

6 September 2013

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Mr Frank Minnici
C/- Don Fox Planning Pty Ltd Po Box 230
PENNANT HILLS NSW NSW 1715

Dear Sir/Madam

Application Number: Mod2013/0112
Address: Part Lot 394 DP752038
5 Lawrence Street
FRESHWATER NSW 2096
Proposed Development: Modification of Development Consent DA2007/0856 granted for the demolition of existing buildings and construction of a mixed use development comprising basement car parking, three-storey retail/commercial building, 10 residential apartments in two buildings and a detached dwelling and subdivision into two (2) lots and the staged construction and occupation of the development.

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 eServices website at 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

Regards,

Kevin Short
Development Assessment Officer

NOTICE OF DETERMINATION

Application Number:	Mod2013/0112
Determination Type:	Modification of Development Consent

APPLICATION DETAILS

Applicant:	Mr Frank Minnici
Land to be developed (Address):	Part Lot 394 DP752038 , 5 Lawrence Street FRESHWATER NSW 2096
Proposed Development:	Modification of Development Consent DA2007/0856 granted for the demolition of existing buildings and construction of a mixed use development comprising basement car parking, three-storey retail/commercial building, 10 residential apartments in two buildings and a detached dwelling and subdivision into two (2) lots and the staged construction and occupation of the development.

DETERMINATION - APPROVED

Made on (Date)	06/09/2013
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The request to modify the above-mentioned Development Consent has been approved as follows:

A. Modify Condition No.1 - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
DP 1181713 – Plan of Subdivision of Lots A & B in DP 375558 and Lot 9 Sec. 2 in SP 10321	7 December 2012	Rob Kiprovich Surveyor
Issue A Plans: DA02, DA03, DA04, DA05, DA06, DA10, DA15, DA16, DA17	5 September 2007	Blackmore Design Group
Issue B Plans: DA01, DA14, DA18, DA19	19 March 2008	Blackmore Design Group
Issue C Plans: DA08, DA09, DA11, DA12, DA13	27 February 2009	Blackmore Design Group
Issue: D Plans: DA07, DA20	27 February 2009	Blackmore Design Group

b) No construction works (including excavation) shall be undertaken prior to the release of a Construction Certificate for each stage of the development.

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 (DACGBapasd)

B. Modify Condition No.8 - Acceptable form of Security Bonds to read as follows:

8. Acceptable form of Security Bonds

Council will accept a bank guarantee in lieu of cash for the purpose of any security bond imposed by these conditions of consent. Such bank guarantee shall be in a form acceptable to Council and shall not have an expiry date. The bank guarantee shall be in place prior to the issuing of Construction Certificate for the staged construction for Lot 1 DP 1181713 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173 and shall remain in place until the submission of the Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 1181713 or termination of any maintenance period.

Reason: Information, Protection of infrastructure and the environment. (DACECasb)

9. Bond for Construction, Excavation and Associated Works

A bond of \$10,000 shall be deposited with Council prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173 as security against damage to Council's road(s) fronting the site caused by the transport and disposal of materials and equipment to and from the site.

Reason: To ensure adequate protection to Council infrastructure. (DACECbceaw)

10. Provision of Electricity

Prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173, evidence is to be submitted to the Certifying Authority that notification has been received from Energy Australia of electricity supply requirements for the development.

Reason: To ensure that services have been provided as required by this Consent. (DACECPe)

11. Pump-Out System Design for Stormwater Disposal

The design of the pump-out system for stormwater disposal will be permitted for drainage of basement areas only, and must be designed in accordance with all relevant Australian Standards and Codes by a suitably qualified professional.

Engineering details demonstrating compliance with this requirement and certified by an appropriately qualified and practicing hydraulic engineer shall be provided to the Certifying Authority prior the issue of the Construction Certificate for the staged construction and occupation of the development on Lot 1 DP 118173.

Note: The following Standards and Codes applied at the time of determination:

- Australian/New Zealand Standard AS/NZS 3500.3:2003 – Plumbing and drainage – Stormwater drainage
- Australian/New Zealand Standard AS/NZS 3500.3:2003/Amdt 1:2006 – Plumbing and drainage – Stormwater drainage
- National Plumbing and Drainage Code

Reason: To ensure adequate provision is made for the discharge of stormwater from the excavated parts of the site. (DACECpsdsd)

12. Shoring of Adjoining Property

If it is proposed to provide shoring to support an adjoining property or Council land, owner's consent for the encroachment from the affected property owner shall be provided with the engineering drawings that are to be submitted prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173. Council approval is required if temporary rock anchors are to be used within Council land.

Reason: Council owners consent for ancillary works, and to ensure the protection of adjoining properties and Council land. (DACECsap)

13. Bond for Engineering Construction Works – Stormwater

A Bond of \$5,000 shall be deposited with Council prior to the issue of any Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173 against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

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

14. Structures Located Adjacent to Council Pipeline or Council Easement

All structures are to be located clear of any Warringah Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Policy Building Over or Adjacent to Constructed Council Drainage Systems and Easements. Structural details prepared by a suitably qualified Civil Engineer are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Reason: Protection of Council's Infrastructure. (DACECslajp)

15. Sub-Soil Seepage

All sub-soil seepage drainage shall be discharged via a suitable silt arrester pit, directly to Council's nearest stormwater drainage line being [INSERT]. Details of all plans compliant with the provisions of Australian/New Zealand Standard AS/NZS 3500.3.2003 Plumbing and drainage – Stormwater drainage and Australian/New Zealand Standard AS/NZS 3500.3.2003 / Amdt 1:2006 Plumbing and drainage – Stormwater drainage are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Reason: To ensure appropriate drainage and stormwater management on site to protect amenity of residents. (DACECsss)

16. Vehicle Crossings Application – Formwork Inspection

An application for street levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Reason: To facilitate suitable vehicular access to private property. (DACECvcafi)

17. Vehicle Crossings Application – Formwork Inspection

An application for street levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Reason: To facilitate suitable vehicular access to private property. (DACECvcafi)

18. Bond for Engineering Construction Works – Kerb and Gutter, Footpath and Vehicular Crossings

A Bond of \$10 000 shall be deposited with Council prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173 against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter and any footpath works required as part of this consent.

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

19. Bond for Silt and Sediment Control

The payment of \$10 000 shall be deposited with Council prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173 as security to ensure that there is no transmission of material, soil etc off the site and onto the public road and/or drainage systems.

Reason: To ensure appropriate security against environmental damage. (DACECbssc)

20. Car parking Details

Vehicular access and the internal layout of the car parks is to comply with Australian/New Zealand Standard AS/NZS 2890.1:2004 Parking facilities – Off-street car parking and Australian Standard AS2890.2.:2002 Parking facilities – Off-street commercial vehicular facilities where relevant. Plans demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Reason: To ensure the adequate provision of car parking. (DACECcpd)

21. Development/Construction Security Bond

A bond (determined from cost of works) of \$5 000 must be deposited with Council and an inspection fee paid of \$200 prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173. This bond is to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

Reason: To ensure adequate protection to Council infrastructure. (DACECdcsb)

22. Damage to Public Infrastructure

The applicant shall bear the cost of all restoration works to Council's property damaged during the course of this development. The applicant shall advise Council, in writing, of any existing damage to Council property. A dilapidation survey of Council's assets, including photographs and written record, must be prepared by a suitably qualified person and submitted to Council prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Note: This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicant's interest for it to be as full and detailed as possible.

Reason: To ensure the protection of existing built public infrastructure. (DACECdpi)

23. BASIX Certificate

The development shall fully comply with the schedule of BASIX Commitments specified within BASIX Certificate No. 188829M. Plans and specifications that reflect those commitments identified on the BASIX Certificate to be satisfied prior to the issue of the Construction Certificate for the staged construction for Lot 1 in DP 118173, shall be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: To ensure the development complies with the requirements of the SEPP (Building sustainability index: BASIX 2004). (DACGCbc)

24. Parking for People with Disabilities

Of the required number of car parking spaces at least one car-parking space must be provided for use by persons with a disability in both the retail/commercial component of the development and the residential component of the development.

The car parking spaces and access from the car parking spaces to other areas within the building are to comply with the Disability Discrimination Act 1992 and Australian/New Zealand Standard AS/NSZS 2890.1:2004 Parking facilities Part 1: Off-street car parking and the relevant provisions of Australian Standard AS 1428.2-1992 Design for Access and Mobility – Enhanced and additional requirements – Buildings and facilities. Details demonstrating compliance with these requirements are to be submitted prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

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

25. Reflectivity Index of Glazing

The reflectivity index (expressed as a percentum of the reflected light falling upon any surface) of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20%. Written confirmation of the reflectivity index of materials is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Note: The reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement.

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

26. Roofing Materials – Reflectivity

The external finish to the roof shall have a medium to dark range in order to minimize solar reflections to neighbouring properties. The metal roof shall not be of light colours such as off white, cream, silver or light grey colours. Details are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Reason: To ensure that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development. (DACGCrmr)

27. Section 94A Contribution

\$ 102,500 is to be paid to Warringah Council as a Section 94A levy prior to the issue of the Construction Certificate for the staged construction for Lot 1 in DP 118173.

\$ 87,730 is to be paid to Warringah Council as a Section 94A levy prior to the issue of the Construction

Certificate for Lot 2 DP in 1181713.

This amount has been calculated using the Warringah Section 94A Development Contributions Plan. The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney -0 All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

The basis for the contributions is as follows:

Warringah Section 94A Development Contributions Plan

Stage 1 contribution based on total residential development cost of \$10,250,000

Contribution – all parts Warringah	Levy Rate	Contribution Payable	Council Code
Total S94A Levy	0.95%	\$ 97,375.00	6923
S94A Planning and Administration	0.05%	\$ 5,125.00	6924
Total	1.0%	\$ 102,500.00	

Warringah Section 94A Development Contributions Plan

Stage 1 contribution based on total residential development cost of \$10,250,000

Contribution – all parts Warringah	Levy Rate	Contribution Payable	Council Code
Total S94A Levy	0.95%	\$ 83,343.50	6923
S94A Planning and Administration	0.05%	\$ 4,386.50	6924
Total	1.0%	\$ 87,730.00	

28. Structural Adequacy of Adjoining Buildings A certificate from an appropriately qualified and practicing Structural Engineer, certifying the structural adequacy of the adjoining properties numbers 16 and 20 Marmora Street, 22-26 Albert Street and 9 Lawrence Street and their ability to withstand the proposed excavation works, shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate for the staged construction and occupation of the development on Lot 1 in DP in 1181713. The certificate shall detail any measures required to be incorporated into the work to ensure that no damage will occur to adjoining premises during the course of the works, and that the completed works will be structurally adequate.

Reason: To ensure the protection and structural integrity of adjoining properties, and that common law property rights are recognized. (DACGCsaab)

29. Structural Design Certificate

Structural drawings and certificate from a qualified structural engineer, certifying that the design is in accordance with all relevant Australian Standards and design codes shall be submitted to the Certifying Authority prior to issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Reason: To ensure the safety and structural adequacy of the approved development and compliance with the appropriate Australian Standards. (DACGCsdc)

30. Construction Management Program

A Construction Management Program shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173. The program shall detail:

- (a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimizing traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
- (b) Arrangement's for truck access and anticipated number of truck movements;
- (c) The proposed phases of construction works on the site, and the expected duration of each construction phase;
- (d) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- (e) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process.
- (f) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
- (g) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- (h) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- (i) The proposed method of support to any excavation adjacent to adjoin properties, or the road reserve. The proposed method of support is to be designed and certificate by an appropriately qualified and practicing Structural Engineer, or equivalent;
- (j) Proposed protection for Council and adjoining properties;
- (k) The location and operation of any on site crane.

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

31. Design for Access & Mobility – Retail and Commercial Component

The development must be designed to comply with the requirements of Australian Standard AS1428.2-1992 Design for Access and Mobility – Enhanced and additional requirements – Buildings and facilities and the access requirements of the Building Code of Australia. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Reason: To ensure equitable access to members of the community to all public facilities (DACGCdam)

32. Design for Access & Mobility – Residential Component

Building C must be designed to comply with the requirements of the Australian Standard AS1428.2-1992 Design for Access and Mobility – Enhanced and additional requirements – Buildings and facilities and Units 7 and 9 must be designed to comply with the requirements of AS4299 – Adaptable Housing. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Reason: To ensure equitable access to members of the community to all public facilities (DACGCdam)

33. Dilapidation Survey

A dilapidation survey of adjacent buildings must be conducted prior to any site work. The lateral extent of the survey must cover the likely “zone of influence” of any excavation or construction induced vibration. The survey must be properly documented. The dilapidation report must be submitted to Council and the Certifying Authority prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Reason: Proper management of records (DACGCds)

34. Long Service Levy

Payment of the Long Service Levy is required prior to the release of the Construction Certificate for the staged construction of the development of Lot 1 or Lot 2 in DP 118173. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction works.

Reason: Prescribed – Statutory. (DACGCIsI)

35. Exhaust Fumes from Car Park

Any exhaust ventilation from the car park is to be ventilated away from the property boundaries of the adjoining dwellings in accordance with the provisions of the relevant Australian Standards. Details demonstrating compliance are to be submitted prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Note: The following Australian Standard applied at the time of determination:

- Australian Standard AS1668.1:1998 – The use of ventilation and air-conditioning in buildings – Fire and smoke control in multi-compartment buildings.

Reason: To preserve community health and ensure compliance with acceptable standards. (DACHCefcp)

36. High Quality Lighting

External lighting is to be provided for security that complies with the relevant Australian Standard. Details are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Note: The following Australian Standard at the time of determination:

- Australian Standard AS4282-1997 Control of the obtrusive effects of outdoor lighting.

Reason: To ensure lighting provides security and amenity. (DACHChql)

37. Noise from Plant

A certificate from an appropriately qualified Acoustic Engineer is to be submitted to the Certifying Authority prior the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP

118173 certifying that the development and all sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level during the day and evening and not exceeding the background level at night (10.00pm-6.00am) when measured at the boundary of the property, and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.

Reason: To comply with best practice standards for residential acoustic amenity. (DACHCnp)

75. Easement for Drainage

An easement for drainage (under the provisions of Section 88B of the Conveyancing Act) is to be created on the title to ensure all Council drainage infrastructure is located within the appropriate easement(s), prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 DP 1181713. Dimensions and location of the easement for drainage shall be in accordance with Council's "Building Over or Adjacent to Constructed Council Drainage system and Easements" Policy, PAS-PL 130. The terms of such easement, (available from Warringah Council), are to be prepared by a registered surveyor to Warringah Council's standard requirements at the applicant's expense. Warringah Council shall be nominated as a party to release, vary or modify such restriction.

Reason: To comply with Council's standards and Statutory requirements of the Conveyancing Act 1919.

76. Easement to Drain Water – Overland flow path

An easement to drain water shall be created in favour of Council over the overland flow path to encompass the 1 in 100 year recurrence frequency predicted water surface level. The easement is to be created on the title, prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 DP 1181713. The terms of such easement, (available from Warringah Council), are to be prepared by a registered surveyor to Warringah Council's standard requirements at the applicant's expense. Warringah Council shall be nominated as a party to release, vary or modify such restriction.

Reason: To identify flood affected areas on the property title

77. Restriction as to User (Overland flow path)

A restriction as to user shall be created on the title over the overland flow path, restricting any alteration to the levels and/or any construction on the land, prior to issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 DP 118173. The terms of such restriction, (available from Warringah Council), are to be prepared by a registered surveyor to Warringah Council's standard requirements at the applicant's expense. Warringah Council shall be nominated as a party to release, vary or modify such restriction.

Reason: To ensure no modification of the overland flow path without Council's approval.

78. Authorisation of Legal Documentation Required for On-site Stormwater Detention

The original completed request forms (Department of Lands standard forms 13PC and/or 13RPA) must be submitted to Council for authorisation prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173. A copy of the work-as-executed plan (details overdrawn on a copy of the approved drainage plan) and hydraulic engineer's certification must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council. If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

Reason: To create encumbrances on the land. (DACEFaldsd)

79. Creation of Positive Covenant and Restriction as to User

Where any conditions of this Consent require the creation of a positive covenant and/or restriction as to user, the original completed request forms (Department of Lands standard forms 13PC and/or 13RPA), shall to be submitted to Warringah Council for authorisation. A certified copy of the documents shall be provided to Warringah Council after final approval and registration has been affected by the "Department of Lands" prior to issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 DP 118173.

Reason: To identify encumbrances on land. (DACEFcpcru)

80. Registration of Encumbrances for On-site Stormwater Detention

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted to Council prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173.

Reason: To identify encumbrances on land. (DACEFreosd)

81. Reinstatement of Kerb

Prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173 all redundant laybacks and vehicular crossings on Lot 1 or Lot 2 shall be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

Reason: To facilitate the preservation of on street parking spaces. (DACEFrk)

82. Restriction as to User for On-site Stormwater Detention

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173. The terms of such restriction are to be prepared to Council's standard requirements (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgment with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such restriction.

Reason: To ensure no modification to the on-site stormwater detention structure without Council's approval. (DACEFrusd)

83. Stormwater Disposal Certification

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified professional. The certification is to be submitted to the Principal Certifying Authority prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173. Note: The following Standards and Codes applied at the time of determination:

- Australian/New Zealand Standard AS/NZS 3500.3:2003 - Plumbing and drainage - Stormwater drainage
- Australian/New Zealand Standard AS/NZS 3500.3:2003/Amdt 1:2006 - Plumbing and drainage - Stormwater drainage
- National Plumbing and Drainage Code.

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

84. Undergrounding of Telecommunications Services

All telecommunications services to the development must be provided underground prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173.

Reason: Provision of telecommunication facilities in a manner that facilitates the future underground provision of cable services. (DACEFuts)

85. On-Site Stormwater Detention Compliance Certification

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a “work as executed” (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans. The Compliance Certificate is to be submitted to the Principal Certifying Authority prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173.

Reason: To ensure stormwater disposal is constructed to Council’s satisfaction. (DACEFosdcc)

86. Positive Covenant for the Maintenance of Stormwater Pump-out Facilities

A Positive Covenant (under the provisions of Section 88B of the Conveyancing Act 1919) is to be created on the property title to ensure the on-going maintenance of the stormwater pump-out facilities on the property being developed. Warringah Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Warringah Council’s Authorised Officer shall sign these documents prior to the submission to the Land & Property Information Department. Evidence of the registration of the instrument referred to in this condition is to be provided to Council prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173.

Reason: To ensure adequate provision is made for the stormwater pump out system to be maintained to an appropriate operational standard. (DACEFpcmsp)

87. Positive Covenant for On-site Stormwater Detention

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173. The terms of the positive covenant are to be prepared to Council’s standard requirements, (available from Warringah Council), at the applicant’s expense and endorsed by Council prior to lodgment with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such covenant.

Reason: To ensure ongoing maintenance of the on-site stormwater detention system. (DACEFpcosd)

88. Access for People with Disabilities– Retail and Commercial Component

Prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 2 in DP 118173 provision shall be made for access to and within the retail/commercial building on the site (Building A) for persons with a disability in accordance with the provisions of Australian Standard AS 1428.2-1992 Design for Access and Mobility - Enhanced and

additional requirements - Buildings and facilities and the Access requirements of the Building Code of Australia.

Reason: Equitable access for people with a disability. (DACGFapd)

89. Design for Access & Mobility – Residential Component

Prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 in DP 118173 provision shall be made for access to and within Building C for persons with a disability in accordance with the provisions of Australian Standard AS 1428.2-1992 Design for Access and Mobility - Enhanced and additional requirements - Buildings and facilities. Units 7 and 9 shall comply with the requirements of AS4299 – Adaptable Housing.

Reason: To ensure equitable access to members of the community to all public facilities. (DACGCdam)

90. Garbage and Recycling Facilities

Prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 in DP 118173, garbage facilities are to be constructed in accordance with Warringah Council's Code for Waste Handling in Residential Buildings. 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.

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

91. House / Building Number

Prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173, the house/building number is to be affixed to the buildings.

Reason: Proper identification of buildings. (DACGFhbn)

92. Occupation Certificate Required

An Interim / Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173 shall be obtained in relation to the approved works prior to any use or occupation of those parts of the building. Note: In issuing an Interim / Final Occupation Certificate the Principal Certifying Authority must be satisfied that the requirements of Section 109H of the Environmental Planning and Assessment Act 1979 have been satisfied.

Reason: To ensure compliance with the provisions of the Environmental Planning and Assessment Act. (DACGFocr)

94. BASIX Compliance Certification

Prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 in DP 118173, all the selected BASIX commitments as detailed in the BASIX Certificate, lodged with the Development Application, must be completed.

Reason: To ensure the development complies with the requirements of the SEPP (Building sustainability index: BASIX 2004). (DACGFbcc)

96. Access and Egress from Lawrence Street

Vehicles are not permitted to turn right into, or out of, the driveway on Lawrence Street. Signs shall be erected in this regard prior to the issue of the Interim/Final Occupation Certificate for the staged

construction and occupation of the development on Lot 2 in DP 118173.

Reason: To ensure safe vehicular access and egress.

99. Noise Impact of Plant

All sound producing plant, equipment, machinery or fittings associated with or forming part of the mechanical ventilation system and/or the refrigeration system, shall be sound insulated and/or isolated so that the noise emitted does not exceed 5 dB(A) above the background level (LA90) during the day when measured at the nearest affected residence. For assessment purposes, the above LAeq sound levels are to be adjusted in accordance with Environment Protection Authority's NSW Industrial Noise Policy guidelines for tonality, frequency weighting, and impulsive characteristics where necessary, at any time the plant is in operation, at the boundary of the site.

A report and certification prepared by an appropriately qualified or accredited person shall be submitted to the Principal Certifying Authority demonstrating compliance with this condition prior to the issue of the Interim / Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 DP 118173. Note: The method of measurement of sound shall be carried out in accordance with Australian Standard AS1055.1 - 1997 Acoustics - Description and measurement of environmental noise - General procedures.

Reason: To ensure that noise generated from the development does not result in offensive noise to any other party. (DACHFnip)

C. Delete Condition No.95 - Consolidation of Lots which reads as follows:

95. Consolidation of Lots

Prior to the issue of an Interim/ Final Occupation Certificate Lots 9 Sec 2 DP 10321, Lot A and B DP 375558 are to be consolidated into one lot and evidence of the registration of the appropriate survey plan by Land & Property Information is to be submitted to the Principal Certifying Authority.

Reason: To ensure the orderly development of land. (DACGFcl)

Delete Condition No.112 - Release of Subdivision Certificate which reads as follows:

112. Release of Subdivision Certificate

To enable the lodgement of the linen plan at the NSW Land and Property Information Department the Subdivision Certificate shall not be issued until the Final Occupation Certificate for the approved development.

Reason: To ensure that the plans relate to approved development. (DACGHrsc)

Delete Condition No.115 - Right of Carriageway which reads as follows:

115. Right of Carriageway

The Applicant agrees to grant Lot 8/1/10321 a right of carriageway over a triangular portion of current Lot 394/752038 measuring approximately 1m x 1m in the north western corner, subject to Lot A/256986 granting a right of way in favour of Lot 8/1/10321

Reason: To preserve neighbour amenity

D. Add Condition No.1B - Deletion of Underground Pedestrian Access and Stairway

The underground pedestrian access involving a path and stairs between the Commercial Building and the Basement Car Park level of Residential Buildings B and C as shown on the approved plans is to be deleted.

Reason: Interference with Sydney Water Infrastructure

Important Information

This letter should therefore be read in conjunction with DA2007/0856 dated 3 April 2009.

Please note that on site works cannot proceed unless a Construction Certificate application for the modified proposal has been lodged with and approved by Council or an accredited certifier, and relevant conditions of the Development Application have been carried out.

Section 97AA of the Environmental Planning and Assessment Act confers on an applicant who is not satisfied with the determination of the Consent Authority a right of appeal to the Land and Environment Court within 6 months of determination.

Right to Review by the Council

You may request the Council to review the determination of the application under Section 96AB of the Environmental Planning and Assessment Act 1979. Any request to review the application must be lodged and determined within 28 days after the date of the determination shown on this notice.

NOTE: A fee will apply for any request to review the determination.

Signed On behalf of the Consent Authority

Signature _____

Name Kevin Short, Development Assessment Officer

Date 06/09/2013