

Original signed by Kim Rothe on 6/10/2021
Date determined 6/10/2021
Date operates 15/10/2021
Date lapses 15/10/2026

Toongame P/L
C/- Design Collaborative
304/105 Pitt Street
SYDNEY NSW 2000

D101/21
HS1 (CIS)

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 AS AMENDED
NOTICE OF DETERMINATION – Approval

Issued under 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”)

Development Application Number:	101/21
Land to which this applies:	206 Blues Point Road, McMahon's Point Lot No.: 1, DP: 565890
Applicant:	Toongame P/L
Proposal:	Alterations and additions to an existing hotel, including the conversion of an existing ground floor parking to a gaming room and new illuminated signage.
Determination of Development Application:	The development application was considered by the North Sydney Local Planning Panel (NSLPP) on 6 October 2021. 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.
Date of Determination:	6 October 2021
Reason for approval:	The Panel notes a Plan of Management is a requirement of the conditions and this includes hours of operation reflected in the existing liquor licenses as well as a requirement for a register of complaints to be maintained and made available for inspection by Council if required to ensure the amenity of the local area is reasonably maintained. The Panel considers the proposal is worthy of support having regard to its potential to impact on the amenity of the neighbourhood and having regard to the officer's report.

Consent to operate from: 15 October 2021

Consent will lapse on: 15 October 2026

Period of Consent

Subject to Section 4.20 of the Act, this consent becomes effective and operates from the date listed above. The consent lapses five years after the date of consent in accordance with Section 4.53 of the Act and cannot be extended. To activate this consent, works must physically commence onsite by 15 October 2026.

How community views were taken into account:

The submissions received by Council were addressed in the NSLPP report (see Council's website: [North Sydney Council - 6 October 2021 \(nsw.gov.au\)](https://www.northsydney.nsw.gov.au/6-October-2021))

Review of determination and right of appeal:

Within 6 months after the date of notification of the decision, 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. A review of determination should be lodged as soon as possible, and preferably no later two months after the date of notification of the decision to enable the review to be completed within the six-month period.

Plans endorsed by the consent authority – please refer to condition A1

Endorsed for and on behalf of North Sydney Council

DATE

Per
Signature on behalf of consent authority
DAVID HOY
TEAM LEADER (ASSESSMENTS)

(i) **Conditions**

Consent is granted subject to the following conditions imposed pursuant to Section 4.17 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 4.17 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.

Principal Certifier for building or subdivision work means the certifier appointed as the principal certifier for the building work under section 6.6 (1) or for the subdivision work under section 6.12 (1).

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.

INDEX OF CONDITIONS

	Page No.
A. Conditions that Identify Approved Plans	
A1. Development in Accordance with Plans/documentation	8
A2. Plans on Site	8
A3. No Demolition of Extra Fabric	9
A4. Terms of Consents	9
B. Matters to be Completed before the lodgement of an Application for a Construction Certificate	
B1. Construction and Traffic Management Plan (Major DAs & sites with difficult access)	9
C. Prior to the Issue of a Construction Certificate (and ongoing, where indicated)	
C1. Plan of Management	11
C2. Construction Management Plan	11
C3. NSW Police Conditions	12
C4. Union Street Signage	12
C5. Dilapidation Report Damage to Public Infrastructure	13
C6. Dilapidation Survey Private Property (Neighbouring Buildings)	13
C7. Structural Adequacy of Existing Building	14
C8. Waste Management Plan	14
C9. Work Zone	14
C10. Maintain Property Boundary Alignment Levels	15
C11. Required Infrastructure Works –Roads Act 1993	15
C12. Obtain Driveway Crossing Permit under S.138 Roads Act 1993	17
C13. Stormwater Disposal – Drainage Plan	18
C14. Bond for Damage and Completion of Infrastructure Works – Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement	18
C15. Tree Bond for Public Trees	19
C16. Cleanliness and Maintenance of Food Preparation Areas	20
C17. Garbage and Recycling Facilities	21
C18. Noise from Plant and Equipment	21
C19. Vibration from Plant and Equipment	21
C20. Noise Control (Licensed Premises)	22
C21. Compliance with Acoustic Report	23
C22. Provision of Accessible Paths of Travel	23
C23. Section 7.11 Contributions	24
C24. Security Deposit/ Guarantee Schedule	24
C25. Amendments to the Landscape Plan	25
D. Prior to the Commencement of any Works (and continuing where indicated)	
D1. Tree Protection Requirements	25
D2. Public Liability Insurance – Works on Public Land	26
D3. Commencement of Works Notice	26

E. During Demolition and Building Work

E1.	Parking Restrictions	26
E2.	Road Reserve Safety	27
E3.	Temporary Disposal of Stormwater Runoff	27
E4.	Council Inspection of Public Infrastructure Works	27
E5.	Removal of Extra Fabric	28
E6.	Noise and Vibration	28
E7.	No Work on Public Open Space	28
E8.	Developer's Cost of Work on Council Property	28
E9.	No Removal of Trees on Public Property	28
E10.	Special Permits	29
E11.	Construction Hours	30
E12.	Installation and Maintenance of Sediment Control	30
E13.	Sediment and Erosion Control Signage	31
E14.	Health and Safety	31
E15.	Prohibition on Use of Pavements	31
E16.	Plant & Equipment Kept Within Site	31
E17.	Waste Disposal	32

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

F1.	National Construction Code	32
F2.	Appointment of a Principal Certifier (previously known as a PCA)	32
F3.	Construction Certificate	32
F4.	Occupation Certificate	32
F5.	Critical Stage Inspections	33
F6.	Demolition	33
F7.	Protection of Public Places	33

G. Prior to the Issue of an Occupation Certificate

G1.	Plan of Management to be updated	33
G2.	Infrastructure Repair and Completion of Works	34
G3.	Access to Premises	34
G4.	Noise Certification	34
G5.	Damage to Adjoining Properties	34
G6.	Utility Services	35

I. On-Going / Operational Conditions

I1.	Patron Numbers	35
I2.	Noise	35
I3.	NSW Police Conditions	36
I4.	Hours of Operation	37
I5.	Hours of Operation – trial period (Lower ground floor gaming room & sports bar)	37
I5A	Noise Conditions for Licensed Premises	38
I6.	Trade Waste	39
I7.	Noise and Vibration Impact	39

I8.	Hours of Illumination	39
I9.	Signage Illumination Intensity	39
I10.	Patron Behaviour	40
I11.	Plan of Management	40
I12.	Daily Cleaning	40
I13.	Waste Collection	41
I14.	Delivery Hours	41

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	Dated	Title	Drawn by	Received
DA0101	D	18 6 2021	Ground Floor Existing & Demolition Plan	Paul Kelly Design	25.6.21
DA0102	D	18 6 2021	Ground Floor Proposed Plan	Paul Kelly Design	25.6.21
DA1101	D	18 6 2021	First Floor Existing & Demolition Plan	Paul Kelly Design	25.6.21
DA1102	D	18 6 2021	First Floor Proposed Plan	Paul Kelly Design	25.6.21
DA1104	D	18 6 2021	First Floor Proposed GFA Plan	Paul Kelly Design	25.6.21
DA3101	D	18 6 2021	Roof Existing and Demolition Plan	Paul Kelly Design	25.6.21
DA3102	D	18 6 2021	Roof Proposed Plan	Paul Kelly Design	25.6.21
DA301	D	18 6 2021	External Elevation	Paul Kelly Design	25.6.21
DA302	D	18 6 2021	External Elevation	Paul Kelly Design	25.6.21
201428.5 P	A	April 2021	Plan of Management	Design Collaborative	25.6.21

(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)

No Demolition of Extra Fabric

- A3. Alterations to, and demolition of the existing building shall be limited to that documented on the approved plans.

(Reason: To ensure compliance with the approved development)

Terms of Consent

- A4. Approval is granted for alterations and additions to the existing food and drink premise (pub) on the subject site, including the conversion of a ground floor car park to a gaming room with associated business identification signage. No consent is granted for any other works other than that outlined in this consent.

Furthermore, any future requests for on-street drop off/pick up or any other short or long-term parking spaces for future patron's will not be granted consent by Council due to existing patron car spaces becoming a gaming room.

(Reason: To ensure that the terms of the consent are clear.)

B. *Matters to be Completed before the lodgement of an Application for a Construction Certificate*

Construction and Traffic Management Plan (Major DAs & sites with difficult access)

- B1. Prior to issue of any Construction Certificate, a Construction and Traffic Management Plan must be prepared. The following matters must be specifically addressed in this Plan:

- a) A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
 - i. Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways,
 - ii. Signage type and location to manage pedestrians in the vicinity,
 - iii. The locations of any proposed Work Zones in the frontage roadways,
 - iv. Locations and type of any hoardings proposed,
 - v. Area of site sheds and the like,
 - vi. Location of any proposed crane standing areas,
 - vii. A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries,
 - viii. Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected, and
 - ix. The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible.
- b) A Traffic Control Plan(s) for the site incorporating the following: -

- i. Traffic control measures proposed in the road reserve that are in accordance with the **TfNSW** publication "Traffic Control Worksite Manual" and designed by a person licensed to do so (minimum **TfNSW** 'red card' qualification).
 - ii. The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
- c) A detailed description and map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided detailing light traffic roads and those subject to a load or height limit must be avoided at all time.

A copy of this route is to be made available to all contractors and must be clearly depicted at a location within the site.

- d) A Waste Management Plan in accordance with the provisions of Part B Section 19 of the North Sydney DCP 2013 must be provided. The Waste Management Plan must include, but not be limited to, the estimated volume of waste and method of disposal for the construction and operation phases of the development, design of on-site waste storage and recycling area and administrative arrangements for waste and recycling management during the construction process,
- (e) Evidence of **TfNSW** concurrence where construction access is provided directly or within 20m of an Arterial and/or Classified Road,
- (f) A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements, and
- (g) For those construction personnel that drive to the site, the Site Manager shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.

A suitably qualified and experienced traffic engineer or consultant must prepare the Construction and Traffic Management Plan.

As this plan has a direct impact on the local road network, it must be submitted to and reviewed by Council prior to the issue of any Construction Certificate. A certificate of compliance with this condition from Council's **Traffic and Transport Engineers** as to the result of this review must be obtained and must be submitted as part of the supporting documentation lodged with the Certifying Authority for approval of the application for a Construction Certificate.

The construction management measures contained in the approved Construction and Traffic Management Plan must be implemented prior to the commencement of, and during, works on-site.

All works must be undertaken in accordance with the approved Construction and Traffic Management Plan.

A copy of the approved Construction and Traffic Management Plan must be kept on the site at all times and be made available to any officer of the Council on request.

Notes:

- 1) North Sydney Council's adopted fee for certification of compliance with this condition must be paid upon lodgement, or in any event, prior to the issue of the relevant approval.
- 2) Any use of Council property will require appropriate approvals and demonstration of liability insurances prior to such work commencing.
- 3) Failure to provide complete and detailed information may result in delays. It is recommended that your Construction and Traffic Management Plan be lodged with Council as early as possible.
- 4) Dependent on the circumstances of the site, Council may request additional information to that detailed in the condition above.

(Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the demolition and construction process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

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

Plan of Management

- C1. The Plan of Management as prepared by Design Collaborative dated April 2021, must be complied with at all times. Any changes to the Plan of Management must be approved by Council.

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

Construction Management Plan

- C2. A Construction Traffic Management Plan be prepared and submitted to Council for approval by the North Sydney Traffic Committee prior to the issue of the Construction Certificate.

Any use of Council property shall require appropriate separate permits/ approvals.

(Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the demolition process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

NSW Police Conditions

C3. The following conditions are recommended by the NSW Police:

- i. The site will need to be clearly identified through a business name and street number and be visible from the street. This will enable all emergency services to locate the premises.
- ii. Appropriate signage should be erected inside and around the perimeter of the entire property to warn of security treatments in place e.g. "This site is under 24 hour video surveillance". Appropriate internal signs should be used to guide patrons through the property.
- iii. All 'Staff only' areas should be clearly marked as such and physical barriers such as doors and gates should be erected to prevent unauthorised entry.
- iv. Staff should be provided with a secure area in which to store their personal effects whilst working.
- v. Doors should be of solid construction, and should be fitted with quality deadlock sets that comply with the Building Code of Australia and Australian Standards – Lock Sets AS:4145.
- vi. Windows within the building should also be of solid construction. These windows should be fitted with quality window lock sets that comply with the Australian Standards – Lock Sets AS:4145. Glass within doors and windows should be reinforced to restrict unauthorised access. The glass can be either fitted with a shatter-resistant film or laminated to withstand physical attacks.
- vii. An emergency control and evacuation plan should be implemented within the hotel. Management and staff should be trained in the execution of the plan in emergency situations.
- viii. The landscaping design around the hotel needs to be free from potential hiding places and provide sightlines throughout the outside areas. Trees and shrubs should be maintained regularly to reduce concealment opportunities and increase visibility. Avoid the use of landscaping materials, which could, when mature, serve as screens or barriers to impede views.

(Reason: To ensure the safety of the owners, customers and general community)

Union Street Signage

C4. The proposed signage on the Union Street frontage is to be backlit and not wholly internally illuminated.

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 a reasonable level of amenity for nearby residential properties)

Dilapidation Report Damage to Public Infrastructure

- C5. A dilapidation survey and report (including photographic record) must be prepared by a suitably qualified consultant which details the pre-developed condition of the existing public infrastructure in the vicinity of the development site. Particular attention must be paid to accurately recording any pre-developed damaged areas so that Council is fully informed when assessing any damage to public infrastructure caused as a result of the development. A copy of the dilapidation survey and report is to be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate.

The developer may be held liable for all damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded and demonstrated as pre-existing under the requirements of this condition.

The developer shall bear the cost of carrying out works to restore all public infrastructure damaged as a result of the carrying out of the development, and no occupation of the development shall occur until damage caused as a result of the carrying out of the development is rectified.

A copy of the dilapidation survey and report must be lodged with North Sydney Council by the Certifying Authority with submission of the Construction Certificate documentation.

(Reason: To record the condition of public infrastructure prior to the commencement of construction)

Dilapidation Survey Private Property (Neighbouring Buildings)

- C6. A photographic survey and dilapidation report of adjoining properties No's. 188 Blues Point Road and 121 Union Street detailing the physical condition of those properties, both internally and externally, including, but not limited to, such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate. The survey and report is to be prepared by an appropriately qualified person agreed to by both the applicant and the owner of the adjoining property. A copy of the report is to be provided to Council, if Council is not the Certifying Authority, prior to the issue of any Construction Certificate.
All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the photographic survey and dilapidation report is denied by an adjoining owner, the applicant MUST DEMONSTRATE, in writing, to the satisfaction of Council 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. Written concurrence must be obtained from Council in such circumstances.

Note: This documentation is for record keeping purposes only, and may be used by an applicant or affected property owner to assist in any action required to resolve any dispute over damage to adjoining properties arising from the works. It is in the applicant's and adjoining owner's interest for it to be as full and detailed as possible.

(Reason: Proper management of records)

Structural Adequacy of Existing Building

- C7. 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

- C8. 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)

Work Zone

- C9. If a Work Zone is proposed, an application must be made to the North Sydney Local Traffic Committee to install the 'Work Zone'. A Work Zone permit is required to be issued by the Council prior to the issue of any Construction Certificate.

Work Zones are provided specifically for the set down and pick up of materials and not for the parking of private vehicles associated with the site. Works Zones will generally not be approved where there is sufficient space on-site for the setting down and picking up of goods being taken to or from a construction site. If the Works Zone is approved by the Committee, the Applicant must obtain a written copy of the related resolution from the North Sydney Local Traffic Committee and submit a copy of this to the Certifying Authority to enable issue of the Construction Certificate.

Where approval of the 'Work Zone' is given by the Committee, the requirements of the Committee, including installation of the necessary 'Work Zone' signage and payment of any fees, must occur prior to commencement of any works on the site. Further, at the expiration of the Work Zone approval, the developer is required to remove the Work Zone signs and reinstate any previous signs, all at the developer's cost. The requirements imposed by the Committee on the Work Zone permit (or permits) must be complied with at all times.

(Reason: Amenity and convenience during construction)

Maintain Property Boundary Alignment Levels

- C10. Except where otherwise approved by Council, the property boundary alignment levels must match the levels which existed prior to the commencement of works. Plans and specifications which document existing and proposed levels adjacent to the site boundaries and which comply with the requirements of 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 interface between property and public land remains uniform)

Required Infrastructure Works –Roads Act 1993

- C11. Prior to issue of any Construction Certificate engineering design plans and specifications must be prepared by a qualified civil design engineer. An application must be made to Council on the "To Satisfy DA Consent Condition" application form with payment of the adopted assessment/inspection fees. The plans and specifications must be to a detail suitable for construction issue purposes and must provide detail and specification for the following infrastructure works to be completed as part of the development:

Road Works

- a) All elements of the works within the road reserve must be constructed in accordance with the latest version of Council's documents:

- ☐ *Infrastructure Specification,*
- ☐ *Public Domain Style Manual and Design Codes*
- ☐ *Vehicular Access Application Guidelines and Specification*

- b) Construction of a new full width footpath pavement in accordance with Council's *Public Domain Style Manual and Design Codes*, for the Village Centres and Activity Strips, is required across the entire site frontage in Blues Point Road, including the corner and kerb ramps on Blues Point Road and Union Street. A longitudinal section is required along the footpath property boundary at a scale of 1:50@A3, extending 5.0 m past the property side boundary lines.
- c) All new footpaths shall be designed and constructed at a single straight cross fall grade of 3.0% falling to the kerb so that it is uniform without showing signs of dipping or rising particularly at entrance.
- d) Construction of a fully new concrete kerb and gutter is required across the entire site frontage in Blues Point Road, including the corner at the intersection of Blues Point Road and Union Street. A longitudinal section is required along the gutter line (existing and proposed levels), at a scale of 1:50 extending 5m past the property boundary line.
- e) Reconstruction of the carriageway shoulder will be required, extending out one lane width from the gutter lip in AC10 - 50mm thick, adjacent to all new gutter works.
- f) cross sections at a scale of 1:50 along the centreline of each access point to the building must be provided and are to show the calculated clearance to the underside of any overhead structure. All the entry points are to comply with the Building Code of Australia (BCA), including disability requirements. The Council approved footpath levels must be accommodated at the building entry points.

Certifying Authorities must not issue a Construction Certificate without the formal written approval of Council (as Roads Authority) under the Roads Act 1993.

The required plans and specifications are to be designed in accordance with North Sydney Council's current documents Infrastructure Specification for Road Works, Drainage and Miscellaneous Works and Performance Guide for Engineering Design and Construction. The drawings must detail existing utility services and trees affected by the works, erosion control requirements and traffic management requirements during the course of works. A detailed survey must be undertaken as required. Traffic management is to be certified on the drawings as being in accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RMS Traffic Control at Work Sites (1998). **Construction of the works must proceed only in accordance with any conditions attached to the Council Roads Act 1993 approval.**

Note: *A minimum of 21 days will be required for Council to assess Roads Act submissions. Early submission is recommended to avoid any delays in obtaining a Construction Certificate. A fee to cover cost of assessment (set out in Council's adopted fees and charges) is payable and Council will withhold any consent and approved plans until full payment of the correct fees. Plans and specifications must be marked to the attention of Council's Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number.*

(Reason: To ensure infrastructure works are designed and constructed to appropriate standards and requirements of the Roads Act 1993)

Obtain Driveway Crossing Permit under S.138 Roads Act 1993

C12. A driveway crossing and roads infrastructure works permit to suit the approved off-street parking facilities must be granted by the Council prior to the issue of any Construction Certificate. In order to obtain a permit under S.138 of the Roads Act 1993, an application must be made to Council on the 'Vehicular Access Application' form with payment of the adopted assessment/inspection fees. Council will require civil design construction drawings and certification from the applicant's Civil Engineer to verify design details and enable issue of the permit. The requirements of the permit must be complied with at all times.

The civil design drawings must include the following at a minimum: -

- a) the vehicular access way must comply with AS 2890.1, AS2890.2 and Council's current Vehicular Access Application Guidelines and Specifications (gutter bridges not permitted) to ensure that a B85 vehicle will not scrape/strike the surface of the carriageway, layback, vehicular crossing or loading bay floor,
- b) the redundant layback crossing must be removed and reconstructed,
- c) the width of the new vehicular layback must be 9.0 metres (including the wings)
- d) the vehicular crossover must be set square to the kerb,
- e) the gutter levels and boundary footpath levels must match the existing levels and shall not be altered,
- f) new footpath, kerb/gutter and road shoulder works are required for the full property frontage in Blues Point Road,
- g) the works will require reconstruction of the carriageway shoulder extending out one lane width from the gutter lip in AC10 - 50mm thick, adjacent to all new gutter works,
- h) any twisting of the driveway access must occur entirely within the subject property,
- i) all inspection openings, utility services must be adjusted to match the proposed driveway levels,
- j) sections along centreline and extremities are required at a scale of 1:50 to be taken from the centreline of the roadway through to the loading bay itself and must include all changes of grade and levels both existing and proposed,
- k) a longitudinal section along the gutter line at a scale of 1:50 showing how it is intended to blend the vehicular crossing with the existing kerb and gutter,
- l) a longitudinal section along the footpath property boundary at a scale of 1:50 is required,
- m) the sections must show the calculated clearance to the underside of any overhead structure,
- n) a swept path analysis is required demonstrating that a Medium Rigid Vehicle (MRV) can manoeuvre in and out of the loading bay in accordance with AS 2890.2 2004 "Off Street Commercial Vehicle Facilities".

The permit must be granted by Council prior to the issue of any Construction Certificate.

All driveway and infrastructure works on the road reserve must be undertaken in accordance with the terms of the permit issued by Council. Inspections by Council will be required as specified. The Certifying Authority issuing the Construction Certificate must ensure that the permit issued by Council is obtained and referenced on and accompanies the Construction Certificate issued.

(Reason: To facilitate appropriate vehicular access to private sites, without disruption to pedestrian and vehicular traffic)

Stormwater Disposal – Drainage Plan

C13. Prior to the issue of any Construction Certificate, site drainage plans must be prepared by a licensed plumber or drainage engineer. The site drainage plans must –be designed in accordance with the following criteria:

- a) compliance with BCA drainage requirements and current Australian Standards and guidelines,
- b) stormwater runoff and subsoil drainage generated by the approved development must be conveyed in a controlled manner by gravity to the kerb/gutter in Blues Point Road,
- c) new pipelines within council land shall be hot dipped galvanised steel hollow section with a minimum wall thickness of 4.0 millimetres and a section height of 100 millimetres,
- d) the design and installation of the Rainwater Tanks shall comply with BASIX and Sydney Water requirements. Overflow from tank shall be connected by gravity to the stormwater disposal system, and
- e) prevent any stormwater egress into adjacent properties by creating physical barriers and surface drainage interception.

Drainage 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: Proper disposal of stormwater)

Bond for Damage and Completion of Infrastructure Works – Stormwater, Kerb and Gutter, Footpaths, Vehicular Crossing and Road Pavement

C14. Prior to the issue of any Construction Certificate, security deposit or bank guarantee must be provided to Council to the sum of \$115,000.00 to be held by Council for the payment of cost for any/all of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which this consent relates,

- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and [environmental controls](#)) required in connection with this consent
- c) remedying any defects in any such public work that arise within 6 months after the work is completed.

The security required by this condition and in the schedule contained later in these conditions must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate or completion of public work required to be completed (whichever is the latest) but only upon inspection and release by Council's Engineers.

Council shall have full authority to make use of the bond for such restoration works as deemed necessary by Council in circumstances including the following: -

- where the damage constitutes a hazard in which case Council may make use of the security immediately;
- the applicant has not repaired or commenced repairing damage within 48 hours of the issue by Council in writing of instructions to undertake such repairs or works;
- works in the public road associated with the development are to an unacceptable quality; and
- the Certifying Authority must ensure that security is provided to North Sydney Council prior to issue of any Construction Certificate.

(Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure)

Tree Bond for Public Trees

C15. **Tree Bond Value (indicative)**

Small trees (small residential): \$3,000 per tree

Significant Trees: \$5,000 per tree

Major development: \$10,000 per tree as advised by Landscape Development Officer

Prior to the issue of any construction certificate, security in the sum of **\$50,000** for five (5) x mature Platanus species trees planted in the council verge (two (2) on the Blues Point Road frontage, and three (3) on the Union Street frontage. The sum must be provided to Council for the protection of trees in public places, including the making good of any damage caused to such trees. The security is to be provided in accordance with the Schedule below.

The security must be provided by way of:

a deposit with the Council; or

a guarantee satisfactory to Council (such as a satisfactory bank guarantee).

The security will be refundable following the expiration of 6 months from the issue of any final Occupation Certificate but only upon inspection and release by Council's Landscape Development Officer.

If any tree is removed or damaged Council may deduct from this security the reasonable cost of replacement with a tree of the same species and to a similar stage of growth it would have attained at the completion of the work.

In the case of any tree, which cannot be replaced with a similar specimen, the security for that tree will be forfeited to Council and used to provide replacement street plantings.

SCHEDULE

- Five (5) x mature Platanus species trees:
- Two (2) on the Blues Point Road frontage; and
- Three (3) on the Union Street frontage.

(Reason: Protection of existing environment public infrastructure, community assets and significant trees)

Cleanliness and Maintenance of Food Preparation Areas

C16. 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

C17. 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)

Noise from Plant and Equipment

C18. 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)

Vibration from Plant and Equipment

C19. The use of all plant and equipment to be installed on the premises must comply with the vibration limits specified in “Assessing Vibration: a technical guideline” issued by the NSW Environment Protection Authority, at the boundary of any affected receiver.

A certificate from an appropriately qualified acoustical consultant eligible for membership of the Association of Australian Acoustic Consultants must be submitted to the Certifying Authority, certifying that all plant and equipment on the site, together with the proposed plant and equipment, operating contemporaneously will comply with the requirements of this condition.

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.

“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 and commercial premises and such other affected receiver as may be notified by the Council in writing.

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

“contemporaneously” means *existing at or occurring in the same period of time* (Macquarie Dictionary 3rd rev. ed. 2004).

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

Noise Control (Licensed Premises)

C20. The use of the premises must comply with the following:

- (a) The LA10 noise level emitted from the use of the premises must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 5dB between the hours of 7.00am and 12.00 midnight when assessed at the boundary of any affected residence.
- (b) The LA10 noise level emitted from the use must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between the hours of 12.00 midnight and 7.00am when assessed at the boundary of any affected residence.
- (c) Notwithstanding compliance with (a) and (b) above, the noise from the use must not be audible within any habitable room or sleeping area in any affected residence between the hours of 12.00 midnight and 7.00am.
- (d) The LA10 noise level emitted from the use must not exceed the background noise level (LA90) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 3dB when assessed indoors at any affected commercial premises with windows closed.
- (e) The use of the premises must be controlled so that any emitted noise is at a level so as not to create an “offensive noise” as defined in the *Protection of the Environment Operations Act 1997*.

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

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

LA10 is the average maximum A-weighted Fast Response sound level emitted from the premises.

LA90 shall be measured in the absence of all noise from the premises (including mechanical plant noise).

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 ensure the amenity of surrounding land uses)

Compliance with Acoustic Report

- C21. The recommendations contained in the acoustic report prepared by “*Renzo Tonin & Associates*” dated 12 March 2021, must be adhered to at all times namely: -

A statement from an appropriately qualified acoustical consultant eligible for Membership of the Association of Australian Acoustic Consultants, certifying that the acoustic mitigation measures outlined in the above stated report have been suitably incorporated into the development and that relevant noise criteria have been satisfied, must be submitted 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)

Provision of Accessible Paths of Travel

- C22. The building must be designed and constructed to provide access and facilities in accordance with the Building Code of Australia and Disability (Access to Premises – Buildings) Standards 2010. 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.

Notes:

1. If, in complying with this condition, amendments to the development are required, the design changes must be submitted for the approval of Council prior to a Construction Certificate being issued. Approval of a modification application may be required.

2. It is not within Council's power to set aside National legislation which requires the upgrade of buildings to meet modern access standards. Such decisions remain the jurisdiction of the Building Professionals Board Access Advisory Committee who may grant an exemption in certain exceptional circumstances.
3. Information on making an application for an "unjustifiable hardship exemption" under the accessibility standards can be found in the website of the NSW Building Professional Boards at <http://www.bpb.nsw.gov.au/page/premises-standards>

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

Section 7.12 Development Contributions

- C23. A monetary contribution pursuant to the provisions of Section 7.12 of the Environmental Planning and Assessment Act 1979 is to be paid to Council, in accordance with the North Sydney Council's Contribution Plan, to provide for local infrastructure improvements.

Based on the cost of development at the date of determination, the total contribution payable to Council is \$26,703.

Indexation

The monetary contribution required under this consent will be indexed between the date of the grant of the consent and the date on which the contribution is paid the time of payment in accordance with quarterly movements in the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

Timing of payment

The contribution must be paid to Council prior to issue of any Construction Certificate for any work approved by this consent.

A copy of the North Sydney Contribution Plan can be viewed at North Sydney Council's Customer Service Centre, 200 Miller Street, North Sydney or downloaded via Council's website at www.northsydney.nsw.gov.au

(Reason: To provide for local infrastructure identified in the North Sydney Council Local Contributions Plan 2020)

Security Deposit/ Guarantee Schedule

- C24. All fees and security deposits/ guarantees in accordance with the schedule below must be provided to Council prior to the issue of any Construction Certificate:

Security deposit/ guarantee	Amount (\$)
Infrastructure Bond	\$115,000.00
Tree Bond (5 x mature Platanus species)	\$50,000.00
TOTAL BONDS	\$165,000.00

Note: The following fees applicable

Fees	Amount (\$)
Section 7.12 Contributions	\$26,703.00
TOTAL	\$26,703.00

The security required by the above schedule must be provided by way of a deposit with the Council; or other such guarantee that is satisfactory to Council (such as a bank guarantee). Any guarantee provided as security must name North Sydney Council as the nominated beneficiary and must not be subject to an expiry date.

(Reason: Compliance with the development consent)

Amendments to the Landscape Plan

C25. The landscape plan must be amended as follows to provide an appropriate landscaped setting:

- The *Ficus elastica* 'Burgundy' shall be replaced with a less invasive species that is less likely to cause future problems with containment structures.
- Plant species shall be identified with their correct scientific nomenclature (not common names), and plant referred to as "*variegated ficus green*" may need to be substituted depending on what it turns out to be."

An amended landscape plan 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 amended landscape plan and other plans and specifications submitted fully satisfy the requirements of this condition.

(Reason: To ensure residential amenity)

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

Tree Protection Requirements

D1. The tree tree protection and management requirements as detailed in the Arborist report prepared by Urban Arbor dated 28 May 2021 must be strictly adhered to.

The five (5) Platanus species shall be protected in accordance with AS4970, no roots greater than 40mm shall be cut, trunk and branch protection shall be installed for the duration of works. No pruning are permitted as part of this consent.

(Reason: To ensure the ongoing vitality of the landscaping adjacent to the subject site.)

Public Liability Insurance – Works on Public Land

- D2. 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

- D3. 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

Parking Restrictions

- E1. 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

- E2. 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)

Temporary Disposal of Stormwater Runoff

- E3. During construction, stormwater runoff must be disposed in a controlled manner that is compatible with the erosion and sediment controls on the site. Immediately upon completion of any impervious areas on the site (including roofs, driveways, paving) and where the final drainage system is incomplete, the necessary temporary drainage systems must be installed to reasonably manage and control runoff as far as the approved point of stormwater discharge. Such ongoing measures must be to the satisfaction of the Certifying Authority.

(Reason: Stormwater control during construction)

Council Inspection of Public Infrastructure Works

- E4. During the works on public infrastructure reverting to Council's care and control, Council's development engineer may undertake inspections of the works at the following hold points: -
- a) Formwork for layback, kerb/gutter, etc; and
 - b) All reinforcement for the concrete base beneath pavers.

All works must proceed in accordance with Roads Act 1993 approvals or other permits relating to roads issued by Council. A minimum of 48 hours notice must be given to Council to book an inspection. Work must not proceed until the works or activity covered by the inspection is approved.

(Reason: To ensure quality of construction joints and connections in the drainage system)

Removal of Extra Fabric

- E5. 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

- E6. 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)

No Work on Public Open Space

- E7. No work can be undertaken within adjoining public lands (ie. Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the developer is to liaise with Council prior to the commencement of any design works or preparation of a Construction and Traffic Management Plan.

(Reason: Protection of existing public infrastructure and land and to ensure public safety and proper management of public land)

Developer's Cost of Work on Council Property

- E8. 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

- E9. 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

- E10. 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 (Commercial Core & Mixed Use Zones)

- E11. Construction activities and works approved under this consent must be carried out only within the hours stipulated in the following table:

Standard Construction Hours		
Location	Day	Hours
B3 Commercial Core B4 Mixed Use	Monday – Friday	7.00am – 7.00pm
	Saturday	8.00am – 1.00pm
	Sunday	No work permitted
	Public holiday	

Construction activities for development approved under this consent must be carried out in accordance with the standard construction hours above and any Construction Noise Management Plan required under this consent.

In the event of breach to the approved hours of construction Council take may take enforcement action under Part 9 of the EP & A Act 1979 and in accordance with Council's adopted Compliance & Enforcement Policy.

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

Installation and Maintenance of Sediment Control

- E12. Erosion and sediment controls must be installed and maintained at all times in accordance with the Sediment and erosion control plan submitted and approved with the Construction Certificate.

Erosion and sediment measures must be maintained in accordance with the publication Managing Urban Stormwater: Soils & Construction (4th edition, Landcom, 2004), commonly referred to as the "Blue Book" and can only be removed when development activities have been completed and the site fully stabilised.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Sediment and Erosion Control Signage

- E13. A durable sign must be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained. A sign of the type referred to in this condition is available from Council.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

Health and Safety

- E14. 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

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

Prohibition on Use of Pavements

- E15. 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)

Plant & Equipment Kept Within Site

- E16. All plant and equipment used in the undertaking of the development/ works, including concrete pumps, wagons, lifts, mobile cranes, hoardings etc, must be situated within the boundaries of the site (unless a permit is obtained from Council beforehand) and so placed that all concrete slurry, water, debris and the like must be discharged onto the building site, and is to be contained within the site boundaries.

Details of Council requirements for permits on public land for standing plant, hoardings, storage of materials and construction zones and the like are available on Council's website at www.northsydney.nsw.gov.au.

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

Waste Disposal

- E17. All records demonstrating the lawful disposal of waste must be retained and kept readily access 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)

Critical Stage Inspections

- F5. Building work must be inspected by the Principal Certifying Authority on the critical stage occasions prescribed by the EP&A Act and its Regulations, and as directed by the appointed Principal Certifying Authority.

(Reason: Statutory)

Demolition

- F6. Demolition work must be undertaken in accordance with the provisions of AS2601-Demolition of Structures.

(Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage)

Protection of Public Places

- F7. 1) A hoarding and site fencing must be erected between the work site and adjoining public place.
- 2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- 3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 4) Any such hoarding, fence or awning is to be removed when the work has been completed.
- 5) No access across public reserves or parks is permitted.

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained. Any application needs to be accompanied by plans indicating the type of hoarding and its layout. Fees are assessed and will form part of any approval given. These fees must be paid prior to the approval being given. Approval for hoardings will generally only be given in association with approved building works, maintenance or to ensure protection of the public. An application form for a Hoarding Permit can be downloaded from Council's website.

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

G. Prior to the Issue of an Occupation Certificate

Plan of Management to be updated

- G1. The Plan of Management prepared by Design Collaborative Pty Ltd, received by Council on 19 April 2021, must be updated to reflect the requirement of this consent and a copy be provided to Council prior to the issue of the occupation certificate.

The use of the gaming room and sports bar must not commence until the amended plans of management document required by this consent has been submitted to Council.

(Reason: To ensure the ongoing operation of the premises is in accordance with the requirements of this consent)

Infrastructure Repair and Completion of Works

G2. Prior to the issue of any Occupation Certificate any and all works relating to the development:

- a. in the road reserve must be fully completed; and
- b. to repair and make good any damaged public infrastructure caused as a result of any works relating to the development (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) must be fully repaired;

to the satisfaction of Council Engineers at no cost to Council.

(Reason: Maintain quality of Public assets)

Access to Premises

G3. Prior to the issue of any Occupation Certificate, a certificate must be prepared by an appropriately qualified and practising Civil Engineer 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

G4. 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)

Damage to Adjoining Properties

G5. 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

- G6. 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)

I. *On-Going / Operational Conditions*

Patron Numbers

- I1. The total number of patrons permitted under this consent may be in the following areas of the pub:

Lower ground floor

- Gaming Room & Sports Bar 34

Ground floor

- Sports Bar 47

Total Patrons (max) 405

The operator of premises must ensure that at all times during operation, the capacity of any area of the premises identified in this condition does not exceed the total patron numbers permitted by this consent.

(Reason: To limit patron number in accordance with historical development consents and to reflect the total number patrons assessed as acceptable for the gaming room and sports bar under the acoustic report

Noise

- I2. The use of the premises must not cause the emission of “offensive noise” as defined in the Protection of the Environment Operations Act, 1997.

(Reason: To ensure reasonable level of acoustic privacy for nearby residential properties is maintained.)

NSW Police Conditions

13. The following recommendations by NSW Police are outlined below:

1. Lighting in and around the proposed development should comply with Australian Standard AS: 1158 and should provide for adequate, uniform illumination. External lighting should be of a 'white light' source. Note that high or low pressure sodium 'orange' lighting is not compatible with quality surveillance systems. Internal lighting should be controlled from 'Staff only' areas, away from public access. If this is not possible, use tamper-resistant switches. Luminaries (light covers) should be designed to reduce opportunities for malicious damage. Internal after-hours security lighting should provide adequate illumination to allow inspection by security patrols.
2. Lighting around the hotel will need to be positioned in a way to reduce opportunities for offenders to commit crime i.e vandalism and graffiti. The lighting will need to be sufficient to enable people to identify signs of intoxication and anti social behaviour. The lighting will also need to be sufficient to support images obtained from any CCTV footage. Please note that some low or high pressure lighting is not compatible with surveillance systems.
3. All recording made by the CCTV system must be stored for at least 30 days and ensure that the system is accessible by at least one member of staff at all times it is in operation, and provide any recordings made by the system to a police officer or inspector within 24 hours of any request by a police officer or inspector. The CCTV cameras will need to be placed in suitable locations to enhance the physical security and assist in positively identifying an individual who may be involved in criminal behaviour.
4. Wheel chair access should at no time be blocked nor impede access to anyone with a disability.
5. The proprietors/management of the premises must take all steps necessary to ensure that no increased noise emissions occur from persons entering or leaving the premises. Management must also ensure the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood and that patrons leave the vicinity in an orderly manner.
6. An electronic surveillance system should be included to provide maximum surveillance of all areas of the hotel including entry/exits, bar and service areas, corridors and areas where cash is either kept or handled. Cameras should also cover public footpath areas around the premises. The system should be capable of recording high-quality images of events. The recording equipment should be locked away to reduce the likelihood of tampering. Monitors should be placed in the store/office areas to allow staff to view all areas under camera surveillance.

(Reason: To ensure safety and security and protect the amenity of surrounding areas)

Hours of Operation

14. The hours of operation are restricted to:

Indoor areas

Monday to Thursday 10am and 12 midnight the following day
Friday to Saturday 10am and 1am the following day
Sunday 10am and 10pm Sunday

Outdoor terrace

Monday to Saturday 10am and 11pm
Sunday 10am and 10pm Sunday

Lower ground floor gaming room and sports bar

Monday to Saturday 10am and 11pm
Friday to 10am and 11pm
Sunday 10am and 10pm

Definitions

Outdoor Terrace For the purpose of this condition, reference to the term “outdoor terrace” refers to the “covered terrace” shown the drawing numbered DA 1-02 D referenced in Condition A1 of this consent.

Upon expiry of the permitted hours:

- (a) all restaurant service (and entertainment) must immediately cease;
- (b) no person shall be permitted entry; and
- (c) all customers on the premises must be required to leave within the following half hour.

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

Hours of Operation – trial period (Lower ground floor gaming room & sports Bar)

15. Notwithstanding Condition 14 above, the use of the lower ground floor gaming room & sports bar may operate between:

Monday to Wednesday 10am and 12 midnight
Thursday to Saturday 10am and 1.00am the following day

The trial period of operation is **twelve (12)** months from the date of issue of the first Occupation Certificate, being interim or otherwise. Council must be informed in writing of the date of commencing the trial period.

In order for the above trial hours of operation to be confirmed as ongoing, a modification application must be lodged with Council prior to the expiration of the trial period. The assessment of the application to continue the use in accordance with the trial, will consider amongst other things, the impact of the use on surrounding areas the performance of the operation in relation to compliance with development consent conditions.

In the event that no modification application is lodged, or an application is not approved, then the hours of operation for the premises must revert to the standard hours of operation identified by this consent.

Note: Any person acting on this consent is advised that any modification application to the trial hours of operation period should be submitted to Council a minimum of thirty (30) days prior to the expiration of the trial period otherwise the trial period must lapse.

(Reason: To ensure safety and security and protect the amenity of surrounding areas)

Noise Conditions for Licensed Premises

15A. Appropriately qualified acoustic consultant who possesses the qualifications to render them eligible for membership of the Australian Acoustic Society, Institution of Engineers Australia or the Australian Association of Acoustic Consultants must be appointed before the use of the lower ground floor gaming room and sports bar commences and details of that appointment submitted to Council.

During the first 60 days of entertainment being provided at the premises, the attended acoustic monitoring must be undertaken in accordance following:

- (a) The acoustic consultant must:
 - (i) measure and verify that the noise emanating from the premises complies with the noise criteria specified in this consent; and
 - (ii) if necessary, make recommendations to ensure that the noise emanating from the premises will comply with the noise criteria at all times. specified in this consent.
- (b) The noise measurements must be:
 - (i) undertaken without the knowledge of the applicant, manager or operator of the premises; and
 - (ii) taken on at least three different occasions on three different days of the week (excluding Monday, Tuesday and Wednesday) from 11 pm until the end of the entertainment or the close of business, whichever occurs first.
- (c) If the acoustic consultant recommends that additional treatment or works be undertaken under condition (a)(ii) above, those recommendations must be implemented to the acoustic consultant's and Council's satisfaction.

- (d) If the acoustic consultant's recommendations are not implemented in accordance with this condition, the premises must not be used for entertainment until such time as the recommendations are implemented and verified.

(Reason: To manage the potential for ongoing noise impacts)

Trade Waste

16. 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

17. 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)

Hours of Illumination

18. All illuminated signs approved by this consent must cease illumination between the hours of 1.00am 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

19. 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)

Patron Behaviour

110. The proprietors/management of the premises must take all steps necessary to ensure that no noise nuisance occurs from persons entering or leaving the premises. The proprietors/management must ensure that:
- (a) A sign is placed in clearly visible position adjacent to the entry/exit of the premises requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area.
 - (b) The [management/licensee] must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood.
 - (c) The [management/licensee] must be responsible for the control of noise and litter generated by patrons of the premises and must ensure that patrons leave the vicinity of the premises in an orderly manner to the satisfaction of Council.
 - (d) If so directed by Council, the [management/licensee] is to employ private security staff to ensure that this condition is complied with.

(Reason: To ensure patrons do not interfere with the acoustic amenity of residents in the immediate locality)

Plan of Management

111. The operation of the premises must at all times be conducted in accordance with the Plan of Management prepared by Design Collaborative Pty Ltd, received by Council on 19 April 2021 except where otherwise amended by the conditions of this consent.

In the event any inconsistency between the requirements of this consent or the a condition of any other development consent which otherwise applies to the land or premises, the requirements of any development consent shall prevail to the extent of the inconsistency.

A written copy of the updated plan of management and the complaint register must be maintained on premises at all times during operation.

(Reason: To ensure ongoing operation of the premises is in accordance with the terms of consent)

Daily Cleaning

112. The proprietor/operator is to ensure that at all times when the premises are open and at the end of each day after the premises have closed, all rubbish including loose papers, cigarette butts, bottles etc which may be left on the subject premises, site or immediately adjacent area is picked up and placed in the proprietor's/operator's rubbish bins.

(Reason: To ensure waste generated by the approved use or activity is properly managed by the person acting upon this consent, to prevent unsightly build up of waste material)

Waste Collection

- I13. 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)

Delivery Hours

- I14. 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)