

7 February 2012

Robert Ferguson & Associates Pty Ltd  
4 Bond Street  
MOSMAN NSW 2088

Dear Sir/Madam

<b>Application Number:</b>	<b>Mod2011/0262</b>
<b>Address:</b>	<b>Lot 1 DP 800376 170 - 172 Harbord Road BROOKVALE NSW 2100</b>
<b>Proposed Development:</b>	<b>Modification of Development Consent DA2006/1148 granted for Demolition of existing structures and construction of a new multi-unit industrial complex and strata subdivision</b>

Please find attached the Notice of Determination for the above mentioned Application.

Please be advised that a copy of the Assessment Report associated with the application is available on Council's E-Services website at [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au)

Please read your Notice of Determination carefully and the assessment report in the first instance.

If you have any further questions regarding this matter please contact the undersigned on (02) 9942 2111 or via email quoting the application number, address and description of works to [council@warringah.nsw.gov.au](mailto:council@warringah.nsw.gov.au)

Regards,

Teresa Gizzi

## NOTICE OF DETERMINATION

**Application Number:** Mod2011/0262  
**Determination Type:** Modification of Development Consent

### APPLICATION DETAILS

**Applicant:** Robert Ferguson & Associates Pty Ltd  
**Land to be developed  
(Address):** Lot 1 DP 800376  
170 - 172 Harbord Road BROOKVALE NSW 2100  
**Proposed Development:** Modification of Development Consent DA2006/1148  
granted for Demolition of existing structures and  
construction of a new multi-unit industrial complex  
and strata subdivision

### DETERMINATION - APPROVED

**Made on (Date)** 07/02/2012

### Detail of Conditions

*The conditions, which have been applied to the consent, aim to ensure that the Environmental Impacts of Development are minimised and the Health and Safety of the community is maintained in accordance with the relevant standards and the Building Code of Australia.*

### Note:

*If the works are to be certified by a Private Certifying Authority, then it is the certifier's responsibility to ensure all outstanding fees and bonds have been paid to Council prior to the issue of the Construction Certificate or as otherwise specified by Consent conditions.*

**Modify the description of the development to include 'strata subdivision' to read as follows:**

Demolition of existing structures and construction of a new multi-unit industrial and warehouse complex and strata subdivision.

**Add Condition No. 2A to read as follows:**

**2A.        Approved Use**

Notwithstanding the details provided on the approved plans, no consent is granted for the fitout and use of Tenancy 14 as a child care centre. Tenancy 14 is approved only for industrial or warehouse purposes.

Any change of use is to be subject of a separate development application.

***Reason:*** To ensure compliance with Section 96 of the Environmental Planning and Assessment Act, 1979.

**Add Condition No. 77A. Car Parking to read as follows:**

**77A.       Car Parking**

Each pair of the stacked/tandem car parking spaces (spaces 17-26) are to be allocated to a single tenancy. Of these, the parking spaces closest to the southern boundary are to be allocated to staff only and linemarked accordingly.

***Reason:*** To ensure compliance with Warringah Local Environmental Plan 2011 and Warringah Development Control Plan 2011.

**Add Condition No.79A No Illumination to read as follows:**

**79A.       No Illumination**

No consent is given or implied for any form of illumination or floodlighting to any sign or building or other external areas other than that approved.

***Reason:*** To ensure appropriate forms of illumination that are consistent with Council's controls, and do not interfere with amenity of nearby properties. (DACPLG13)

**Add Condition No. 81A Signs/Goods in the Public Way to read as follows:**

**81A.       Signs/Goods in the Public Way**

No signs or goods are to be placed on the footway or roadway adjacent to the property.

**Reason:** *To ensure pedestrian safety and to protect the streetscape.  
(DACPLG15)*

**Modify Condition No 1. Approved Plans and Supporting Documentation to read as follows:**

**1. Approved Plans And Supporting Documentation**

The development is to be carried out in compliance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of consent:

<b>Drawing Reference</b>	<b>Dated</b>
Architectural: DA-01C, 02B, 3B, 4A drawn by Wolski Lycenko Brecknock Architects	5/2/07
Landscape: LP01A drawn by Wolski Lycenko Brecknock Architects	29/1/07
OSD/Stormwater: SW02 to SW09 revision C drawn by Lipscombe & Associates	02/2/07
Schedule of Finishes: FS01 drawn by Wolski Lycenko Brecknock Architects	22/11/06

Except as modified by:

<b>Drawing Reference</b>	<b>Dated</b>
DA-01 (Issue H), DA-03 (Issue H) drawn by Robert Ferguson Architects	11/01/12
DA-02 (Issue G), DA04 (Issue G) DA05 (Issue G) drawn by Robert Ferguson Architects	21/11/11

Notwithstanding the clouding shown on plans DA-01 to DA05 drawn by Robert Ferguson Architects, all physical works shown on the plans with the exception of the internal fitout of Tenancy 14 are approved unless otherwise specified by a condition of consent.

No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

**Note:** Further information on Construction Certificates can be obtained by contacting Council's Call Centre on 9942 2111, Council's website or at the Planning and Assessment Counter.

**Reason:** *To ensure the work is carried out in accordance with the determination of Council and approved plans. [A1 (1)]*

**Modify Condition No. 3 Approved Landscaping Plan to read as follows:**

**3. Approved Landscaping Plan**

Landscaping works on the site are to be undertaken generally in accordance with the landscaping plan numbered LP01A prepared by *Wolski Lycenko Brecknock Architects* dated 29 January 2007 except where modified by drawing no. DA-01 (Issue H) prepared by *Robert Ferguson Architects* dated 11 January 2012.

Prior to the issue of the Construction Certificate the Landscape plan is to be revised and updated to ensure that the landscaped front building setback along Miles Street incorporates planting of four (4) *Elaeocarpus reticulatus* spaced evenly along the development frontage, in addition to the planting shown on the plans.

Details to be included on the Construction Certificate plans to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

**Reason:** *To ensure appropriate landscaped area in accordance with the Desired Future Character and building amenity at the final inspection stage of the development. [A4]*

**Modify Condition No.5 Amended Advertising Signage to read as follows:**

**5. Advertising signage**

Signage is to be provided only in accordance with drawing no. DA04 (Issue G) drawn by Robert Ferguson Architects.

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

**Reason:** *To ensure compliance with the Warringah LEP 2011 and SEPP 64 for advertising signs.*

**Modify Condition No. 17 Vehicle Crossings to read as follows:**

**17. Vehicle Crossings**

**Vehicle Crossings**

The provision of two vehicle crossings both 6.8 metres wide fronting Ethel Avenue, and provision of one vehicle crossing 10 metres wide at the kerbline and 6 metres wide at the boundary alignment fronting Miles Street in accordance with Warringah Council Drawing No A4-3330/ 1 Normal and specifications.

The pedestrian egress path within the public roadway between the two driveways fronting Ethel Avenue must be removed or deleted.

An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

***Reason:*** To facilitate suitable vehicular access to private property. (Special condition)

**Modify Condition No. 18 Garbage and Recycling Facilities to read as follows:**

**18. Garbage and Recycling Facilities**

An appropriate area shall be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises. The following requirements shall be met:

- (a) All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning;

- (b) Include provision for the separation and storage of in appropriate categories of material suitable for recycling;
- (c) Garbage enclosures serving non-residential uses are not to be located within areas designated for dining purposes.

***Reason:*** *To ensure the provision of appropriate waste facilities for residents and protect the community health and to ensure efficient collection of waste by collection contractors.*

**Modify Condition No. 45 Protection of Trees to read as follows:**

**45. Protection of Trees**

The following tree/trees are required to be retained as part of the development consent:

All trees that are not listed as exempt or noxious in Warringah that are not indicated for removal on Drawing No. LP01A dated November 2006 prepared by *Wolski Lycenko Brecknock Architects* except where modified by drawing no. DA-01 (Issue H) prepared by *Robert Ferguson Architects* dated 11 January 2012..

***Reason:*** *Protection of existing environmental infrastructure and community assets. [E22]*

## **Right of Appeal**

If you are dissatisfied with this decision Section 97 of the Environmental Planning & Assessment Act 1979 may give you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

**Signed**                      On behalf of the Consent Authority

Signature

Name                      Teresa Gizzi,

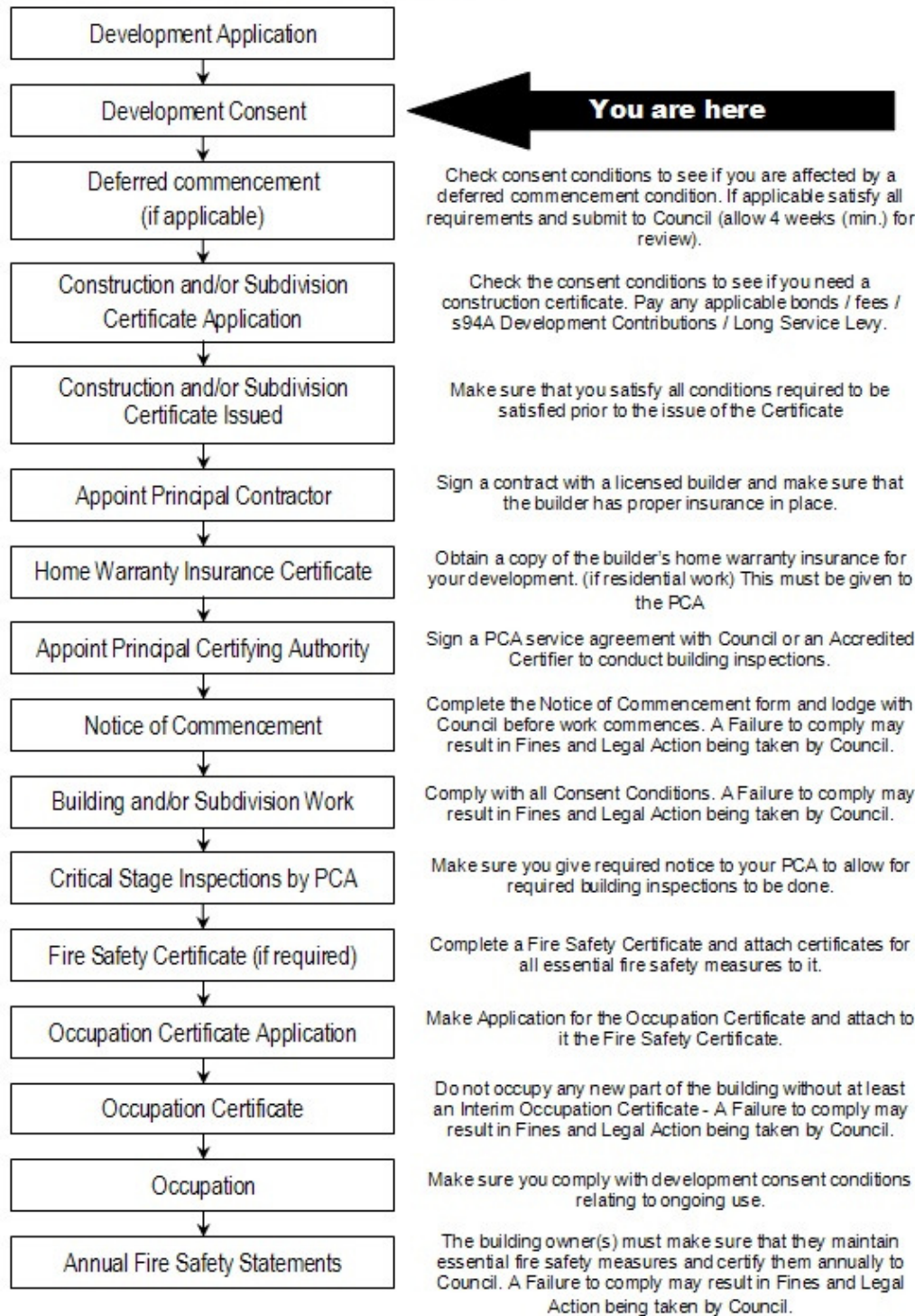
Date                        07/02/2012



## GENERAL ADVICE

# Advisory Notes (General)

**Where are you in the development process?**



**Note:** The advice within this document is provided in good faith as a guide to assist applicants understand the broad process and will not detail every step or every requirement for demolition, building construction works or subdivision required or business operating requirements under New South Wales or Commonwealth Legislation. If you require clarification or have any questions, please contact your Certifier or Council's Planning and Development Enquiries Team.

The attached Notice of Determination includes conditions of consent which must be complied with.

(Note: A failure to comply is a serious breach of the Environmental Planning & Assessment Act 1979 which attracts penalties and may also result in legal action being taken, and orders for demolition.)

### **Building Certification**

The Environmental Planning and Assessment Act 1979 provides that:

- Building work cannot occur unless a construction certificate has been issued;
- Occupation of building works cannot occur unless an occupation certificate has been issued
- Subdivision cannot be registered until a subdivision certificate has been issued
- Mandatory Inspection for building work must be completed

Please refer to process chart for more detail.

(Note: A failure to gain approval prior to the works being carried out is a serious breach of the Environmental Planning & Assessment Act 1979 which attracts penalties and may also result in legal action being taken, and orders for demolition.)

### **Certification Services**

Construction Certificates / Occupation Certificate / Subdivision Certificates / Strata Certificate, can be issued by Council or an accredited private certifier (Note Council must be the Principal Certifying Authority (PCA) for subdivisions).

Council is well placed to provide Certification Services. Council can issue Construction Certificates and act as your Principle Certifying Authority at competitive rates. Please visit our web site [www.warringah.nsw.gov.au](http://www.warringah.nsw.gov.au) or speak to our Customer Service Officers if you have any further questions about our Certification Services or if you wish to use Council as your certifier.

### **Charges Associated with the Development Consent**

All bonds, fees, (s94A) Development Contributions, Long Service Levy detailed within the Notice of Determination are required to be paid prior to the issuing of any Construction Certificate.

### **Acceptable Form of Security Bonds**

Council will accept bank guarantee (in a form acceptable to Council) in lieu of cash and is required prior to the issue of a construction certificate.

### **Modifications to the consent**

If you seek to make any changes to the development (which may include internal / external configuration of the building, variation to facades, site layout or any changes to the proposed operation or use), the modifications will require the submission and

approval of an application to modify the development consent prior to the issuing of a Construction Certificate and prior to the works being carried out.

(Note: A failure to gain approval prior to the works being carried out is a serious breach of the Environmental Planning & Assessment Act 1979 which attracts penalties and may also result in legal action being taken, and orders for demolition.)

#### **Other Matters not detailed within the Notice of Determination**

The Notice of Determination does not stipulate every requirement that must be completed to satisfy New South Wales and Commonwealth legislation.

You should check, as may be relevant, with other authorities including but not limited to:

- Workcover NSW for work safety and asbestos requirements
- Sydney Water – Quick Check Agent for the provision of water and sewer services
- Energy & Gas suppliers for utility services
- Department of Fair Trading for advice about builders and licensing
- Building Professionals Board for advice about private certifiers
- NSW Roads and Traffic Authority for works on state roads only
- Human Rights and Equal Opportunity Commission for access issues
- NSW Land and Property Information Service for Land Title matters
- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments;

#### **Model**

If you submitted a model with the application it must be collected from the Council offices within fourteen (14) days of the date of this determination. Models not collected will be disposed of by Council.

#### **Trade waste agreement**

A Trade Waste Agreement must be obtained from Sydney Water prior to the discharge of trade wastewater to the sewer system. Trade wastewater is defined as 'discharge water containing any substance produced through industrial or commercial activities or operation on the premises'.

#### **Waste collection**

Liquid and solid wastes generated on the site must be collected, transported and disposed of in accordance with the requirements of the Protection of the Environment Operations Act 1997. Records must be kept of all waste disposal from the site.

Material to be removed from the site must be source separated on site to maximise recycling, and the material disposed of to an appropriate disposal and recycling facility in accordance with the approved Waste Management Plan.

**Aboriginal Heritage**

If in undertaking excavation or works and any Aboriginal site or object is, or is thought to have been found, all works are to cease immediately and the applicant is to contact the Aboriginal Heritage Officer for Warringah Council, and the Cultural Heritage Division of the Department of Environment and Climate Change (DECC).

**On-Site Sewage Management System**

This approval does not authorise the installation or operation of a new or modification of an existing on-site wastewater management system. An On-Site Sewage Management System must not be installed or operated unless an 'Approval to Install an On Site Sewage Management System' is obtained from Warringah Council.

**Cost of Works**

The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

**Relocation of stormwater drainage**

Council is not responsible for the cost of relocating Council's stormwater drainage pipes through the subject property.

**Tree preservation**

Where tree work has not been approved by this Development Consent the developer is notified that a general Tree Preservation Order applies to all trees in the Warringah Local Government Area. This order prohibits the ringbarking, cutting down, topping, lopping, pruning, transplanting, injuring, or wilful destruction of such trees except without the prior written consent of Council.

**Storage bins on footpath and roadway**

Approval is required from Council prior to the placement of any storage bin on Council's footpath and/or roadway.

**Protection of Public Places**

- (1) If the work involved in the erection or demolition of a building:
  - (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
  - (b) building involves the enclosure of a public place,

a hoarding and site fencing must be erected between the work site and the 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.

### **Road Opening Permit**

The developer/applicant is to obtain a "Road Opening Permit" from Council and pay all appropriate charges prior to commencement of any work on Council property. The developer/applicant shall be responsible for all public utilities and services in the area of the work, and as such shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

### **Special Permits**

Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development are to occur entirely on the property. The applicant, owner or builder must apply for specific permits available from Council. A minimum of forty-eight (48) hours notice is required for all permits except work zones, which may require additional assessment time.

- Permit for on-street mobile plant

Restrictions apply to the hours of operation and the area of operation for on street mobile plant equipment (for example cranes, concrete pumps, cherry pickers). Separate permits are required for each occasion and each piece of equipment. It is the responsibility of the applicant, owner and builder to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

- Hoarding Permit

Permits are required to erect Class A, Class B and Class C 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.

- 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.

- Kerbside restrictions, work zones

Existing kerbside restrictions apply. An application must be made to Council for the alteration of existing kerbside restrictions or the provision of a construction zone. Other permits may include out of construction hours permits.

### **Licensing requirements for removal of bonded asbestos**

Anyone who removes, repairs or disturbs bonded asbestos must hold a bonded or a friable asbestos licence, or a demolition licence in accordance with Workcover requirements and the Occupational Health and Safety Act 2000.



**Pool Access**

Access to pools are required to be restricted by a child resistant barrier in accordance with the regulations prescribed in all relevant Acts, Regulations and Australian Standards including:

- (i) Swimming Pools Act 1992;
- (ii) Swimming Pools Amendment Act 2009;
- (iii) Swimming Pools Regulation 2008
- (iv) Australian Standard AS1926 Swimming Pool Safety
- (v) Australian Standard AS1926.1 Part 1: Safety barriers for swimming pools
- (vi) Australian Standard AS1926.2 Part 2: Location of safety barriers for swimming pools

It is your responsibility as a land owner to ensure any fencing is maintained.

**Dewatering**

Where dewatering works are required on the development site during construction, the developer/applicant must apply for and obtain a bore license from the NSW Department of Water and Energy. The bore license must be obtained prior to commencement of dewatering works.

**Requirement to Notify about New Contamination Evidence**

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

**Flood Evacuation Plan**

If your site is on flood prone land you may wish to consider the preparation of a flood evacuation plan.

Generally a Flood Evacuation Plan would be prepared by suitably qualified Engineer (e.g. Hydraulic) with a number of years experience in flood management and who is eligible for Membership to the Australian Institute of Engineers.

Some matters that you may wish to consider (but not limited to) include:

- (i) a route of evacuation to higher ground and / or point of shelter
- (ii) depth of water for a Possible Maximum Flood event surrounding the building
- (iii) details of 'last chance' evacuation water levels / times for evacuation prior to floodwaters surrounding the building
- (iv) provide details of flood warning systems and protocols
- (v) details of how this information will be distributed and people educated for users of the site.

You may seek to discuss this with the State Emergency Service of NSW.

**Utility Service Requirements**

Where development requires the installation of, or the relocation of utility services being (but not limited to) gas, water, electricity and telecommunications, the installation of, or the relocation of utility services shall be conducted in accordance with the requirements

of the relevant service provider / authority (unless stipulated by any other condition of the consent or will result in damage to threatened or endangered species defined under the Threatened Species Conservation Act).

**Plant & Equipment Kept Within Site**

All plant and equipment used in the erection of the building, including concrete pumps, wagons, lifts, mobile cranes, etc, shall be situated within the boundaries of the site and so placed that all concrete slurry, water, debris and the like shall be discharged onto the building site, and is to be contained within the site boundaries. This does not prevent any requirement to comply with the Protection of the Environment Operations Act.

**Lighting**

Illumination of the site is to be arranged in accordance with the requirements of Australian Standard 4282 - 1997 Control of the obtrusive effects of outdoor lighting so as not to impact upon the amenity of the occupants of adjoining and nearby residential premises.

**OTHER MATTERS****Child Care Centres**

A license to operate a child care centre must be obtained from the NSW Department of Community Services prior to the commencement of the use of the child care centre.

**Disability Access**

This decision does not ensure compliance with the Commonwealth Disability Discrimination Act 1992. Applicants are strongly advised to investigate their requirements under that Act

**Food Premises**

Food premises are required to comply with the requirements of the Food Act 2003, the Food Standards Code and Australian Standards.

The proprietor of a food business must notify the NSW Food Authority of the details of the business. Notification may be done either online at [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au) or by lodging a completed NSW Food Authority notification form to the NSW Food Authority or Council.

**Wheel washing facility**

All trucks leaving the site, having had access to unpaved or contaminated areas, shall depart via a wheel wash facility in order to prevent mud, dust or debris from being deposited on Council's roads. The wheel wash facility shall be constructed prior to any truck movements occurring. Water from the wheel wash facility must not cause pollution. Any direction of Council with regard to cleaning trucks or the clean up of road pavements adjoining the site shall be complied with immediately.

**Monitoring State of Roadways**

The applicant shall monitor the state of roadways leading to and from the site and shall take all necessary steps to clean up any adversely impacted road pavements as directed by Council.

**Storage of Dangerous Goods**

Prior to the storage of any “dangerous goods” on the premises, a copy of a license obtained from the Chemical Safety Branch of Work Cover Authority must be submitted to Council.

### **Storage of Flammable and Combustible Liquids**

Flammable and combustible liquids must be stored in accordance with Australian Standard 1940 The Storage and Handling of Flammable and Combustible Liquids.

### **Noise and Vibration**

The premises, including operation of vehicles, shall be conducted so as to avoid offensive noise or vibration and cause no interference to adjoining or nearby occupants. Special precautions must be taken to avoid nuisance in neighbouring residential areas, particularly from machinery, vehicles, warning sirens, public address systems and the like.

### **Hairdressing/Beauty Treatment/ Skin penetration Requirements**

The premises must comply with the following requirements before the commencement of business:

- i) A hand wash basin with warm water delivered through a common spout must be provided in the treatment area. The hand wash basin must be provided with liquid soap and paper towel.
- ii) The wall behind the hand wash basin from the floor to a height of 450mm above the top of the washbasin and from the centre of the washbasin to a distance of 140mm beyond each side of the wash basin, must be finished with a material that is durable, smooth, impervious to moisture and capable of being easily cleaned (eg tiles).
- iii) The premises must be provided with washing, drainage, ventilation and lighting that are adequate for the carrying out of hairdressing/beauty treatment/skin penetration procedures.
- iv) The floor coverings must be smooth and impervious.
- v) All furniture, shelves and fittings must be constructed of, or covered with a material that is smooth, impervious to moisture and capable of being easily cleaned.
- vi) Adequate lockers must be provided for the storage of employees clothing and personal effects.
- vii) The premises must be provided with facilities that are adequate for the purpose of storing of hairdressing/beauty treatment/skin penetration appliance and utensils.
- viii) The premises must be provided with a sink sullied with hot and cold water for washing equipment.

### **Food Premises Construction Requirements**

The food premises must comply with the following specific construction requirements: Solid walls must be provided in all food handling areas (solid includes brick, cement and foam filled preformed panels);

- ix) Walls in food preparation and wash up areas must be finished with a smooth and impervious surface to a height of at least 2 metres.
- x) Hand wash basins must be provided with warm water delivered through a common spout with taps that are hands free operation;
- xi) Coving with a radius of 25mm must be provided between all floor and wall joints in food handling areas;
- xii) The open space between the top of the coolroom and the ceiling must be fully enclosed and kept insect and pest proof;
- xiii) The coolroom must be able to be opened from the inside with out a key and fitted



- with an alarm that can only be operated from within the coolroom;
- xiv) The doors to the toilet air lock and toilet compartment must be tight fitting and self closing;
- xv) The rear external door must be self closing or be provided with a fly screen that is self closing;
- xvi) Where cooking or extensive heating processes or such other processes as may be specified are carried out in food preparation areas, an approved mechanical ventilation system shall be installed and operated in accordance with AS 1668 part 1 & 2.

**Legionella Control**

Cooling towers, warm water systems, water cooling systems must be registered with the Council. Details of registration are to be provided to the Council prior to operation.