

**Original signed by Susanna Cheng on 23/8/2018**

**Date determined 21/8/2018**

**Date operates 23/8/2018**

**Date lapses 23/8/2023**

## **Development Consent No. 55/18**

### **Notice of Determination**

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

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#### **Applicant’s Name**

Ionic Management

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

101-111 Willoughby Road, Crows Nest  
Lot No. 1, Sec. 8, DP 1265

#### **Proposal**

Use of Upper Ground & Mezzanine tenancy as a child care centre for 75 children, hours of operation 7am to 6pm weekdays.

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

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

#### **Reason for approval**

Approval to use the tenancy at Upper Ground & Mezzanine level as a child care centre for 75 children, will provide for a permissible use that contributes to the diversity of services in Crows Nest Town Centre. The proposed child care centre is generally consistent with requirements under SEPP (Educational Establishments and Child Care Facilities) 2017, and North Sydney Local Environmental Plan 2013 and the North Sydney Development Control Plan 2013. The child care centre will not result in any unreasonable amenity impacts on surrounding users of the mixed use development.

#### **Date from which this Consent operates**

23 August 2018

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

The owners of adjoining properties and the Holtermann Precinct were notified of the proposed development between 16 March & 3 April 2018, in accordance with Section A4 of NSDCP 2013. The notification resulted in no submissions.

**Period of Consent**

Subject to Section 4.20 of the Act, this consent becomes effective and operates from 23 August 2018. The consent lapses five years after the date of consent in accordance with Section 4.53 of the Act and cannot be extended. To enjoy the benefits of this consent, works must physically commence onsite by 23 August 2023.

**Review of determination and right of appeal**

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

**Plans endorsed by the consent authority**

| <b>Plan No.</b> | <b>Issue</b> | <b>Title</b>                             | <b>Drawn by</b>               | <b>Received</b> |
|-----------------|--------------|--|-------------------------------|-----------------|
| DA 101          | E            | Site Analysis / Location Plan            | Laurie Liskowski<br>Architect | 17/4/18         |
| DA 102          | E            | Mezzanine Level Floor Plan               | Laurie Liskowski<br>Architect | 17/4/18         |
| DA 201          | D            | Elevations                               | Laurie Liskowski<br>Architect | 2/3/18          |
| DA 301          | D            | Sections                                 | Laurie Liskowski<br>Architect | 2/3/18          |
| DA 401          | D            | Kitchen, Bottle Prep and Laundry Details | Laurie Liskowski<br>Architect | 2/3/18          |

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

DAVID HOY  
EXECUTIVE PLANNER

23 August 2018  
Date of Endorsement

**(i) Conditions**

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

**(ii) Definitions**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

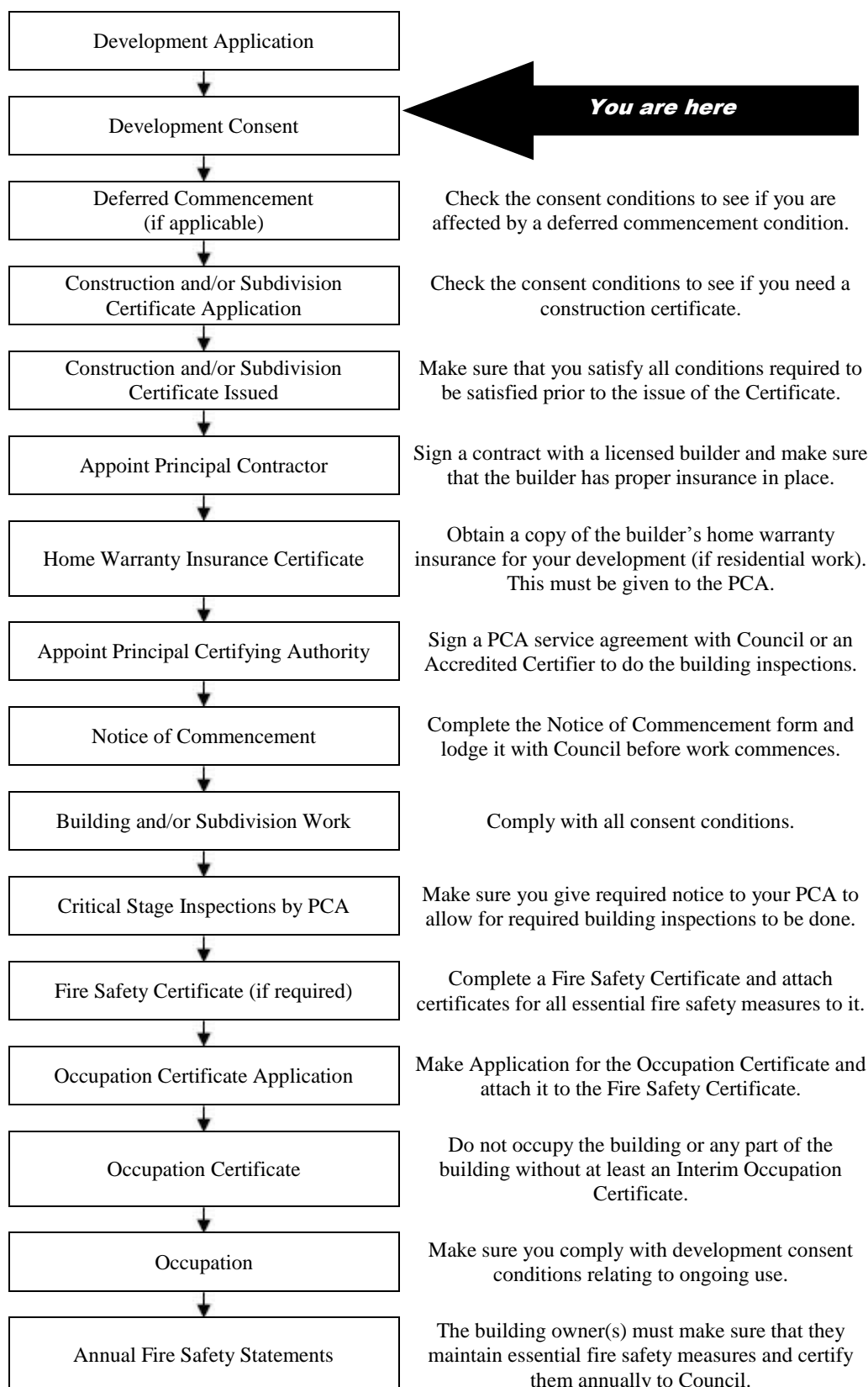
*NSDCP 2013* means *North Sydney Development Control Plan 2013*

*Work* for the purposes of this consent means:

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

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

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



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

**INDEX OF CONDITIONS**

|  | <b>Page No.</b> |
|--|-----------------|
| <b>A.     <i>Conditions that Identify Approved Plans</i></b>   |                 |
| A1.    Development in Accordance with Plans/documentation  | 8               |
| A2.    Plans on Site   | 8               |
| A3.    Signage   | 8               |
| <b>C.     <i>Prior to the Issue of a Construction Certificate (and ongoing, where indicated)</i></b> |                 |
| C1.    Structural Adequacy of Existing Building  | 9               |
| C2.    Waste Management Plan   | 9               |
| C3.    Accessible parking spaces to be provided  | 10              |
| C4.    Cleanliness and Maintenance of Food Preparation Areas   | 10              |
| C5.    Garbage and Recycling Facilities  | 11              |
| C6.    Location of Plant   | 11              |
| C7.    Noise from Plant and Equipment  | 11              |
| C8.    Noise Control (Childcare Centres)   | 12              |
| C9.    Compliance with Acoustic Report   | 13              |
| C10.   Noise and Vibration Compliance Certification Prior to Issue of<br>Construction Certificate    | 13              |
| C11.   Outdoor Lighting  | 14              |
| C12.   Signage design - Control of the Obtrusive Effects of Outdoor Lighting                         | 14              |
| <b>D.     <i>Prior to the Commencement of any Works (and continuing where indicated)</i></b>         |                 |
| D1.    Public Liability Insurance – Works on Public Land   | 14              |
| D2.    Commencement of Works Notice  | 15              |
| <b>E.     <i>During Demolition and Building Work</i></b>   |                 |
| E1.    Cigarette Butt Receptacle   | 15              |
| E2.    Parking Restrictions  | 15              |
| E3.    Road Reserve Safety   | 15              |
| E4.    Removal of Extra Fabric   | 16              |
| E5.    Noise and Vibration   | 16              |
| E6.    Developer's Cost of Work on Council Property  | 16              |
| E7.    No Removal of Trees on Public Property  | 16              |
| E8.    Special Permits   | 17              |
| E9.    Construction Hours  | 18              |
| E10.   Out of Hours Work Permits   | 19              |
| E11.   Site Amenities and Facilities   | 19              |
| E12.   Health and Safety   | 20              |
| E13.   Prohibition on Use of Pavements   | 20              |
| E14.   Waste Disposal  | 20              |

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

|     |   |    |
|-----|---|----|
| F1. | National Construction Code                            | 20 |
| F2. | Appointment of a Principal Certifying Authority (PCA) | 21 |
| F3. | Construction Certificate                              | 21 |
| F4. | Occupation Certificate                                | 21 |

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

|     |  |    |
|-----|--|----|
| G1. | Access to Premises                               | 21 |
| G2. | Noise Certification                              | 22 |
| G3. | Certification for Mechanical Exhaust Ventilation | 22 |
| G4. | Damage to Adjoining Properties                   | 22 |
| G5. | Utility Services                                 | 22 |
| G6. | Landscaping                                      | 22 |
| G7. | Damage to Adjoining Properties                   | 23 |
| G8. | Allocation of Spaces                             | 23 |

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

|      |  |    |
|------|--|----|
| I1.  | Hours of Operation                                     | 24 |
| I2.  | Trade Waste  | 24 |
| I3.  | Noise and Vibration Impact                             | 24 |
| I4.  | Allocation of Spaces                                   | 24 |
| I5.  | Existing Loading Dock                                  | 25 |
| I6.  | Loading within Site                                    | 25 |
| I7.  | Hours of Illumination                                  | 25 |
| I8.  | Signage Illumination Intensity                         | 25 |
| I9.  | No Illumination  | 26 |
| I10. | Commercial Waste and Recycling Storage                 | 26 |
| I11. | Waste Collection                                       | 26 |
| I12. | Trade Waste Collection (Crows Nest Trade Waste Policy) | 26 |
| I13. | Delivery Hours   | 27 |
| I14. | Shop Premises Registration                             | 27 |
| I15. | Lighting of Outdoor Play Areas                         | 27 |
| I16. | Maintenance of Approved Landscaping                    | 27 |
| I17. | Child Care Centre Maximum Capacity                     | 28 |
| I18. | Accessible Path of Travel                              | 28 |
| I19. | Use of Lift 03   | 28 |
| I20. | Plan of Management                                     | 29 |
| I21. | Emergency Management Measures                          | 29 |

**A. Conditions that Identify Approved Plans**

**Development in Accordance with Plans/documentation**

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

| Plan No. | Issue | Title                                    | Drawn by                   | Received |
|----------|-------|--|----------------------------|----------|
| DA 101   | E     | Site Analysis / Location Plan            | Laurie Liskowski Architect | 17/4/18  |
| DA 102   | E     | Mezzanine Level Floor Plan               | Laurie Liskowski Architect | 17/4/18  |
| DA 201   | D     | Elevations                               | Laurie Liskowski Architect | 2/3/18   |
| DA 301   | D     | Sections                                 | Laurie Liskowski Architect | 2/3/18   |
| DA 401   | D     | Kitchen, Bottle Prep and Laundry Details | Laurie Liskowski Architect | 2/3/18   |

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

**Plans on Site**

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

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

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

**Signage**

- A3. Signage for the child care centre is to comply with the following:
- (a) The sign(s) (except for exempt/complying development under SEPP (Exempt & Complying Development Codes) 2008) must be limited to the area(s) marked "Signage Location" on drawing DA201 (Rev.D) dated 18 December 2017 prepared by Laurie Liskowski Architect and received by Council on 2 March 2018;



- (b) At least 100mm above, below and either side of the sign(s) must be clear of any signage so as to allow the brick parapet wall to be fully expressed, and no part of the signage is to extend beyond the face of the brick parapet wall;
- (c) The sign(s) are to comprise individually cut letter(s) and/or a single logo per sign; no approval is granted for signage in the form of a single lightbox.

The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced and accompanying the issued Construction Certificate, fully satisfy the above.

(Reason: Streetscape amenity)

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

**Structural Adequacy of Existing Building**

- C1. A report prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction shall be submitted to the Certifying Authority for approval prior to issue of any Construction Certificate. The certified report must also include all details of the methodology to be employed in construction phases to achieve the above requirements. The methodology in the certified report must be complied with at all times.

(Reason: To ensure the structural integrity of the building is maintained)

**Waste Management Plan**

- C2. A Waste Management Plan is to be submitted for approval by the Certifying Authority prior to the issue of any Construction Certificate. The plan must include, but not be limited to:
- a) The estimated volume of waste and method of disposal for the construction and operation phases of the development;
  - b) The design of the on-site waste storage and recycling area; and
  - c) Administrative arrangements for waste and recycling management during the construction process.

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

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

**Accessible parking spaces to be provided**

- C3. At least one (1) accessible parking space, out of a total of fourteen (14) accessible parking spaces required on-site under Condition C34 of DA327/15, shall be provided in close proximity to Lift 03. The space(s) must be clearly marked to indicate exclusive use by child care users between the peak am and pm hours of the centre, i.e., between 6.30am-9.00am and 4.30pm-6.30pm.

Consideration must be given to the means of access from the car-parking spaces to adjacent buildings, to other areas within the building and to footpath and roads. All details shall be prepared in consideration of, and construction completed in accordance with applicable Australian Standards to achieve compliance with the Disability Discrimination Act. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

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

**Cleanliness and Maintenance of Food Preparation Areas**

- C4. To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas, all building work in connection with the occupation or use of the premises for the preparation and storage of food shall be designed and carried out in accordance with the requirements of: -

- a) the Food Act 2003;
- b) the Food Regulation;
- c) the relevant Australian Standards;
- d) Council's Food Premises Code;
- e) Sydney Water Corporation - Trade Waste Section;
- f) the Protection of the Environment Operations Act and associated Regulations; and
- g) the Building Code of Australia.

Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Construction Certificate plans and documentation must incorporate details of the following: -

- a) construction, materials and finishes;
- b) installation of fixtures, fittings and equipment;
- c) washing facilities, other facilities and special requirements;
- d) mechanical ventilation and exhaust discharges; and
- e) temperature control

The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure compliance with acceptable standards for the construction of food premises established under environmental health and safety legislation)

### **Garbage and Recycling Facilities**

C5. Adequate provision must be made for the storage of waste and recyclable material generated by the premises. Plans and specifications which comply with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To ensure the provision of appropriate waste facilities and to ensure efficient collection of waste by collection contractors)

### **Location of Plant**

C6. All plant and equipment (including but not limited to air conditioning equipment) is not to be located where the plant and equipment is visible from a public street or from the publicly accessible plaza on the corner of Willoughby Road & Albany Street. Plans and specifications complying with this condition must be submitted to the Certifying Authority for Approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: Minimise impact on surrounding properties, improved visual appearance and amenity for locality)

### **Noise from Plant and Equipment**

C7. Heating, ventilation, and air conditioning (HVAC) system must be designed and constructed in accordance with relevant Australian Standards. The use of all plant and equipment installed on the premises must not:

(a) Contribute an LAeq(15min) which will cause the total LAeq(15min) from all plant and equipment operating contemporaneously on the site or in the strata scheme or in the mixed strata schemes to exceed the RBL by more than 5dB when measured at the boundary of any affected receiver. The modifying factor adjustments in Section 4 of the EPA Industrial Noise Policy shall be applied.

(b) Cause “offensive noise” as defined in the *Protection of the Environment Operations Act 1997*.

“affected receiver” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation, schools, hospitals, places of worship, commercial premises and parks and such other affected receiver as may be notified by the Council in writing.

“boundary” includes any window or elevated window of an affected receiver.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

### **Noise Control (Childcare Centres)**

C8. The use of the premises shall comply with the following:

#### Outdoor Play Area

- (a) Up to 2 hours (total) per day - The LAeq(15 min) emitted from the outdoor play area shall not exceed the RBL by more than 10 dB at the boundary of any affected residence.
- (b) More than 2 hours per day - The Leq(15 min) emitted from the outdoor play area shall not exceed the RBL by more than 5 dB at the boundary of any affected residence.

The LAeq(15 min) emitted from the cumulative noise impact of children playing indoors and mechanical plant on the site shall not exceed the RBL by more than 5 dB at the boundary of any affected residence.

“affected residence” includes residential premises (including any lot in the strata scheme or another strata scheme), premises for short-term accommodation and hospitals.

“boundary” includes any window or elevated window of an affected residence.

#### Ambient Noise Levels in Outdoor Play Areas

The LAeq(1hr) from road, rail traffic, commerce and industry at any location within the outdoor play or activity area during the hours when the Childcare Centre is operating shall not exceed 55 dB.

Terms in this condition have the same meaning as in the Noise Guide for Local Government and the Industrial Noise Policy published by the NSW Environment Protection Authority.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

### **Compliance with Acoustic Report**

C9. The recommendations contained in the acoustic report prepared by Renzo Tonin & Associates dated 25 January 2018 must be implemented during construction and use of the development, including but not limited to the following:

- (a) Noise levels from outdoor play areas are predicted to comply at all surrounding receivers. Noise predictions assume a solid 1.5m screen around the perimeter of the outdoor play areas and soft fall material to the floor as detailed in Section 5.1;
- (b) Noise intrusion from street traffic into the outdoor play areas is to be controlled by fixing absorptive acoustic tiles (minimum NRC of 0.8) to the ceiling of the outdoor play areas and as detailed in Section 5.3.1;
- (c) Acoustic testing is to be conducted at construction stage to determine if any additional treatment is required to the flooring of the external play areas to achieve the “background + 5dB”  $L_{Amax}$  criteria in relation to residences above & below the child care centre;
- (d) Internal Play Area 1, Play Area 2 and the cot room will require doors and windows to be closed; and
- (e) There is a proposed plant room for the mixed-use development that is located adjacent to the indoor Play Area 3. It is recommended that an assessment of the plant room be conducted at the Construction Certificate stage to determine the level of impact and mitigation required.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

### **Noise and Vibration Compliance Certification Prior to Issue of Construction Certificate**

C10. A certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants, certifying that suitable measures have been incorporated into the development and that the noise criteria contained in the conditions herein have been satisfied, must be provided to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The Principal Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To maintain an appropriate level of amenity for adjoining land uses)

### **Outdoor Lighting**

- C11. All outdoor lighting must comply with, where relevant AS4282:1997 Control of the Obtrusive Effects of Outdoor lighting. Details demonstrating compliance with these requirements must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To maintain the amenity of adjoining land uses)

### **Signage design - Control of the Obtrusive Effects of Outdoor Lighting**

- C12. The signage must be designed in accordance with AS 4282-1997 control of obtrusive effects of outdoor lighting.

Plans and specifications complying with this condition must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

(Reason: To maintain the amenity of adjoining land uses)

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

#### **Public Liability Insurance – Works on Public Land**

- D1. Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$20 million in relation to the occupation of public land and the undertaking of approved works within Council's road reserve or public land, as approved by this consent. The Policy is to note, and provide protection/full indemnification for North Sydney Council, as an interested party. A copy of the Policy must be submitted to Council prior to commencement of any works. The Policy must be valid for the entire period that the works are being undertaken.

(Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.)

(Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land)

### **Commencement of Works Notice**

- D2. Building work, demolition or excavation in accordance with this development consent must not be commenced until the developer has given at least 2 days notice to North Sydney Council of the person's intention to commence building work, demolition or excavation in accordance with this development consent.

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

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

#### **Cigarette Butt Receptacle**

- E1. A cigarette butt receptacle is to be provided on the site for the duration of excavation/demolition/construction process, for convenient use of site workers.

(Reason: To ensure adequate provision is made for builders' waste)

#### **Parking Restrictions**

- E2. Existing public parking provisions in the vicinity of the site must be maintained at all times during works. The placement of any barriers, traffic cones, obstructions or other device in the road shoulder or kerbside lane is prohibited without the prior written consent of Council. Changes to existing public parking facilities/restrictions must be approved by the North Sydney Local Traffic Committee. The Developer will be held responsible for any breaches of this condition, and will incur any fines associated with enforcement by Council regulatory officers.

(Reason: To ensure that existing kerbside parking provisions are not compromised during works)

#### **Road Reserve Safety**

- E3. 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, with no obstructions caused to the said footways and roadways. Construction materials and plant must not be stored in the road reserve without approval of Council. 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 in when and as directed by Council officers (at full Developer cost). 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 (1996) "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: Public Safety)

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

- E4. Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification of the damage is to be given to Council forthwith. No work is to resume until the written approval of Council to do so is obtained. Failure to comply with the provisions of this condition may result in the Council taking further action including legal proceedings if necessary.

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

#### **Noise and Vibration**

- E5. The works must be undertaken in accordance with the "Interim Construction Noise Guideline" published by the NSW Environment Protection Authority, to ensure excessive levels of noise and vibration do not occur so as to minimise adverse effects experienced on any adjoining land.

(Reason: To ensure residential amenity is maintained in the immediate vicinity)

#### **Developer's Cost of Work on Council Property**

- E6. The developer must bear the cost of all works associated with the development that occurs on Council's property, including the restoration of damaged areas.

(Reason: To ensure the proper management of public land and funds)

#### **No Removal of Trees on Public Property**

- E7. No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved by this consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

(Reason: Protection of existing environmental infrastructure and community assets)



## **Special Permits**

- E8. Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development must occur entirely on the property.

The developer, owner or builder may apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property. In the event that a permit is granted by Council for the carrying out of works, processes, storage of materials, loading and unloading associated with the development on Council's property, the development must be carried out in accordance with the requirements of the permit. A minimum of forty-eight (48) hours notice is required for any permit: -

1) **On-street mobile plant**

Eg. cranes, concrete pumps, cherry-pickers, etc. - restrictions apply to the hours of operation, the area of operation, etc. Separate permits are required for each occasion and each piece of equipment. It is the developer's, owner's and builder's responsibilities to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

(Reason: Proper management of public land)

2) **Hoardings**

Permits are required to erect Class A and Class B hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

(Reason: Proper management of public land)

3) **Storage of building materials and building waste containers (skips) on Council's property**

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given. Storage of building materials and waste containers on open space reserves and parks is prohibited.

(Reason: Proper management of public land)

4) **Kerbside restrictions, construction zones**

Attention is drawn to the existing kerbside restrictions adjacent to the development. Should alteration of existing kerbside restrictions be required, or the provision of a construction zone, the appropriate application must be made and the fee paid to Council. Alternatives to such restrictions may require referral to Council's Traffic Committee and may take considerable time to be resolved. An earlier application is suggested to avoid delays in construction programs.

(Reason: Proper management of public land)

**Construction Hours**

E9. Building construction and works must be restricted to within the hours of 7.00 am to 5.00 pm Monday to Friday and on Saturday to within the hours of 8.00 am to 1.00 pm inclusive, with no work on Sundays and Public Holidays.

Demolition and excavation works must be restricted to within the hours of 8.00 am to 5.00 pm Monday to Friday only. For the purposes of this condition:

- a) "Building construction" means any physical activity on the site involved in the erection of a structure, cladding, external finish, formwork, fixture, fitting of service installation and the unloading of plant, machinery, materials or the like.
- b) "Demolition works" means any physical activity to tear down or break up a structure (or part thereof) or surface, or the like, and includes the loading of demolition waste and the unloading of plant or machinery.
- c) "Excavation work" means the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders, or the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site and includes the unloading of plant or machinery associated with excavation work.

All builders, excavators must display, on-site, their twenty-four (24) hour contact telephone number, which is to be clearly visible and legible from any public place adjoining the site.

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

### **Out of Hours Work Permits**

E10. Where it is necessary for works to occur outside those hours allowed by these conditions, an application may be made to Council's Customer Services Centre for a permit to carry out works outside of the approved hours. If a permit is issued the works approved must be carried out in accordance with any requirements specified in the permit. Permits will only be approved if **public safety is at risk**. Applications which seek a variation to construction hours solely to benefit the developer will require the lodgement and favourable determination of a modification application pursuant to the provisions of Section 96 of the Environmental Planning and Assessment Act 1979.

#### Notes:

- 1) Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued, or Council pursuing any action required (including legal proceedings) to have the out of hours work cease, without prior warning.
- 2) Applications for out of hour's works should be lodged with Council no later than seven (7) calendar days prior to the date of the intended works.
- 3) Examples of activities for which permits may be granted include:
  - the erection of awnings,
  - footpath, road and other infrastructure works which can not be carried out for public convenience reasons within normal hours,
  - the erection and removal of hoardings and site cranes, and
  - craneage of materials which cannot be done for public convenience reasons within normal working hours.
- 4) Examples of activities for which permits WILL NOT be granted include:
  - extended concrete pours
  - works which are solely to convenience the developer or client, and
  - catch up works required to maintain or catch up with a construction schedule.
- 5) Further information on permits can be obtained from the Council website at [www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au).

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

### **Site Amenities and Facilities**

E11. Where work involved in the erection and demolition of a building is being carried out, amenities which satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements, must be provided and maintained at all times. The type of work place determines the type of amenities required.

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

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

### **Health and Safety**

E12. All work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that warn the public to keep out of the site, and provide a contact telephone number for enquiries.

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

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

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

E13. Building materials must not be placed on Council's footpaths, roadways, parks or grass verges, (unless a permit is obtained from Council beforehand). A suitable sign to this effect must be erected adjacent to the street alignment.

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

### **Waste Disposal**

E14. All records demonstrating the lawful disposal of waste must be retained and kept readily accessible for inspection by regulatory authorities such as North Sydney Council and the Environmental Protection Authority.

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

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

#### **National Construction Code**

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

(Reason: Prescribed - Statutory)

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

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

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

**Construction Certificate**

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

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

**Occupation Certificate**

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

(Reason: Statutory)

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

**Access to Premises**

G1. Prior to the issue of any Occupation Certificate, a certificate must be prepared by an appropriately qualified and practising Access Consultant certifying that access and facilities for persons with a disability in accordance with the Building Code of Australia and AS Disability (Access to Premises – buildings) Standards 2010 (Premises Standards) has been provided. This certificate must be submitted to, and approved by, the Certifying Authority prior to issue of the Occupation Certificate.

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

### **Noise Certification**

- G2. Prior to issue of the any Occupation Certificate a certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants is to be submitted to, and approved by, the Certifying Authority certifying that the noise and vibration from use of the development complies with the conditions of consent here-in.

(Reason: To ensure acoustic amenity)

### **Certification for Mechanical Exhaust Ventilation**

- G3. Prior to issue of an Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2(a)(iii) of the Building Code of Australia, must be submitted to, and approved by, the Certifying Authority.

(Reason: To ensure compliance with acceptable standards for the construction and operation of mechanical plant)

### **Damage to Adjoining Properties**

- G4. All precautions must be taken to prevent any damage likely to be sustained to adjoining properties. Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

(Reason: To ensure adjoining owner's property rights are protected)

### **Utility Services**

- G5. All utility services shall be adjusted, to the correct levels and/or location/s required by this consent, prior to issue of an occupation certificate. This shall be at no cost to Council.

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

### **Landscaping**

- G6. The landscaping shown in the approved landscape plan numbered 1/2 "*Playspace & landscape Plan*" & 2/2 "*Details*" (Rev.2) prepared by Tessa Rose, dated 22 January 2018 and received by Council on 2 March 2018 must be completed prior to the issue of any Occupation Certificate.

(Reason: To ensure compliance)

**Damage to Adjoining Properties**

- G7. On completion of the development the subject of this consent and prior to the issue of the Occupation Certificate, a report is to be prepared by an appropriately qualified consultant and is to be provided to the Certifying Authority (and a copy to Council if it is not the Certifying Authority) certifying:
- a) whether any damage to adjoining properties has occurred as a result of the development;
  - b) the nature and extent of any damage caused to the adjoining property as a result of the development;
  - c) the nature and extent of works required to rectify any damage caused to the adjoining property as a result of the proposed development;
  - d) the nature and extent of works carried out to rectify any damage caused to the adjoining property as a result of the development; and
  - e) the nature and extent of any agreements entered into for rectification of any damage caused to the adjoining property as a result of the development.

The report and certification must reference the dilapidation survey and reports required to be provided to the Certifying Authority in accordance with this consent.

Where works required to rectify any damage caused to adjoining property as a result of the development identified in the report and certification have not been carried out, a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible prior to the issue of an Occupation Certificate.

All costs incurred in achieving compliance with this condition shall be borne by the developer.

(Reason: To ensure adjoining owner’s property rights are protected in so far as possible)

**Allocation of Spaces**

- G8. Car parking spaces must be provided and maintained at all times within the public car park in accordance with the following table:

| No. of Spaces      | Basement Level B1          | Exclusive use   |
|--------------------|----------------------------|---|
| Four (4)           | In the vicinity of Lift 01 | Child care centre users (parents/carers) for drop-off/pick-up of children between 6.30am & 9.00am and 4.30pm & 6.30pm |
| Two (2) including  | In the vicinity of Lift 03 |   |
| One (1) Accessible | Adjacent to Lift 03        |   |

The car parking spaces are to be identified on-site by line-marking and signposting upon the completion of the works and prior to issue of Occupation Certificate.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

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

**Hours of Operation**

I1. The hours of operation are restricted to:

Monday to Friday 7:00am to 6:00pm for 51 weeks per year.

Closed on Public Holidays and 1 week over Christmas/New Year period.

After Hours (indoors) 6:00pm to 8:00pm:

(a) Parent/Teachers' Information Evening (max 4 per year)

(b) Teacher Training (max 4 per year)

(Reason: to ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality)

**Trade Waste**

I2. Trade waste water must be disposed of in accordance with the permit requirements of Sydney Water Corporation Ltd, Wastewater Source Control Branch.

(Reason: To ensure compliance with Sydney Water's requirements and protect the environment)

**Noise and Vibration Impact**

I3. The on-going use of the premises approved under this consent must comply with all conditions pertaining to noise and vibration specified in this consent.

(Reason: To ensure compliance with the specified levels of noise and vibration and to maintain the amenity of surrounding land uses)

**Allocation of Spaces**

I4. The allocation of Car parking spaces within the public car park must be maintained at all times in accordance with the following table:

| No. of Spaces                        | Basement Level B1                              | Exclusive use   |
|--------------------------------------|--|---|
| Four (4)                             | In the vicinity of Lift 01                     | Child care centre users (parents/carers) for drop-off/pick-up of children between 6.30am & 9.00am and 4.30pm & 6.30pm |
| Two (2) including One (1) Accessible | In the vicinity of Lift 03 Adjacent to Lift 03 |   |



The car parking spaces are to be identified on-site by line-marking and signposting. Child care centre parking facilities must remain part of the public car park and must not at any time be sold to any occupier or owner of the child care centre tenancy.

(Reason: To ensure that adequate parking facilities to service the development are provided on site)

### **Existing Loading Dock**

I5. Vehicle deliveries and loading and unloading operations must occur within the “Specialty Retail Loading Dock” approved under development consent DA327/15 (as amended). The loading dock must be available for use in connection with the development.

(Reason: To ensure that deliveries occur within the site and do not adversely affect traffic or pedestrian amenity)

### **Loading within Site**

I6. All loading and unloading operations must be carried out wholly within the confines of the “Specialty Retail Loading Dock” and in accordance with the approved Operational Transport Management Plan, as approved under development consent DA327/15 (as amended), at all times and must not obstruct other properties or the public way.

(Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian amenity)

### **Hours of Illumination**

I7. All illuminated signs associated with the child care centre approved by this consent must cease illumination between the hours of 10:00pm and 7:00am.

(Reason: To ensure appropriate forms of signage that are consistent with Council’s controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)

### **Signage Illumination Intensity**

I8. The sign(s) must be installed and used at all times in accordance with AS 4282-1997 control of obtrusive effects of outdoor lighting and must be restricted in accordance with the following:

- (a) At no time is the intensity, period of intermittency and hours of illumination of the sign to cause objectionable glare or injury to the amenity of the neighbourhood.
- (b) The level of illumination and/or lighting intensity used to illuminate the signage must not cause excessive light spill or nuisance to any nearby residential premises.

(c) The signage illumination must not flash.

(Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)

### **No Illumination**

I9. No consent is given or implied for any form of illumination or floodlighting to the building or any sign. A separate development application must be lodged and approved prior to any external floodlighting or illumination of the building, approved sign or site landscaping.

(Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties)

### **Commercial Waste and Recycling Storage**

I10. Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins.

(Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed)

### **Waste Collection**

I11. Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

(Reason: To ensure the amenity of surrounding properties)

### **Trade Waste Collection (Crows Nest Trade Waste Policy)**

I12. All trade waste and recycling generated from the premises must be managed and disposed of in accordance with the Crows Nest Trade Waste Policy available on Council's website at [www.northsydney.nsw.gov.au](http://www.northsydney.nsw.gov.au)  
Arrangements for the collection and storage of trade waste bins must comply with the following:

- (a) Bins must be placed out for collection no earlier than 5.00pm and no later than 10.00pm on the day before collection.
- (b) All trade waste must be collected between the hours of 6.00am and 10.00am.
- (c) Waste and recycling bins are not to be stored permanently in streets and laneways unless specifically prescribed by Council in writing.

(Reason: To ensure compliance with Council's waste controls for the Crows Nest commercial area)

### **Delivery Hours**

I13. No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

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

### **Shop Premises Registration**

I14. The shop premises must be registered with Council and NSW Food Authority prior to commencement of operation of the approved activity. Shop Premises Registration must be maintained at all times.

Note:

- a) Council registration forms can be found at <http://www.northsydney.nsw.gov.au>
- b) Notification is required to the NSW Food Authority under Standard 3.2.2 Division 2 Section 4 Notification. (see [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au))

(Reason: To ensure compliance with environmental health legislation)

### **Lighting of Outdoor Play Areas**

I15. Lighting of the outdoor play areas must not be illuminated between 10:00pm and 7:00am. The design and placement of the lighting must:

- (a) be directed away from any residential dwelling;
- (b) not create a nuisance or negatively affect the amenity of the surrounding neighbourhood; and
- (c) comply with AS4282-1997 control of obtrusive effects of outdoor lighting.

(Reason: To ensure residential premises are not affected by inappropriate or excessive illumination)

### **Maintenance of Approved Landscaping**

I16. The owner/operator of the child care centre is to maintain the landscaping approved by this consent generally in accordance with landscape plans numbered 1/2 "*Playspace & Landscape Plan*" & 2/2 "*Details*" (Rev.2) prepared by Tessa Rose dated 22 January 2018 and received by Council on 2 March 2018.

Any replacement plants required shall be advanced in growth and be selected to maintain the anticipated mature height, canopy density and nature of those plant species as originally approved.

Should it be desired to substitute plants which are not of the same mature height, canopy density and nature (particularly flowering for non flowering, native for exotic, deciduous for non deciduous or the reverse of any these) a modification to this consent will be required.

(Reason: To ensure maintenance of the amenity, solar access and views of adjoining properties)

### **Child Care Centre Maximum Capacity**

I17. The maximum number of children allowed by this consent within the child care centre is **75** children.

(Reason: Protection of residential amenity and to assist in assessing ongoing compliance)

### **Accessible Path of Travel**

I18. An accessible path of travel between the child care centre and the car park in Basement Level B1 shall be provided generally in accordance with the following:

- (a) In relation to **Lift 01**, drawings by Nettleton Tribe numbered S4698\_114 *Basement Level B1 Floor Plan* (Rev.B), S4698\_115 *Lowerground Level Floor Plan* (Rev.P13) dated 15/12/17 and S4698\_116 *Ground Level Floor Plan* (Rev.A), received by Council on 26/3/18; and
- (b) In relation to **Lift 03**, drawings by Nettleton Tribe numbered S4698\_114 *Basement Level B1 Floor Plan* (Rev.E) dated 28/5/18 and S4698\_116 *Ground Level Floor Plan* (Rev.M) dated 11/7/18, received by Council on 27/7/18.

(Reason: To ensure provision of proximate and accessible paths of travel between the Upper Ground floor (entry to child care centre) and the car park in Basement Level B1)

### **Use of Lift 03**

I19. Use of Lift 03 in the south eastern part of the development is to comply with the following:

- (a) Lift 03 must be made available for use of the child care centre for access from Basement Level B1 to Upper Ground Floor level at all times during the approved hours of operation of the child care centre; and
- (b) Access to the residential levels via Lift 03 must be secured for residential use only, and any after-hours access to the lobby and lift associated with the child care centre must be via security swipe only.

In the case of Strata subdivision any car parking for strata lots for residential purposes must be individually allocated to its corresponding residential strata lot as part of each lot's unit entitlement

(Reason: To ensure provision of an accessible path of travel between the Upper Ground floor (entry to child care centre) and the car park in Basement Level B1; safety and residential amenity)

### **Plan of Management**

I20. The management of the child care centre shall be conducted in accordance with the *Operational Plan of Management Proposed Child Care Centre at 101-111 Willoughby Road Crows Nest* dated April 2018 and received by Council on 17 April 2018, and except where otherwise amended by the conditions of this consent.

(Reason: To ensure the ongoing operation of the child care centre is in accordance with the terms of this consent)

### **Emergency Management Measures**

I21. The specific requirements listed in Consultants Advice "Childcare Fire Safety Clarifications" by Core Engineering Group dated and received by Council on 17 April 2018 shall be implemented and maintained during operations, including but not limited to the following:

- (a) Fire separation, automatic sprinkler protection, smoke detection, sound & intercom systems are to be provided and maintained, as outlined in Section 4.1 of the Consultants Advice;
- (b) A fire protected safe haven, directly connected to the fire isolated stair (Stair 07) must be provided for the staging and gathering of occupants before commencing evacuation, noting that the architectural drawing must be updated to ensure the safe haven is dedicated to the child care centre and is separated from the fire isolated stair; and
- (c) Storage areas for evacuation must be included in the design, adjacent the safe refuge areas.

(Reason: Fire safety)