimum of 5 years' experience. Details of the arborist including name, business name and contact details shall be provided to the Principal Certifier with a copy provided to Council.

Reason: To protect of existing trees.

19. Tree protection plan

Prior to the commencement of any works, tree protection works shall be carried out in accordance with the following approved tree protection plan(s), listed below and endorsed with Council's stamp, except where amended by other conditions of this Development Consent:

Plan no.	Drawn by	Dated
Appendix 1 Plan 1 Tree Protection Plan	Moore Trees	16/3/21

The above Tree Protection plan(s) shall be amended as follows:

- Indicate tree protective fencing, in addition to trunk protection, along line of existing driveway to protect trees within Selkirk Park until access and works within park are required to be undertaken.
- Indicate tree protective fencing, in addition to trunk protection, to Trees 1, 2, 3 and Tree 7 for a minimum 3m radius.
- Trees 4, 5 and 6 protected by site fence and do not require trunk protection.

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that the tree protection plan has been amended as required by this condition.

Reason: To protect existing trees.

20. Noise and vibration management plan

Prior to the commencement of any works, a noise and vibration management plan is to be prepared by a suitably qualified expert addressing the likely noise and vibration from demolition, excavation and construction of the proposed development and provided to the Principal Certifier. The management plan is to identify amelioration measures to achieve the best practice objectives of Australian Standard 2436-2010 - *Guide to noise and vibration control on construction, demolition and maintenance sites* and NSW Department of Environment and Climate Change *Interim Construction Noise Guidelines*. The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works.

The management plan shall address, but not be limited to, the following matters:

- identification of the specific activities that will be carried out and associated noise sources
- identification of all potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment

- the construction noise objective specified in the conditions of this consent
- the construction vibration criteria specified in the conditions of this consent
- determination of appropriate noise and vibration objectives for each identified sensitive receiver
- noise and vibration monitoring, reporting and response procedures
- assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles and any traffic diversions
- description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
- construction timetabling to minimise noise impacts including time and duration restrictions, respite periods and frequency
- procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration
- contingency plans to be implemented in the event of non-compliances and/or noise complaints

Reason: To protect the amenity of surrounding residents during construction.

21. CCTV report of existing Council pipe system near works

Prior to the commencement of any works, qualified practitioners must undertake a closed circuit television inspection in accordance with the Australian Water Association guidelines, including full pan at each joint and then report on the existing condition of the Council drainage pipeline traversing the subject property. The Applicant or their contractor is to obtain the relevant pipe and pit identification numbers from Council prior to the CCTV inspection and use these numbers in the CCTV recording and report. The report must be provided to Council's Development Engineer and is to include a copy of the video footage of the pipeline. A written acknowledgment from Council's Development Engineer (attesting to this condition being satisfied) shall be obtained and submitted to the Principal Certifier prior to the commencement of any works on site.

Reason: To protect Council's infrastructure.

22. Access to commuter car park works

Prior to the commencement of any works, the path of access from the commuter car park located in Culworth Avenue to the theatre site shall be assessed to identify any upgrades required in relation movement of pedestrians to the following:

- Safety of footpath – including gradient and trip hazards;
- Lighting of footpath;
- Lighting within car park; and
- Provision of kerb extension (3.6m wide kerb extensions filling in the sections of the parking lanes on both sides of Marian Street) with flood lighting and “pedestrian” warning signage and assess whether a warrant for the provision of a marked foot crossing is satisfied under operational circumstances.

The path of travel to be assessed for pedestrians would be leaving the car park via Culworth Avenue, then travelling along Marian Street, crossing Marian Street to the theatre site in proximity to the location of the existing driveway to that site.

The work shall be carried out by a suitably qualified and experienced engineer. Any works recommended in the report are to be referred to the Ku-ring-gai Traffic Committee for approval, and if approved, shall be constructed prior to the issue of an Occupation Certificate.

Reason: To protect ensure a safe pedestrian path of travel.

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

23. Design and construction of mechanical ventilation

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that plans and specifications demonstrate that the installation of mechanical ventilation systems will comply with:

- The National Construction Code
- Australian Standard 1668
- Australian Standard 3666 where applicable.

Reason: To protect the amenity of occupants and neighbouring properties.

24. Structural support

The existing building shall be upgraded to comply with the Australian Standard AS1170. Details shall be provided with any Construction Certificate application.

Reason: To ensure the structural stability of the building.

25. Fire hydrant and sprinkler booster valves

Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with plans indicating that all fire hydrant and sprinkler booster valves and the like are enclosed in accordance with the requirements of AS 2419.1 2017.

Reason: To provide appropriate fire safety measures and to protect residential amenity.

26. Amendments to approved landscape plan

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that the approved landscape plan(s), listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this Development Consent:

Plan no.	Drawn by	Dated
Landscape Plan L-002	Spackman Mossop Michaels	7/4/21
Detail Plan - North L-102	Spackman Mossop Michaels	7/4/21
Detail Plan - South L-103	Spackman Mossop Michaels	7/4/21
Detail Plan - Outdoor Amphitheatre L-104	Spackman Mossop Michaels	7/4/21

The above landscape plan(s) shall be amended as follows:

- Pedestrian path adjacent proposed new driveway is to be deleted.
- Concrete plank area to northern boundary to be deleted from under Trees 56 and 57 up to minimum 3.4m west of Tree 56.
- The proposed deck and ramp to east of theatre to be amended to allow for minimum 500mm setback from trunk of Tree 51 *Melaleuca quinquenervia* (Broad Leaved Paperbark) as currently indicated over tree.
- Car parking area and driveway to be amended in accordance with Amended Engineering Plan Conditions, including relocation of carpark space number 8 outside of Tree Protection Zone of existing trees, location of retaining walls and driveway entrance.

- Existing screen planting of Syzigium sp (Lilly Pilly) to Selrirk Park's southern boundary to be indicated on plans for retention.
- Fully detailed planting plan to be provided to indicate location and quantity of planting on plan and a detailed plant schedule. Any group planting areas to indicate percentage mix, spacings and numbers to individual areas.
- The following proposed plant species are to be substituted;
 - *Arthropodium milleflorum* replaced with Doodia aspera or Blechnum cartilagineum
 - *Dichelachne micrantha* replaced with Poa affinis
 - *Pseuderanthemum variabile* replaced with Viola hederacea

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that the landscape plan has been amended as required by this condition.

An amended plan, prepared by a landscape architect or qualified landscape designer shall be submitted to the Certifier.

Reason: To ensure adequate landscaping of the site.

27. Amendments to approved engineering plans

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that the approved engineering plan(s), listed below and endorsed with Council's stamp, have been amended in accordance with the requirements of this condition as well as other conditions of this Development Consent:

Plan no.	Drawn by	Dated
Civil Engineering Works Package	Northrop	23/3/21

The above engineering plan(s) shall be amended as follows:

- The proposed elevated driveway shall be provided with barriers in accordance with AS2890.1:2004, part 2.4.5.3.
- To provide safe access to the carpark at dark, lighting shall be provided to the proposed elevated driveway
- The driveway shall be widened to 6m for the first 6m inside the boundary to allow for better access for vehicles entering the property from Culworth Avenue
- The proposed boom gate at the top of the driveway shall be relocated to 6m inside the boundary to allow vehicles enter the site to use the intercom, and avoid vehicles queuing on Culworth Avenue.
- Detailed design of the proposed drainage arrangement on the elevated driveway which includes a slotted kerb to the low side of the driveway with surface water directed to existing stormwater infrastructure in reserve
- Carparking to southern boundary to be reconfigured to remove any works within the 3m Tree Protection Zone of Tree 7 and relocate car space number 8 to a position outside of the Tree Protection Zone of all existing trees to be retained.
- Landscaping to western boundary within carpark loading zone to be in accordance with Landscape Plans.
- Filling and required retaining structures to western edge of carpark are to be set back a minimum 2m from western boundary to retain existing levels at the boundary.

An amended engineering plan, prepared by a qualified engineer, shall be submitted to the Certifier.

Reason: To ensure that the development is in accordance with the Development Consent.

28. Statement of compliance with Australian Standards

The demolition work shall comply with the provisions of Australian Standard AS2601: 2001 *The Demolition of Structures*. The applicant must provide work plans required by AS2601: 2001 and a written statement from a suitably qualified person that the proposal contained in the work plan comply with the safety requirements of the Standard. The work plan and the statement of compliance shall be submitted to the satisfaction of the Principal Certifier prior to the commencement of any works.

Reason: To ensure compliance with the Australian Standards.

29. Long service levy

A Construction Certificate shall not be issued until any long service levy payable under Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided to Council.

Reason: Statutory requirement.

30. Outdoor lighting

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that all outdoor lighting will comply with AS/NZS 4282:2019 *Control of the obtrusive effects of outdoor lighting* and be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places.

Lighting at vehicle access points to the development must be provided in accordance with AS/NZS 1158 Set:2010 *Lighting for roads and public spaces*.

Note: Details demonstrating compliance with these requirements are to be submitted to the Certifier prior to the issue of a Construction Certificate.

Reason: To provide high quality external lighting for security without adverse impacts on public amenity from excessive illumination.

31. Access for people with disabilities (commercial)

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that access for people with disabilities from the public domain and all car parking areas on site to all tenancies within the building is provided. Consideration must be given to the means of dignified and equitable access.

Compliant access provisions for people with disabilities shall be clearly shown on the plans submitted with any Construction Certificate. All details shall be provided to the Certifier prior to the issue of any Construction Certificate. All details shall be prepared in consideration of the *Disability Discrimination Act* and the relevant provisions of AS1428.1, AS1428.2, AS1428.4 and AS 1735.12.

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

32. Excavation for services

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that no proposed underground services (ie: water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under *Ku-ring-gai Development Control Plan*, located on the subject allotment and adjoining allotments.

Reason: To protect existing trees.

33. Pier and beam footings near trees

Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that the footings of the approved elevated driveway, retaining walls to parking area, decking, 'Forest Walk' raised walkway and amphitheatre, will be isolated pier or pier and beam construction within the specified radius of the trunk/s of the following tree/s:

Tree/Location	Radius in metres
Tree 1 <i>Eucalyptus saligna</i> (Sydney Blue Gum) /to carpark	7.2m
Tree 3 <i>Liquidambar styraciflua</i> (Liquidambar)/to south-western boundary	12m
Tree 10 <i>Eucalyptus pilularis</i> (Blackbutt)/to southern boundary	12m
Tree 19. <i>Eucalyptus saligna</i> (Sydney Blue Gum)/to southern-boundary	10.8m
Tree 20. <i>Eucalyptus saligna</i> (Sydney Blue Gum)/to southern boundary	7.2m
Tree 23. <i>Eucalyptus pilularis</i> (Blackbutt)/to southern boundary	13.2m
Tree 21. <i>Eucalyptus pilularis</i> (Blackbutt)/to southern boundary	9.6m
Tree 25. <i>Eucalyptus pilularis</i> (Blackbutt)/to southern boundary	7.2m
Tree 26. <i>Eucalyptus pilularis</i> (Blackbutt)/to southern boundary	12m
Tree 28. <i>Eucalyptus saligna</i> (Sydney Blue Gum)/to southern boundary	4.2m
Tree 29. <i>Eucalyptus pilularis</i> (Blackbutt)/to southern boundary	3m
Tree 48 <i>Lophostemon confertus</i> (Brushbox)/to east of theatre	12m
Tree 49. <i>Eucalyptus saligna</i> (Sydney Blue Gum) /to east of theatre	14.1m
Tree 50. <i>Angophora floribunda</i> (Rough barked Apple) /to east of theatre	3.4m
Tree 51. <i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark) /to east of theatre	5m
Tree 52. <i>Pittosporum undulatum</i> (Sweet Pittosporum) /to east of theatre	3.4m
Tree 53. <i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark) /to east of theatre	5m
Tree 54. <i>Pittosporum undulatum</i> (Sweet Pittosporum) /to east of theatre	3m
Tree 56. <i>Eucalyptus sp.</i> (Ironbark)/ to northern boundary	10.8m
Tree 57. <i>Eucalyptus sp.</i> (Ironbark)/ to northern boundary	10.8m
Tree 60. <i>Eucalyptus saligna</i> (Sydney Blue Gum)/to east of theatre	5.4m
Tree 68. <i>Eucalyptus sp.</i> (Ironbark)/to northern boundary	9.6m
Tree 69. <i>Eucalyptus saligna</i> (Sydney Blue Gum)/to northern boundary	5.4m
Tree 70. <i>Angophora floribunda</i> (Rough barked Apple) to northern boundary	4.1m

The piers shall be located such that no roots of a diameter greater than 30mm will be severed or injured during the construction period. The beam/s shall be of reinforced concrete or galvanised steel sections and placed in positions with the base of the beam being a minimum of 50mm above existing soil levels.

Reason: To protect existing trees.

34. Acoustic design report

An acoustic design report shall be prepared by an appropriately qualified acoustic consultant and submitted to the Certifier with the application for any Construction Certificate. The acoustic design report shall identify all potential noise sources from the use of the development including but not limited to amplified sound equipment, mechanical equipment, air conditioners, mechanical exhaust, refrigeration motors and other noise generating plant proposed as part of the approved development.

The acoustic design report shall provide acoustic design detailing and recommendations to address any potential noise impacts to ensure that the operation of an individual piece of equipment or operation of equipment in combination will not be audible within any habitable room in any residential occupancy before 7.00am and after 10.00pm. Outside of these restricted hours noise from an individual piece of equipment or in combination shall not be greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary.

A Construction Certificate shall not be issued unless the Certifier is satisfied that the acoustic design report satisfies the requirements of this condition and that the proposal will be constructed in accordance with its requirements.

Reason: To comply with best practice standards for acoustic amenity.

35. Driveway crossing levels

Prior to issue of any Construction Certificate, driveway and associated footpath levels for any new, reconstructed or extended sections of driveway crossings between the property boundary and road alignment must be obtained from Council. Such levels are only able to be issued by Council under the *Roads Act 1993*. All footpath crossings, laybacks and driveways are to be constructed according to Council's specifications "Construction of Gutter Crossings and Footpath Crossings".

Specifications are issued with alignment levels after completing the necessary application form at Council's Customer Services counter and payment of the assessment fee. When completing the request for driveway levels application from Council, the Applicant must attach a copy of the relevant development application drawing which indicates the position and proposed level of the proposed driveway at the boundary alignment.

This development consent is for works wholly within the property. Development consent does not imply approval of footpath or driveway levels, materials or location within the road reserve, regardless of whether this information is shown on the development application plans. The grading of such footpaths or driveways outside the property shall comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the Applicant and the required alignment levels fixed by Council may impact upon these levels.

The construction of footpaths and driveways outside the property in materials other than those approved by Council is not permitted.

Reason: To provide suitable vehicular access without disruption to pedestrians and vehicular traffic.

36. Car parking details

Prior to issue of any Construction Certificate, certified parking layout plan(s) to scale showing all aspects of the vehicle access and accommodation arrangements must be

submitted to and approved by the Certifier. A qualified civil/traffic engineer must review the proposed vehicle access and accommodation layout and provide written certification on the plans that:

- all parking space dimensions, driveway and aisle widths, driveway grades, transitions, circulation ramps, blind aisle situations and other trafficked areas comply with Australian Standard 2890.1 - 2004 "Off-street car parking"
- the vehicle access and accommodation arrangements are to be constructed and marked in accordance with the certified plans

Reason: To ensure that parking spaces are in accordance with the Development Consent.

37. Design of works in public road (Roads Act approval)

Prior to issue of any Construction Certificate, full design engineering plans and specifications prepared by a suitably qualified and experienced civil engineer for the following infrastructure works shall be submitted to Council and approved by Council's Director of Operations on behalf of Council as a road authority:

- Removal of the existing layback on Marian Street frontage and replacement with kerb and gutter
- Construction of a new commercial vehicular crossing from Culworth Avenue

The required plans and specifications are to be designed in accordance with the *General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council*, dated November 2014. The drawings must detail existing utility services, (mains and house connections) and trees affected by the works. Construction of the works must proceed only in accordance with any conditions attached to the Roads Act approval issued by Council.

A minimum of three weeks will be required for Council to assess the *Roads Act 1993* applications. Early submission is recommended to avoid delays in obtaining a Construction Certificate. For the purpose of inspections carried out by Council Engineers, the corresponding fees set out in Council's current Fees and Charges Schedule are payable to Council prior to issue of any Construction Certificate. An engineering plan assessment fee is also applicable.

Approval must be obtained from Ku-ring-gai Council as the road authority under Section 139 *Roads Act 1993* for any proposed works in the public road prior to the issue of any Construction Certificate.

Reason: To ensure compliance with the requirements of *Roads Act 1993*.

38. Waste storage room - commercial premises

The Certifier must be satisfied that the waste storage room shall be of adequate size to contain the waste and recycling bins. Waste storage facilities shall be covered and all internal walls rendered and coved at the floor/wall intersection. The floor is to be graded and appropriately drained to the sewer and a tap with hot and cold water is to be located in close proximity to facilitate cleaning. Details of the waste storage room shall be submitted to the Certifier prior to the issue of any Construction Certificate.

Reason: To protect amenity and to prevent environmental pollution.

39. Design and construction of food premises (kitchen, café prep and bar)

Plans and specifications complying with the requirements of the *Food Act 2003*, *Food Standards Code 3.2.3 Food Premises and Equipment*, *Australian Standard AS 4674 2004 - Design, construction and fit-out of food premises* and National Construction Code shall be submitted to and approved by the Certifier prior to the issue of any Construction Certificate. Plans and specifications shall address the following:

- floor plans, showing the layout of the fixtures and fittings, food storage and staff personal effects storage areas
- elevations and sections showing floor, wall and ceiling construction and finishes
- elevations and sections showing the installation of fixtures and fittings
- cool room/freezer construction
- garbage and recycling storage areas
- grease trap area
- all proposed mechanical ventilation systems
- staff, accessible and public toilet facilities

Note: The “Design and fit-out guide for food businesses” is available on Council’s website.

Reason: To ensure compliance with standards for food premises.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE OR PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION (WHICHEVER COMES FIRST):

40. Infrastructure damage security bond and inspection fee

To ensure that any damage to Council property as a result of construction activity is rectified in a timely matter:

- (a) All work or activity undertaken pursuant to this development consent must be undertaken in a manner to avoid damage to Council property and must not jeopardise the safety of any person using or occupying the adjacent public areas.
- (b) The applicant, builder, developer or any person acting in reliance on this consent shall be responsible for making good any damage to Council property and for the removal from Council property of any waste bin, building materials, sediment, silt, or any other material or article.
- (c) The Infrastructure damage security bond and infrastructure inspection fee must be paid to Council by the applicant prior to both the issue of any Construction Certificate and the commencement of any earthworks or construction.
- (d) In consideration of payment of the infrastructure damage security bond and infrastructure inspection fee, Council will undertake such inspections of Council Property as Council considers necessary and will also undertake, on behalf of the applicant, such restoration work to Council property, if any, that Council considers necessary as a consequence of the development. The provision of such restoration work by the Council does not absolve any person of the responsibilities contained in (a) to (b) above. Restoration work to be undertaken by Council referred to in this condition is limited to work that can be undertaken by Council at a cost of not more than the Infrastructure damage security bond payable pursuant to this condition.

- (e) **Release of the bond** – Upon receipt of an Occupation Certificate, Council will undertake an inspection of Councils Infrastructure and release the bond if no damage is found.

For development relating to more than 2 dwellings, there will be a six months holding period after the receipt of the final occupation certificate, after which you may request Council to return any bond monies.

If there is damage found to Council property the bond will not be released until the damage has been rectified to Council's satisfaction.

- (f) In this condition:

“Council property” includes any road, footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, letter bins, trees, shrubs, lawns, mounds, bushland, and similar structures or features on any road or public road within the meaning of the *Local Government Act 1993* (NSW) or any public place; and

“Infrastructure damage security bond and infrastructure inspection fee” means the Infrastructure damage security bond and infrastructure inspection fee as calculated in accordance with the Schedule of Fees & Charges adopted by Council as at the date of payment and the cost of any inspections required by the Council of Council property associated with this condition.

Reason: To maintain public infrastructure.

41. Construction Certificate plans

The Construction Certificate plans must be consistent with the approved plans and documents referred to in Condition No. 1 of this Development Consent.

Reason: To ensure that the works are carried out in accordance with the Development Consent.

42. Section 7.12 Local infrastructure contributions

- (a) This development is subject to a development contribution calculated in accordance with Ku-ring-gai s94A Contributions Plan 2015, being a Contributions Plan in effect under the *Environmental Planning and Assessment Act*, in the amount of: **\$122,515.22** based on development costs of **\$12,251,522.00**, which shall be paid to Council to provide for additional local infrastructure improvements in accordance with the works programme listed in the s94A Contributions Plan. (Sections of the *Environmental Planning and Assessment Act* have been renumbered and former s94A is now known as s7.12).

The contribution specified above is subject to indexation and will continue to be indexed to reflect changes in the Consumer Price Index (All Groups Sydney) until paid in accordance with Ku-ring-gai s94A Contributions Plan 2015. Inflation is applied on all the Ku-ring-gai Contributions Plans on the day after the release of the Residential Property Prices Index by the Australian Bureau of Statistics (ABS). Prior to payment, please contact Council directly to verify the current contributions payable. Please see Council's website for more information about inflation and paying contributions.

- (b) A development contribution that is required under the conditions of this consent must be paid before the issue of the first occupation certificate in respect of any building to which this consent relates, except as provided by (c) below.
- (c) If no construction certificate in respect of the erection of any building to which the consent relates has been issued before or on 25 September 2022, the development contribution must be paid prior to the issue of the first construction certificate, Linen Plan, Subdivision Certificate or Occupation Certificate after that date.

Note: Copies of Council's Contributions Plan can be viewed at Council Chambers at 818 Pacific Hwy Gordon or on Council's website at www.kmc.nsw.gov.au <<http://www.kmc.nsw.gov.au>>.

Reason: To comply with the Ministerial Direction that came into effect on 8 July 2020 and to cater for the demand for additional infrastructure arising from cumulative developments in accordance with Ku-ring-gai S94A Contributions Plan 2015.

CONDITIONS TO BE SATISFIED DURING THE DEMOLITION, EXCAVATION AND CONSTRUCTION PHASES:

43. Road opening permit

The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a road opening permit being obtained from Council (upon payment of the required fee) beforehand.

Reason: Statutory requirement (*Roads Act 1993* Section 138) and to maintain the integrity of Council's infrastructure.

44. Prescribed conditions

The applicant shall comply with any relevant prescribed conditions of development consent under clause 98 of the *Environmental Planning and Assessment Regulation*. For the purposes of section 4.17 (11) of the *Environmental Planning and Assessment Act*, the following conditions are prescribed in relation to a development consent for development that involves any building work:

1. the work must be carried out in accordance with the requirements of the Building Code of Australia
2. in the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any works commence
3. if the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, 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 from possible damage from the excavation, and
 - (b) where necessary, underpin the building, structure or work to prevent any such damage.

Reason: Statutory requirement.

45. Hours of work

Demolition, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.00pm Monday to Friday and 8.00am to 12 noon Saturday. No work and no deliveries are to take place on Sundays and public holidays.

Demolition and/or excavation using machinery of any kind must be limited to between 7.00am and 5.00pm Monday to Friday, with a respite break of 45 minutes between 12 noon and 1.00pm. No demolition and/or excavation using machinery of any kind is to occur on Saturdays, Sundays or public holidays.

Where it is necessary for works to occur outside of these hours (ie placement of concrete for large floor areas on large residential/commercial developments or where building processes require the use of oversized trucks and/or cranes that are restricted by Transport for NSW (TfNSW) from travelling during daylight hours to deliver, erect or remove machinery, tower cranes, pre-cast panels, beams, tanks or service equipment to or from the site), approval for such activities will be subject to the issue of an "outside of hours works permit" from Council as well as notification of the surrounding properties likely to be affected by the proposed works.

Failure to obtain a permit to work outside of the approved hours will result in regulatory action.

Reason: To ensure reasonable standards of amenity for occupants of neighbouring properties.

46. Approved plans to be on site

A copy of all approved and certified plans, specifications and documents incorporating conditions of consent and certification (including the Construction Certificate if required for the work) shall be kept on site at all times during the demolition, excavation and construction phases and must be readily available to any officer of Council or the Principal Certifier.

Reason: To ensure that the development is in accordance with the determination.

47. Control of construction noise (noise and vibration management plan)

During any demolition, excavation or building works, noise generated from the site shall be controlled in accordance with the recommendations of the approved noise and vibration management plan.

Reason: To ensure reasonable standards of amenity to neighbouring properties.

48. Site notice

A site notice shall be erected on the site prior to any work commencing and shall be displayed throughout the works period. The site notice must:

- be prominently displayed at the boundaries of the site for the purposes of informing the public that unauthorised entry to the site is not permitted
- display project details including, but not limited to the details of the builder, Principal Certifier and structural engineer
- be durable and weatherproof
- display the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice

- be mounted at height of 1.6 metres above natural ground on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted

Reason: To ensure public safety and public information.

49. Dust control

During excavation, demolition and construction, adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood. The following measures must be adopted:

- physical barriers shall be placed around or over dust sources to prevent wind or activity from generating dust
- earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed
- all materials shall be stored or stockpiled at the best locations
- the ground surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs
- all vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust
- all equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays
- gates shall be closed between vehicle movements and shall be fitted with shade cloth
- cleaning of footpaths and roadways shall be carried out at least daily
- no advertising or signage is permitted to be attached to dust cloth material.

Reason: To protect the environment and the amenity of surrounding properties.

50. Compliance with submitted geotechnical report

A contractor, with specialist excavation experience, must undertake the excavations for the development and a suitably qualified and consulting geotechnical engineer must oversee the excavation.

Geotechnical aspects of the development work, namely:

- appropriate excavation method and vibration control
- support and retention of excavated faces
- hydro-geological considerations

must be undertaken in accordance with the recommendations of the geotechnical report prepared by Asset Geo Enviro.

Prior approval must be obtained from all affected property owners, including Council, where rock anchors (both temporary and permanent) are proposed below adjoining property/ies.

Reason: To ensure the safety and protection of property.

51. Use of road or footpath

During excavation, demolition and construction phases, no building materials, plant or the like are to be stored on the road or footpath without written approval being obtained from Council beforehand. The footpath shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.

Reason: To ensure safety and amenity of the area.

52. Toilet facilities

Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons working at the site. Each toilet must:

- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an on-site effluent disposal system approved under the *Local Government Act 1993* <<https://www.legislation.nsw.gov.au/>>, or
- (c) be a temporary chemical closet approved under the *Local Government Act 1993* <<https://www.legislation.nsw.gov.au/>>.

Reason: Statutory requirement.

53. Garbage receptacle

A garbage receptacle must be provided at the work site before works begin and must be maintained until all works are completed. The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers. The receptacle lid must be kept closed at all times, other than when garbage is being deposited.

Reason: To ensure appropriate construction site waste management and to avoid injury to wildlife.

54. Construction signage

All construction signs must comply with the following requirements:

- are not to cover any mechanical ventilation inlet or outlet vent
- are not illuminated, self-illuminated or flashing at any time
- are located wholly within a property where construction is being undertaken
- refer only to the business(es) undertaking the construction and/or the site at which the construction is being undertaken
- are restricted to one such sign per property
- do not exceed 2.5m²
- are removed within 14 days of the completion of all construction works

Reason: To ensure compliance with Council's controls regarding signage.

55. Road reserve safety

All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (2009) "Manual for Uniform Traffic Control Devices for Work on Roads". If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.

Reason: To ensure safe public footways and roadways during construction.

56. Services

Where required, the adjustment or inclusion of any new utility service facilities must be carried out in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the applicant's responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services (including water, phone, gas and the like). Council accepts no responsibility for any matter arising from its approval to this application involving any influence upon utility services provided by another authority.

Reason: Provision of utility services.

57. Drainage to existing system

Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped to the existing site drainage system. The installation of new drainage components must be completed by a licensed contractor in accordance with AS3500.3 (Plumbing Code) and the NCC (BCA). No stormwater runoff is to be placed into the Sydney Water sewer system. If an illegal sewer connection is found during construction, the drainage system must be rectified to the satisfaction of Council and Sydney Water.

Reason: To protect the environment.

58. Arborist's inspection and reporting

The tree/s to be retained shall be inspected and monitored by an AQF Level 5 arborist in accordance with the current version of **Australian Standard AS 4970 - Protection of trees on development sites** during and after completion of development works to ensure their long term survival.

The Principal Certifier must be provided with reports by the project arborist within 7 days of the inspection detailing date, trees no, location and species, tree health, compliance with conditions of the Development Consent, description of the works inspected, description of any impacts to trees and any rectification or and mitigation works prescribed and or undertaken.

Regular inspections and documentation from the arborist to the Principal Certifier are required but not limited to the following times or phases of work:

Tree/Location	Time of inspection
Tree 1 <i>Eucalyptus saligna</i> (Sydney Blue Gum) /to carpark	Supervision of removal of existing parking surface.
Tree 2 <i>Jacaranda mimosifolia</i> (Jacaranda) /to carpark	Supervision of removal of existing asphalt, Excavation for services.
Tree 3 <i>Liquidambar styraciflua</i> (Liquidambar)/ to south western boundary	Supervision of removal of existing asphalt. Excavation for services.
Tree 4. <i>Ulmus</i> sp. /to southern boundary	Supervision of removal of existing asphalt. Excavation and at completion of works.
Tree 5 <i>Liquidambar styraciflua</i> (Liquidambar) to south western boundary	Supervision of removal of existing asphalt.
Tree 6. <i>Ulmus parvifolia</i> (Chinese Elm)/to southern boundary	Supervision of removal of existing asphalt
Tree 7. <i>Radermachera sinica</i> (China Doll Tree)/to southern boundary	Supervision of removal of existing asphalt

Tree 10. <i>Eucalyptus pilularis</i> (Blackbutt)/to southern boundary	Supervision of removal of existing asphalt
Tree 11 <i>Eucalyptus saligna</i> (Sydney Blue Gum)/to southern boundary	Supervision of removal of existing asphalt and for services
Tree 19. <i>Eucalyptus saligna</i> (Sydney Blue Gum)/to southern boundary	Excavation for piers and services and at completion of works.
Tree 20. <i>Eucalyptus saligna</i> (Sydney Blue Gum)/to southern boundary	Excavation for piers and at completion of works.
Tree 23. <i>Eucalyptus pilularis</i> (Blackbutt)/to southern boundary	Excavation for piers and at completion of works.
Tree 21. <i>Eucalyptus pilularis</i> (Blackbutt)/to southern boundary	Excavation for piers and at completion of works.
Tree 25. <i>Eucalyptus pilularis</i> (Blackbutt)/to southern boundary	Excavation for piers and at completion of works.
Tree 26. <i>Eucalyptus pilularis</i> (Blackbutt)/to southern boundary	Excavation for piers and at completion of works.
Tree 27. <i>Angophora costata</i> (Sydney red Gum)/to southern boundary	Excavation for piers and at completion of works.
Tree 28. <i>Eucalyptus saligna</i> (Sydney Blue Gum)/to southern boundary	Excavation for piers and at completion of works.
Tree 29. <i>Eucalyptus pilularis</i> (Blackbutt)/to southern boundary	Excavation for piers and at completion of works.
Tree 49. <i>Eucalyptus saligna</i> (Sydney Blue Gum) /to east of theatre	Supervision of removal of existing asphalt. Excavation for piers and at completion of works.
Tree 50. <i>Angophora floribunda</i> (Rough barked Apple) /to east of theatre	Supervision of removal of existing asphalt. Excavation for piers and at completion of works.
Tree 51 and 53. <i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark) /to east of theatre	Supervision of removal of existing asphalt. Excavation for piers and at completion of works.
Tree 52. and 54 <i>Pittosporum undulatum</i> (Sweet Pittosporum) /to east of theatre	Supervision of removal of existing asphalt. Excavation for piers and at completion of works.
Tree 56. <i>Eucalyptus sp.</i> (Ironbark)/ to northern boundary	Excavation for piers and at completion of works.
Tree 57. <i>Eucalyptus sp.</i> (Ironbark)/ to northern boundary	Excavation for piers and at completion of works.
Tree 60. <i>Eucalyptus saligna</i> (Sydney Blue Gum) /to east of theatre	Excavation for piers and at completion of works.
Tree 68. <i>Eucalyptus sp.</i> (Ironbark)/ to northern boundary	Excavation for piers and at completion of works.
Tree 69. <i>Eucalyptus saligna</i> (Sydney Blue Gum)/ to northern boundary	Excavation for piers and at completion of works.
Tree 70. <i>Angophora floribunda</i> (Rough barked Apple)/ to northern boundary	Excavation for piers and at completion of works.

All works as recommended by the project arborist are to be undertaken by an experienced arborist with a minimum AQF Level 3 qualification.

Reason: To ensure protection of existing trees.

59. Landscape works near trees

To avoid tree impacts, all landscape works such as soil preparation, soil spreading, mulching and planting shall be carried out by hand within the specified radius of the following trees.

Tree/Location	Radius in metres
Tree 1 <i>Eucalyptus saligna</i> (Sydney Blue Gum)/ to carpark	7.2m
Tree 10 <i>Eucalyptus pilularis</i> (Blackbutt)/ to southern boundary	12m
Tree 19. <i>Eucalyptus saligna</i> (Sydney Blue Gum)/ to southern boundary	10.8m
Tree 20. <i>Eucalyptus saligna</i> (Sydney Blue Gum)/ to southern boundary	7.2m
Tree 23. <i>Eucalyptus pilularis</i> (Blackbutt)/ to southern boundary	13.2m
Tree 21. <i>Eucalyptus pilularis</i> (Blackbutt)/ to southern boundary	9.6m
Tree 25. <i>Eucalyptus pilularis</i> (Blackbutt)/ to southern boundary	7.2m
Tree 26. <i>Eucalyptus pilularis</i> (Blackbutt)/ to southern boundary	12m
Tree 27. <i>Angophora costata</i> (Sydney red Gum)/ to southern boundary	1.8m
Tree 28. <i>Eucalyptus saligna</i> (Sydney Blue Gum)/ to southern boundary	4.2m
Tree 29. <i>Eucalyptus pilularis</i> (Blackbutt)/ to southern boundary	3m
Tree 47 <i>Eucalyptus saligna</i> (Sydney Blue Gum)/ to east of theatre	7.2m
Tree 48. <i>Lophostemon confertus</i> (Brushbox)/ to east of theatre	12m
Tree 49. <i>Eucalyptus saligna</i> (Sydney Blue Gum)/ to east of theatre	14.1m
Tree 50. <i>Angophora floribunda</i> (Rough barked Apple)/ to east of theatre	3.4m
Tree 51. <i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark)/ to east of theatre	5m
Tree 52. <i>Pittosporum undulatum</i> (Sweet Pittosporum)/ to east of theatre	3.4m
Tree 53. <i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark)/ to east of theatre	5m
Tree 54. <i>Pittosporum undulatum</i> (Sweet Pittosporum)/ to east of theatre	3m
Tree 56. <i>Eucalyptus sp.</i> (Ironbark)/ to northern boundary	10.8m
Tree 57. <i>Eucalyptus sp.</i> (Ironbark)/ to northern boundary	10.8m
Tree 60. <i>Eucalyptus saligna</i> (Sydney Blue Gum)/ to east of theatre	5.4m
Tree 68. <i>Eucalyptus sp.</i> (Ironbark)/ to northern boundary	9.6m
Tree 69. <i>Eucalyptus saligna</i> (Sydney Blue Gum)/ to northern boundary	5.4m
Tree 70. <i>Angophora floribunda</i> (Rough barked Apple)/ to northern boundary	4.1m

Reason: To protect existing trees.

60. Retention of tree roots

No tree roots of 50mm or greater in diameter located within the specified radius of the trunk/s of the following tree/s shall be severed or injured in the process of any works during the construction period. All pruning of roots less than 50mm in diameter shall be undertaken by an experienced arborist/horticulturalist, with a minimum AQF Level 3 qualification.

Tree/Location	Radius in metres
Tree 1. <i>Eucalyptus saligna</i> (Sydney Blue Gum) /to carpark	7.2m
Tree 2. <i>Jacaranda mimosifolia</i> (Jacaranda) /to south-western boundary	2.4m
Tree 3. <i>Liquidambar styraciflua</i> (Liquidambar) /to southern boundary	12m
Tree 4. <i>Ulmus</i> sp. /to southern boundary	3m
Tree 5 <i>Liquidambar styraciflua</i> (Liquidambar) /to southern boundary	10.8m
Tree 6. <i>Ulmus parvifolia</i> (Chinese Elm) /to southern boundary	4.8m
Tree 7. <i>Radermachera sinica</i> (China Doll Tree) /to southern boundary	3m
Tree 10. <i>Eucalyptus pilularis</i> (Blackbutt) /to southern boundary	12m
Tree 19. <i>Eucalyptus saligna</i> (Sydney Blue Gum) /to southern boundary	10.8m
Tree 20. <i>Eucalyptus saligna</i> (Sydney Blue Gum) /to southern boundary	7.2m
Tree 23. <i>Eucalyptus pilularis</i> (Blackbutt) /to southern boundary	13.2m
Tree 21. <i>Eucalyptus pilularis</i> (Blackbutt) /to southern boundary	9.6m
Tree 25. <i>Eucalyptus pilularis</i> (Blackbutt) /to southern boundary	7.2m
Plan Tree 26. <i>Eucalyptus pilularis</i> (Blackbutt) /to southern boundary	12m
Tree 27. <i>Angophora costata</i> (Sydney red Gum) /to southern boundary	1.8m
Tree 28. <i>Eucalyptus saligna</i> (Sydney Blue Gum) /to southern boundary	4.2m
Tree 29. <i>Eucalyptus pilularis</i> (Blackbutt) /to southern boundary	3m
Tree 48. <i>Lophostemon confertus</i> (Brushbox)/ to east of theatre	12m
Tree 49. <i>Eucalyptus saligna</i> (Sydney Blue Gum) /to east of theatre	14.1m
Tree 50. <i>Angophora floribunda</i> (Rough barked Apple) /to east of theatre	3.4m
Tree 51. <i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark) /to east of theatre	5m
Tree 52. <i>Pittosporum undulatum</i> (Sweet Pittosporum) /to east of theatre	3.4m
Tree 53. <i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark) /to east of theatre	5m
Tree 54. <i>Pittosporum undulatum</i> (Sweet Pittosporum) /to east of theatre	3m
Tree 56. <i>Eucalyptus</i> sp. (Ironbark)/ to northern boundary	10.8m
Tree 57. <i>Eucalyptus</i> sp. (Ironbark)/ to northern boundary	10.8m
Tree 60. <i>Eucalyptus saligna</i> (Sydney Blue Gum)/ to east of theatre	5.4m
Tree 68. <i>Eucalyptus</i> sp. (Ironbark)/ to northern boundary	9.6m
Tree 69. <i>Eucalyptus saligna</i> (Sydney Blue Gum) / to northern boundary	5.4m
Tree 70. <i>Angophora floribunda</i> (Rough barked Apple)/ to northern boundary	4.1m

Reason: To protect existing trees.

61. Approved tree works

Prior to the commencement of any works, the following is to be undertaken to the specified trees:

Tree/location	Approved tree works
Tree 8 <i>Eucalyptus fibrosa</i> (Red Iron Bark)/ to southern boundary	Removal
Tree 9 <i>Lophostemon confertus</i> (Brushbox)/ to southern boundary	Removal
Tree 59 <i>Fraxinus</i> sp. (Ash)to northern boundary	Removal
Tree 71 <i>Lagerstroemia indica</i> (Crepe Myrtle)/to northern boundary	Removal

1. All trees are to be clearly tagged and identified in accordance with the specifications in the arborist report prior to the removal or pruning of any tree/s .
2. Canopy and/or root pruning shall be undertaken by an experienced arborist/horticulturist, with a minimum AQF Level 3 qualification.
3. All root or canopy pruning works shall be undertaken as specified in current version of **Australian Standard AS 4373 - Pruning of amenity trees**.

Removal or pruning of any other tree on the site is not approved, excluding species and works exempt under *Ku-ring-gai Development Control Plan*.

Reason: To ensure that the development is in accordance with the Development Consent.

62. Hand excavation

All excavation within the specified radius of the trunk/s of the following tree/s shall be carried out by hand digging and/or by an air knife and shall be supervised by an experienced arborist/horticulturist, with a minimum AQF Level 3 qualification. The arborist /horticulturalist shall provide a report to the Principal Certifier confirming compliance with this condition:

Tree/Location	Radius in metres
Tree 1. <i>Eucalyptus saligna</i> (Sydney Blue Gum) /to carpark	7.2m
Tree 2. <i>Jacaranda mimosifolia</i> (Jacaranda) /to south western boundary	2.4m
Tree 3. <i>Liquidambar styraciflua</i> (Liquidambar) /to southern boundary	12m
Tree 4. <i>Ulmus</i> sp. /to southern boundary	3m
Tree 5 <i>Liquidambar styraciflua</i> (Liquidambar) /to southern boundary	10.8m
Tree 6. <i>Ulmus parvifolia</i> (Chinese Elm) /to southern boundary	4.8m
Tree 7. <i>Radermachera sinica</i> (China Doll Tree) /to southern boundary	3m
Tree 10. <i>Eucalyptus pilularis</i> (Blackbutt) /to southern boundary	12m
Tree 19. <i>Eucalyptus saligna</i> (Sydney Blue Gum) /to southern boundary	10.8m
Tree 20. <i>Eucalyptus saligna</i> (Sydney Blue Gum) /to southern boundary	7.2m
Tree 23. <i>Eucalyptus pilularis</i> (Blackbutt) /to southern boundary	13.2m
Tree 21. <i>Eucalyptus pilularis</i> (Blackbutt) /to southern boundary	9.6m
Tree 25. <i>Eucalyptus pilularis</i> (Blackbutt) /to southern boundary	7.2m
Tree 26. <i>Eucalyptus pilularis</i> (Blackbutt) /to southern boundary	12m
Tree 27. <i>Angophora costata</i> (Sydney red Gum) /to southern boundary	1.8m

Tree 28. <i>Eucalyptus saligna</i> (Sydney Blue Gum) /to southern boundary	4.2m
Tree 29. <i>Eucalyptus pilularis</i> (Blackbutt) /to southern boundary	3m
Tree 48. <i>Lophostemon confertus</i> (Brushbox)/ to east of theatre	12m
Tree 49. <i>Eucalyptus saligna</i> (Sydney Blue Gum) /to east of theatre	14.1m
Tree 50. <i>Angophora floribunda</i> (Rough barked Apple) /to east of theatre	3.4m
Tree 51. <i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark) /to east of theatre	5m
Tree 52. <i>Pittosporum undulatum</i> (Sweet Pittosporum) /to east of theatre	3.4m
Tree 53. <i>Melaleuca quinquenervia</i> (Broad Leaved Paperbark) /to east of theatre	5m
Tree 54. <i>Pittosporum undulatum</i> (Sweet Pittosporum) /to east of theatre	3m
Tree 56. <i>Eucalyptus sp.</i> (Ironbark)/ to northern boundary	10.8m
Tree 57. <i>Eucalyptus sp.</i> (Ironbark)/ to northern boundary	10.8m
Tree 60. <i>Eucalyptus saligna</i> (Sydney Blue Gum)/ to east of theatre	5.4m
Tree 68. <i>Eucalyptus sp.</i> (Ironbark)/ to northern boundary	9.6m
Tree 69. <i>Eucalyptus saligna</i> (Sydney Blue Gum) / to northern boundary	5.4m
Tree 70. <i>Angophora floribunda</i> (Rough barked Apple)/ to northern boundary	4.1m

Reason: To protect existing trees.

63. No storage of materials beneath trees

No activities, soil compaction, storage or disposal of materials shall take place beneath the canopy of any tree protected under *Ku-ring-gai Development Control Plan* at any time unless specified in other conditions of this consent.

Reason: To protect existing trees.

64. Removal of refuse

All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.

Reason: To protect the environment.

65. Canopy replenishment trees to be planted

The canopy replenishment trees to be planted shall be maintained in a healthy and vigorous condition until they attain a height of 5 metres when they will be protected by *Ku-ring-gai Development Control Plan*. Any of the trees found faulty, damaged, dying or dead shall be replaced with the same species.

Reason: To maintain the treed character of the area.

66. On site retention of waste docket

All demolition, excavation and construction waste docket are to be retained on site, or at suitable location, in order to confirm which facility received materials generated from the site for recycling or disposal.

- each docket is to be an official receipt from a facility authorised to accept the material type, for disposal or processing
- this information is to be made available at the request of an authorised Council officer.

Reason: To protect the environment.

67. Maintenance of site

All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.

Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.

Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.

During construction:

- all vehicles entering or leaving the site must have their loads covered, and
- all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.

At the completion of the works, the work site must be left clear of waste and debris.

Reason: To ensure the site is appropriately maintained.

68. Vibration

Vibration emitted from activities associated with the demolition, excavation, construction and fitout of buildings and associated infrastructure shall satisfy the values referenced in Table 2.2 of the Environment Protection Authority Assessing Vibration - a Technical Guideline.

Reason: To protect residential amenity during construction.

69. Control of construction noise (Australian Standard)

During excavation, demolition and construction phases, noise generated from the site shall be controlled in accordance with best practice objectives of AS 2436-2010 and NSW Environment Protection Authority Interim Construction Noise Guidelines.

Reason: To protect the amenity of neighbouring properties

70. Site fencing

The site must be secured and fenced prior to works commencing. All excavation, demolition and construction works shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.

If the work involved in the excavation, demolition or construction of the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

If necessary, a hoarding is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place (note that separate approval is required prior to the commencement of works to erect a hoarding or temporary fence on public property).

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons on public property.

The site shall be secured/locked to prevent access at the end of each day.

Any hoarding, fence or awning is to be removed when the construction work has been completed.

Reason: To ensure public safety.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE:

71. Operational parking, transport and pedestrian access management plan

An Operational Parking, Transport and Pedestrian Access Management Plan shall be prepared by a suitably qualified and experienced engineer, prior to the occupation of the theatre, addressing the following:

- pedestrian safety and control
- adequacy of parking provision and potential need to reduce concurrent use of elements
- adequacy of set down/pick up provision
- adequacy of lighting for the pedestrian travel paths
- measures to prevent use of the noise sensitive parking spaces in the railway car park

This plan is to be approved by Council's Traffic Engineer and is to include provision for monitoring and review after the development becomes fully operational. Any future amendments to the Plan shall occur only with the written approval of Council's Traffic Engineer. The Plan forms part of the development consent and the site must be operated in accordance with the Plan at all times.

Reason: To protect ensure appropriate provision for pedestrian access and parking.

72. Removal/decommissioning of cooling towers

Prior to the issue of an Occupation Certificate, the Principal Certifier shall obtain written confirmation that all cooling tower(s) on the premises are removed or are otherwise decommissioned in a manner that ensures they are isolated from the power and water supply and cannot be operated.

Reason: To ensure compliance with standards for public health.

73. Acoustic controls - building

Prior to the issue of an Occupation Certificate, written confirmation from an acoustic engineer shall be submitted to the Principal Certifier, confirming that all acoustic measures including wall, ceiling, glazing, door and roof treatments and recommended screening have been installed and achieves the project specific noise criteria.

Reason: To protect the amenity of neighbouring residents.

74. Acoustic controls - foyer and café

Prior to the issue of an Occupation Certificate, written confirmation from an acoustic engineer shall be submitted to the Principal Certifier, confirming that any speakers associated with amplified sound equipment in the foyer and/or café have had limiters installed and achieves the project specific noise criteria.

Reason: To protect the amenity of neighbouring residents.

75. RSL war memorial

The existing two RSL war memorial plaques shall be relocated on-site in a location where they are visible to the general public. The display is to include a photograph of the existing flag pole and memorial and a flag. The display is to be erected prior to the issue of an Occupation Certificate.

Reason: To protect and retain the RSL war memorial.

76. Mechanical ventilation

Following completion, installation and testing of all the mechanical ventilation systems the installation and performance of these systems must comply with:

- The National Construction Code
- Australian Standard 1668
- Australian Standard 3666 where applicable.

The Principal Certifier shall be satisfied of the above prior to the issue of any Occupation Certificate.

Reason: To protect the amenity of occupants and neighbouring properties.

77. Completion of landscape works

Prior to the issue of an Occupation Certificate, the Principal Certifier is to be satisfied that all landscape works have been undertaken in accordance with the approved plan(s) and conditions of this development consent.

Reason: To ensure that the landscape works are consistent with the Development Consent.

78. Mechanical noise control

Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that amplified sound equipment, mechanical equipment, air conditioners, mechanical exhaust, refrigeration motors and other noise generating plant when in operation either as an individual piece of equipment or in combination with other equipment will not be audible within any habitable room in any residential occupancy before 7.00am and after 10.00pm. Outside of these restricted hours noise from an individual piece of equipment or in combination shall not be greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. The background (LA90, 15 min) level is to be determined without the source noise present. Written confirmation from an acoustic engineer that the development achieves the above requirements is to be submitted to the Principal Certifier.

Reason: To protect the amenity of occupants and neighbouring properties.

79. Outdoor lighting

Prior to the issue of the Occupation Certificate, the Principal Certifier shall be satisfied that all outdoor lighting will comply with AS/NZS 4282:2019 *Control of the obtrusive effects of outdoor lighting* and is mounted, screened and directed in a way that does not create a nuisance or light spill on to buildings on adjoining lots or public places.

Lighting at vehicle access points to the development must be provided in accordance with AS/NZS 1158 Set:2010 *Lighting for roads and public spaces*.

Reason: To provide high quality external lighting for security without adverse impacts on public amenity from excessive illumination.

80. Certification of drainage works

Prior to issue of an Occupation Certificate, the Principal Certifier is to be satisfied that:

1. The components of the new drainage system have been installed by a licensed contractor in accordance with the National Plumbing and Drainage Code AS3500.3 (2018) and the Building Code of Australia.
2. The stormwater drainage works have been completed in accordance with the approved Construction Certificate drainage plans, the nominated BASIX commitments and Ku-ring-gai DCP Part 24 'Water Management'.

Evidence from the plumbing contractor or a qualified civil/hydraulic engineer confirming compliance with this condition is to be provided to Council prior to the issue of an Occupation Certificate.

Reason: To ensure appropriate stormwater management.

81. CCTV report of pipe after work

Prior to issue of an Occupation Certificate, a closed circuit television inspection and report on the Council drainage pipeline traversing the site is to be undertaken by appropriate contractors and provided to Council's Development Engineer. The report is to include a copy of the footage of the inside of the pipeline. Any damage that has occurred to the section of the pipeline since the commencement of construction on the site must be repaired in full to the satisfaction of Council's Development Engineer at no cost to Council.

Reason: To protect public infrastructure.

82. Certification of as-constructed driveway/carpark

Prior to issue of an Occupation Certificate, the Principal Certifier is to be satisfied that:

1. The as-constructed car park complies with the approved Construction Certificate plans.
2. The completed vehicle access and accommodation arrangements comply with Australian Standard 2890.1 - 2004 "Off-Street car parking" in terms of minimum parking space dimensions.
3. Finished driveway gradients and transitions will not result in the scraping of the underside of cars.
4. No doors, gates, grilles or other structures have been provided in the access driveways to the basement carpark, which would prevent unrestricted access for internal garbage collection from the basement garbage storage and collection area.

Evidence from a suitably qualified and experienced traffic/civil engineer demonstrating compliance with the above is to be provided to and approved by the Principal Certifier prior to the issue of an Occupation Certificate.

Reason: To ensure that vehicular access and accommodation areas are compliant with Australian Standards and the Development Consent.

83. Reinstatement of redundant crossings and completion of infrastructure works

Prior to issue of an Occupation Certificate, and upon completion of any works which may cause damage to Council's property, the Principal Certifier must receive a signed inspection form from Council which states that the following works in the road reserve have been completed:

1. new concrete driveway crossing in accordance with levels and specifications issued by Council
2. removal of all redundant driveway crossings and kerb laybacks (or sections thereof) and reinstatement of these areas to footpath, turfed verge and upright kerb and gutter (reinstatement works to match surrounding adjacent infrastructure with respect to integration of levels and materials)
3. full repair and resealing of any road surface damaged during construction
4. full replacement of damaged sections of grass verge to match existing
5. reconstruction of kerb and gutter with associated road pavement restoration for the full frontage of the development site

This inspection may not be carried out by the Principal Certifier because restoration of Council property outside the boundary of the site is not a matter listed in Clause 161 of the Environmental Planning and Assessment Regulation 2000.

All works must be completed in accordance with the General Specification for the Construction of Road and Drainage Works in Ku-ring-gai Council, dated November 2004. The Occupation Certificate must not be issued until all damaged public infrastructure caused as a result of construction works on the subject site (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) is fully repaired to the satisfaction of Council. Repair works shall be at no cost to Council.

Reason: To protect the public infrastructure.

84. Construction of works in public road - approved plans

Prior to issue of an Occupation Certificate, the Principal Certifier must be satisfied that all approved road, footpath and/or drainage works have been completed in the road reserve in accordance with the Council Roads Act approval and accompanying drawings, conditions and specifications.

The works must be supervised by the Applicant's engineer and completed to the satisfaction of Council.

The supervising consulting engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved stamped drawings. The works are to be subject to inspections by Council at the hold points noted on the Roads Act approval. All conditions attached to the approved drawings for these works must be met prior to an Occupation Certificate being issued.

Reason: To ensure that works undertaken in the road reserve are to the satisfaction of Council.

85. Infrastructure repair

Prior to issue of an Occupation Certificate and upon completion of any works which may cause damage to Council's property, the Principal Certifier must be satisfied that any damaged public infrastructure caused as a result of construction works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete vehicles) is fully repaired to the satisfaction of Council and at no cost to Council.

Reason: To protect public infrastructure.

86. Fire safety certificate

Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that a fire safety certificate for all the essential fire or other safety measures forming part of this Development Consent has been completed and provided to Council.

Reason: To ensure suitable fire safety measures are in place.

87. Construction of food premises (kitchen, café prep and bar)

Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that the construction of the food premises and all food storage areas is in accordance with the requirements of the Food Act 2003, *Food Standards Code 3.2.3 Food Premises and Equipment, Australian Standard AS 4674 2004 - Design, construction and fit-out of food premises* and National Construction Code.

If a private certifier is to be used, the final inspection of the food premises fit out shall be carried out by a suitably qualified person. Documentation is to be submitted to the Principal Certifier certifying compliance with all relevant requirements.

Note: Council's Environmental Health Officer may be engaged to carry out the required inspection of the food premises. An inspection fee shall be charged in accordance with Council's current Schedule of Fees and Charges if this inspection is required. This fee must be paid prior to inspection being carried out.

Reason: To ensure compliance with standards for food premises.

88. Waste storage room - commercial premises

Prior to the issue of an Occupation Certificate, the Principal Certifier shall be satisfied that the waste storage room has been installed and is of an adequate size to contain the waste bins. All internal walls are rendered and coved at the floor/wall intersection. The floor is graded and drained to the sewer and a tap with hot and cold water is located in close proximity to facilitate cleaning of the waste bins and waste storage room.

Reason: To protect residential amenity and prevent environmental pollution.

89. Trade waste permit/consent - food premises

Prior to the issue of an Occupation Certificate, evidence of a Sydney Water permit or consent for the discharge of wastewater into the sewer shall be submitted to the Principal Certifier. Where a permit or consent may not be required from Sydney Water, certification shall be provided verifying that any discharges to the sewer will meet specific standards imposed by Sydney Water.

Reason: To ensure compliance with environmental and health standards for food premises.

CONDITIONS TO BE SATISFIED AT ALL TIMES:

90. Waste storage and recycling bin management

A contract with a commercial waste collection company must be maintained for collection of waste and recycling. Waste and recycling must be collected a minimum frequency of once a week. The emptied waste and recycling bins must be returned to the approved waste storage room on the property and must not be stored on the roadway, kerbside or other location outside of the property.

Reason: To protect health and amenity

91. Maximum occupancy

The premises shall operate in accordance with the following maximum occupancy levels (exclusive of staff, performers, etc):

Theatre	249 persons
Café	41 (21 internal and 20 external) persons
Theatrette	63 persons
Amphitheatre	50 persons
Rehearsal room	60 persons
Flexible community space	48 persons

The theatre and theatrette shall not operate concurrently.

Reason: To protect health and amenity

92. Noise control - balcony and cafe`

The doors to the balcony adjoining the foyer and the outdoor dining areas of the cafe are to be kept closed after 9pm.

Fixed or portable speakers associated with amplified sound systems are not permitted on the balcony adjoining the foyer or the outdoor dining area of the cafe. Any speakers within the foyer or cafe are to be fixed and installed so that they are not orientated toward doors or windows opening to the external environment.

Reason: To protect the amenity of residential properties.

93. Waste collections - commercial premises

All waste collection services for the business are only to be carried out:

- (a) between 8.00am - 5.00pm Monday to Friday; or
- (b) between 8.00am - 1.00pm Saturday.

Reason: To protect the amenity of the surrounding area.

94. Outdoor amphitheatre - amplification equipment

If amplification equipment is used in the outdoor amphitheatre, it must be portable and removed from the amphitheatre when not in use. The orientation of any speakers or amplification equipment must be towards Marian Street or Culworth Avenue and not towards neighbouring residential properties.

Reason: To protect residential amenity.

95. Outdoor lighting

All external lighting must:

1. Comply with AS/NZS 4282:2019: *Control of the obtrusive effects of outdoor lighting* and
2. Be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places.

Lighting at vehicle access points to the development must be provided in accordance with AS/NZS 1158 Set: 2010 *Lighting for roads and public spaces*.

Reason: To protect the amenity of surrounding properties.

96. Noise control - mechanical plant

Noise levels associated with mechanical plant installed on the premises shall not be audible within any habitable room in any other neighbouring residential premises before 7.00am and after 10.00pm. Outside of these restricted hours noise levels associated with mechanical plant installed on the premises either as an individual piece of equipment or in combination shall not emit a noise level greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. The background (LA90, 15 min) level is to be determined without the source noise present.

Reason: To protect the amenity of neighbouring residential occupants and neighbouring properties.

97. Noise control - rainwater re-use system

Noise levels associated with rainwater re-use system(s) installed on the premises shall not be audible within any habitable room in any other neighbouring residential premises before 7.00am and after 10.00pm. Outside of these restricted hours noise levels associated with rainwater re-use system(s) installed on the premises, either as an individual piece of equipment or in combination, shall not emit a noise level greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. The background (LA90, 15 min) level is to be determined without the source noise present.

Reason: To protect the amenity of neighbouring residential occupants and neighbouring properties.

98. Noise control - air conditioning

Noise levels associated with air conditioning units installed on the premises shall not be audible within any habitable room in any residential occupancy between the hours of 10.00pm and 7.00am. Outside of these restricted hours noise levels associated with air conditioning units installed on the premises either as an individual piece of equipment or in combination shall not emit a noise level greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. The background (LA90, 15 min) level is to be determined without the source noise present.

Reason: To protect the amenity of residential occupants and neighbouring properties.

99. Noise control - mechanical exhaust ventilation

Noise levels associated with mechanical exhaust ventilation installed on the premises shall not be audible within any habitable room in any other neighbouring residential premises before 7.00am and after 10.00pm. Outside of these restricted hours noise levels associated with mechanical exhaust ventilation installed on the premises either as an individual piece of equipment or in combination shall not emit a noise level greater than 5dB(A) above the background noise (LA90, 15 min) when measured at the nearest adjoining property boundary. The background (LA90, 15 min) level is to be determined without the source noise present.

Reason: To protect the amenity of neighbouring residential occupants and neighbouring properties.

100. Loading and unloading

At all times, all loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site.

Reason: To ensure safe traffic movement and protect residential amenity.

101. Deliveries - commercial premises

All deliveries for the business are to be carried out:

1. between 9.00am and 5.00pm Sunday to Tuesday; and
2. between 8.00am and 7.00pm Wednesday to Saturday.

Reason: To protect the amenity of the surrounding area.

102. Hours of operation – theatre, theatrette and flexible community space

At all times, the hours of operation are restricted to the following approved standard hours:

Wednesday to Saturday	7.00am - 9.30pm
Sunday to Tuesday	8.30am - 9.30pm

Staff and patrons must leave the premises by 10.00pm.

Notwithstanding the above approved standard hours, the theatre may operate on the basis of a 12 month trial period during the following hours:

Thursday to Saturday	7.00am - 11.00pm
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The trial period will commence upon issue of an Occupation Certificate and Council shall be notified in writing at the commencement of the trial period.

During the trial period the theatre shall be operated in a manner where theatre staff direct patrons to park in the commuter car park and access the theatre from the car park (and return) using Culworth Avenue, not the pedestrian path adjacent to 19 Marian Street. Staff shall direct patrons to park in the commuter car park, utilising the spaces nearest to Culworth Avenue and avoiding the spaces identified in yellow in the approved Plan of Management.

Prior to the commencement of the trial period, signage is to be erected in the commuter car park (on the fences adjoining residential properties) directing patrons attending the theatre to avoid parking in those spaces.

For the duration of the trial period (and afterwards if the approved standard hours are modified) patrons are to be advised of the parking arrangements when purchasing tickets.

A minimum of 3 months prior to the cessation of the trial period a modification application shall be lodged with Council should consideration of an extension of the trial period be sought. Any such application shall be accompanied by a report addressing the efficacy of the parking management system and a summary of all noise objections received by the theatre identifying the nature of the noise complaint (ie the source of noise) and the date of the complaint.

In the absence of any modification of this condition, at the cessation of the 12 months trial period the use of the theatre shall revert to the approved standard hours.

The approved Plan of Management shall be amended to incorporate these provisions and the amended Plan of Management and details of the proposed signage shall be provided to Council for approval prior to the issue of an Occupation Certificate. All signage shall be erected prior to the issue of an Occupation Certificate.

Reason: To protect the amenity of the area.

103. Hours of operation - level one café

At all times, the hours of operation are restricted to:

Monday to Sunday 7.00am - 9.00pm

Reason: To protect the amenity of the area.

104. Hours of operation – rehearsal space

At all times, the hours of operation are restricted to:

Monday to Sunday 7.00am - 10.30pm

No performances are to occur in the rehearsal space.

Reason: To protect the amenity of the area.

105. Hours of operation - outdoor amphitheatre

At all times, the use of the outdoor amphitheatre is restricted to daylight hours.

If amplification equipment is used in the outdoor amphitheatre, it must be portable and removed from the amphitheatre when not in use. The orientation of any speakers or amplification equipment must be towards Marian Street or Culworth Avenue and not towards neighbouring residential properties.

Reason: To protect residential amenity.

106. Car park management

In order to ensure adequate car parking capacity for performances without detrimentally impacting the availability of on-street parking for surrounding residents the following standard operational requirements shall apply:

For all evening performances in the theatre where the audience capacity is to reach 200 persons or more	The theatrette, rehearsal room, café, flexible community space and amphitheatre shall not operate at the same time as the theatre
For all daytime performances from Monday-Friday in the theatre where the audience capacity of to reach 150 persons or more	The theatrette, rehearsal room, flexible community space and amphitheatre shall not operate at the same time as the theatre
For all daytime performances from Saturday - Sunday in the theatre where the audience capacity of to reach 200 persons or more	The theatrette, rehearsal room, flexible community space and amphitheatre shall not operate at the same time as the theatre
For all other performances in the theatre	The theatrette and amphitheatre shall not operate at the same time as the theatre

The approved Plan of Management shall be amended to incorporate these provisions and the amended Plan of Management shall be provided to Council for approval prior to the issue of an Occupation Certificate. All signage shall be erected prior to the issue of an Occupation Certificate.

Reason: To ensure adequate availability of on-street parking for residents the area.

107. Plan of management

The theatre and associated uses shall at all times operate in accordance with the approved Plan of Management as required to be amended by the conditions of this consent. The amended Plan of Management forms part of the conditions of consent and any amendment to it may only occur with the written approval of Council.

Reason: To protect residential amenity.

108. Annual fire safety statement

Each 12 months after the installation of essential fire or other safety measures, the Owner of a building must provide the Council with an Annual Fire Safety Statement for the building. In addition, a copy of the Statement must be given to the NSW Fire Commissioner and a third copy must be displayed prominently in the building.

Reason: To ensure maintenance of essential statutory fire safety measures.

109. Signage

The building identification sign located on the southern façade (rear) of the building shall not be illuminated by floodlighting or any other means.

The building identification sign located on the awning to the entrance of the theatre and the interchangeable performance sign adjacent to the entrance of the theatre shall be fitted with a timer which is programmed to be turned off at the cessation of the approved hours of operation each night.

All illuminated signage shall be designed and operated in accordance with the recommendations of the approved lighting report.

Reason: To protect residential amenity.

Reason for conditions

To safeguard the amenity of the locality.

Other approvals

This consent does not include any other approvals granted under Section 4.12 (5) of the Environmental Planning and Assessment Act 1979.

Right of appeal

If you are dissatisfied with this decision, Section 8.7 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within twelve (12) months of the date on which you receive this Notice.

Advisings

- a) Council is always prepared to discuss its decisions and in this regard please do not hesitate to contact Michael Doyle on telephone **9424 0000**.
- b) Section 8.2 of the Environmental Planning and Assessment Act 1979 provides that the applicant may request a review of the determination. The request must be made in writing on the Section.8.2 Review application form (refer Council's website or customer service centre) within six (6) months of receipt of this Notice of Determination, together with payment of the appropriate fees. It is recommended that the applicant discuss any request for a review of determination with Council staff before lodging such a request. There is no right of review under Section 8.2 of the Act in respect of designated development or Crown development.
- c) Changes to the external configuration of the building, changes to the site layout, density and unit configuration internal changes to the proposed building or any changes to the proposed operation of a use may require the submission of a modification application under Section 4.55 of the Environmental Planning and Assessment Act 1979. Any proposed modification to the development consent, must result in a development that is substantially the same development as that which was originally approved. It is recommended that the applicant discuss any request for a review of determination with Council staff before lodging such a request.
- d) Your attention is drawn to the necessity to:

Obtain a **Construction Certificate** under Section 6.4 (a) of the Environmental Planning and Assessment Act 1979 in respect of the development consent.

An application for a Construction Certificate may be lodged with Council. Alternatively you may apply to an accredited certifier.

All building work must be carried out fully in accordance with the conditions of the development consent and it is an offence to carry out unauthorised building work that is not in accordance with the development consent.

An offence under the Environmental Planning and Assessment Act 1979 and Regulations is subject to a penalty up to \$110,000 and \$11,000, respectively.

Council may also serve a notice and an order to require the demolition/removal of unauthorised building work or to require the building to be erected fully in accordance with the development consent.

On the spot penalties will be imposed for works which are carried out in breach of this consent, or without consent.

A Section 4.55 application is required to be submitted to and approved by Council, prior to commencement of any variations from the approved plans and conditions of consent.

A handwritten signature in black ink, appearing to be 'Seymour', written in a cursive style.

Signature on behalf of consent authority
per/Team Leader
Development Assessment

cc: Ku-ring-gai Council (owners)