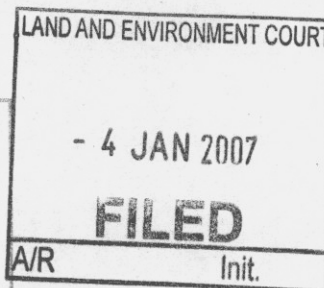
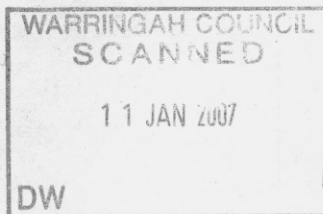


**In the Land and
Environment Court
of New South Wales**



No. 10491 of 2006

**Hills Flower Market
Pty Limited**

Applicant

Warringah Council

Respondent

Order

The Court orders by consent that:

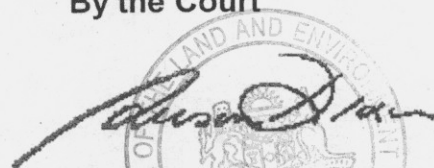
1. The appeal is upheld.
2. The application (1010/2005) for the use of:
 - Room A (11m²) in the existing Flower Market building as a turf supplies outlet;
 - Room B (23m²) in the existing Flower Market building as a Rain Water Tank Recyclers Outlet;
 - Agricultural Shed B (374m²) as a rural supplies outlet; and
 - The former training room (85m²) in the existing Flower Market building as a milk bar.

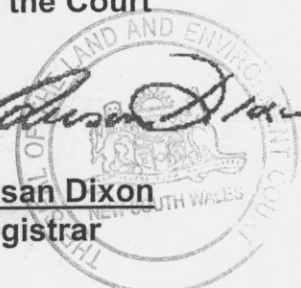
at 287 Mona Vale, Terrey Hills is approved in accordance with the conditions of development consent as set out in Annexure 'A'.

3. The exhibits, except for Exhibits B, C and 4 are returned.

Ordered: 18 December 2006

By the Court


Susan Dixon
Registrar
ljr



Annexure "A"

Conditions of Consent

Hills Flower Market Pty Limited v Warringah Council

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:

Drawing Number	Title	Revision	Dated	Drawn by
GA.0.01	Site Plan	B	April 2005	Alexander Dwyer Group
GA.1.01	Plan	A	October 2005	Alexander Dwyer Group
GA.1.02	Plan	A	October 2005	Alexander Dwyer Group
GA.1.03	Plan	A	October 2005	Alexander Dwyer Group
GA.1.04	Plan	A	October 2005	Alexander Dwyer Group

Except where amended by:

Drawing Number	Title	Revision	Dated	Drawn by
GA-1.01	Site Plan – Car Parking	K	14/12/2006	Alexander Dwyer Group
DA 2.01	Proposed Milk Bar	B	Aug 2006	Alexander Dwyer Group

Except where amended by other conditions 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)]**

2. Plans on Site

A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work



incorporating certification of conditions of consent) shall 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.

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. [A2]

3. Approved Uses and limitation of this development consent

This consent relates to:

- a) the land use approval of a Turf Outlet, Rainwater Tank Outlet, Rural Supplies Outlet; and
- b) the land use approval and subsequent fit out works for the Milk Bar only.

No consent is implied or otherwise granted for any construction works (with the exception of the fit out (and works associated with the fit out) of the milk bar) as shown on the plans. All construction works are to be subject to an alternate development consent (Note: Ref. Development Consent 2004/1012 (as amended)).

Reason: To ensure compliance with the approved plans and to prevent conflicting development consents. [A5]

4. Separate Development Application for Signs

A separate development application shall be lodged for all future signage unless identified as exempt, complying or prohibited development pursuant to the provisions of Warringah Local Environmental Plan 2000.

Reason: Compliance.

CONDITIONS THAT REQUIRE SUBSIDIARY MATTERS TO BE COMPLETED PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

5. Design, construction and fit out

The design construction and fit out of the kitchen shall comply with Australian Standard AS 4674 – 2004 – 'Design, Construction and fit-out of food premises. Full details demonstrating compliance with this condition are to be submitted to the satisfaction of Council or an accredited certifier prior to the release of any construction certificate.

Reason: To ensure compliance with the Australian Food Standards Code.



6. Handbasins

Handbasins for the milk bar shall be provided in all parts of the premises

- (a) where open food is handled;
- (b) in utensil/equipment washing area;

And handbasins shall be located so that they are accessible and no further than 5m, except for toilet handbasins, from any place where food handlers are handling open food.

Full details demonstrating compliance with this requirements are to be submitted to the satisfaction of Council or and accredited certifier prior to the release of any construction certificate.

Reason: To ensure appropriate handbasins are supplied in accordance with the Australian Food Standards Code.

7. Fire Safety Measures

Submission at the Construction Certificate stage of the anticipated schedule of current and proposed fire safety measures to be implemented in the building, and such fire safety schedule shall specify the minimum standard of performance for each fire safety measure.

Reason: Fire Safety [C1]

8. [NOT USED IN THIS CONSENT]

9. Design for Access & Mobility

Access/egress/services and facilities including external and interior access are required in accordance with the provisions of AS 1428.1 (2001) - Design for Access and Mobility.

The building being adequately adjusted where required complying with the provisions of the *Disability Discrimination Act (1992)*. Note that any approval granted by Council does not necessarily guarantee compliance or otherwise with the *Disability Discrimination Act (1992)* and the applicant should investigate their liability under the Act. You are directed to the following sources to achieve compliance with the DDA: -

- (a) AS 1428.1 (2001) - Design for Access and Mobility
- (b) Advisory Notes on Access to Premises - Human Rights and Equal Opportunity Commission (1998)
- (c) Disability Discrimination Act (1992)

Details being submitted and approved by Council / Accredited Certifier prior to the issue of a Construction Certificate.



Reason: To ensure equitable access to members of the community to all public facilities. [C5]

10. Protection of Footpaths and Roadways

The public footways and roadways adjacent to the site shall be maintained at all times during the course of the work in a safe condition.

Reason: Protection of footpath and roadways. [C22]

11. Cleanliness and Maintenance of Food Preparation Areas

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 (as amended)
- (b) the Food Regulation (as in force);
- (c) Council's Code for the Construction and Fitout of Food Premises;
- (d) Sydney Water Corporation - Trade Waste Section;
- (e) the Clean Air (Plant and Equipment) Regulation, ;
- (f) AS 1668 Part 1;
- (g) AS 1668 Part 2;
- (h) the Protection of the Environment Operations Act; and
- (i) the Building Code of Australia;
- (j) The ANZ Foods Standards Code

The relevant matters to be taken into account under this approval relate to:

- (k) construction, materials and finishes;
- (l) installation of fixtures, fittings and equipment;
- (m) washing facilities, other facilities and special requirements;
- (n) mechanical ventilation and exhaust discharges; and
- (o) temperature control.

Details from an appropriately qualified person showing that these design requirements have been met shall be submitted to, and approved by, the Council / Accredited Certifier prior to the issue of a Construction Certificate.

Reason: To ensure compliance with acceptable standards for the construction of food premises



12. Asbestos & Hazardous Material

(1) In relation to the demolition of the existing building (or part of a building) on the site:

- (a) A report prepared by a WorkCover licensed asbestos removalist is to be submitted to the Council / Accredited Certifier, with the Construction Certificate application, detailing whether any hazardous materials exist on the site (eg lead in paints and ceiling dust or asbestos).

Note: If no hazardous materials are identified, the demolition may proceed in accordance with AS2601 and the following conditions, including dust control and WorkCover requirements.

- (b) Should any hazardous materials be identified as per item (i), a Work Plan shall be submitted to Council in accordance with AS2601 - Demolition of Buildings. The report shall contain details regarding:

- (i) The type of hazardous material
- (ii) The level or measurement of the hazardous material in comparison to National Guidelines;
- (iii) Proposed methods of containment; and
- (iv) Proposed methods of disposal.

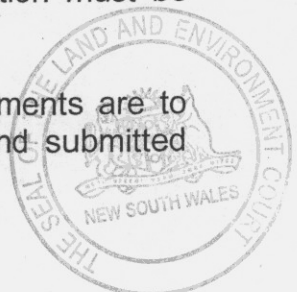
- (c) Where unacceptably high levels of lead are found in a premises to be demolished, item (ii) is to be followed, and the soil sample from site is to be tested by a NATA Registered laboratory before and after demolition. This will determine whether remediation of the site is necessary.

- (d) The demolition must be undertaken in accordance with AS2601.

- (e) Any works involving asbestos cement sheeting must be undertaken in accordance with the requirements of the WorkCover Authority in relation to removal, handling and disposing of material, and the Work Safe Australia Asbestos Code of Practice.

- (f) All work involving lead paint removal must not cause lead contamination of air or ground. Particular attention must be given to the control of dust levels on the site.

Details demonstrating compliance with these requirements are to be approved by the Council / Accredited Certifier and submitted with the Construction Certificate.



(Note: Further details regarding requirements for removal of hazardous materials can be obtained from the WorkCover website or at www.lead.org.au)

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily. [C53 (1)]

- (2) A person taking down, demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Work Cover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal. The requirements and standards imposed by the Authority, its consultants or contractors shall be complied with.

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily. [C53 (2)]

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. Construction Certificate

A Construction Certificate is required to be approved and issued by either Council or an Accredited Certifier, prior to the commencement of any works on the site.

Reason: Legislative requirements. [D3]

14. Notice of Commencement

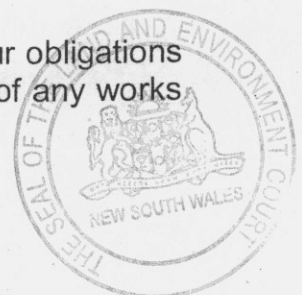
At least 2 days prior to work commencing on site Council must be informed, by the submission of a Notice of Commencement in Accordance with section 81A of EP & A Act 1979 of the name and details of the Principal Certifying Authority and the date construction work is proposed to commence.

Reason: Legislative requirement for the naming of the PCA. [D4]

15. WorkCover

Your attention is directed to the need to seek advice of your obligations from the WorkCover Authority prior to the commencement of any works on the site.

Reason: Statutory requirement. [D5]



**CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION
AND BUILDING WORK**

16. Progress Inspections

The Principal Certifying Authority SHALL BE given two (2) working days notice for inspection of the following (where relevant):

- (a) After excavation for, and prior to the placement of any footings.
- (b) Prior to pouring any in-situ reinforced concrete building element.
- (c) Prior to covering of the framework for any floor, wall roof or other building element.
- (d) Prior to covering waterproofing or damp proofing in any wet areas.
- (e) Prior to covering stormwater drainage connections.
- (f) After the building work has been completed and prior any Occupation Certificate being issued in relation to the building.

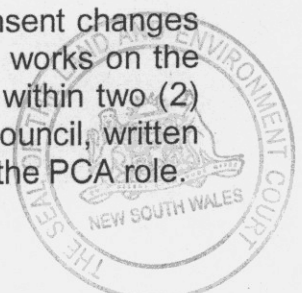
Notes:

- (1) Where Warringah Council is acting as the Principal Certifying Authority for the project, notice is to be given by telephoning Council on 9942 2111 and requesting the relevant inspection. Failure to advise Council at the stages of construction identified above may result in fines being imposed.
- (2) Failure to advise the Principal Certifying Authority of the need for MANDATORY INSPECTIONS at the critical stages of construction detailed above may result in fines being imposed, works being required to be demolished, or delays experienced in obtaining final certification and occupation of the development in order to resolve issues.

Reason: Compliance, health and safety. [E10]

17. Replacement of Principal Certifying Authority

If the person exercising the benefits of a development consent changes or replaces the Principal Certifying Authority (PCA) during works on the site, the replacement PCA must notify Warringah Council within two (2) days of appointment. If the original PCA was Warringah Council, written approval from Council must be obtained for any change to the PCA role.



(Note: Special legislative provisions in the Environmental Planning and Assessment Act 1979 apply to the procedure for replacing a PCA)

Reason: Statutory requirement. [E11]

18. Final Compliance Certificate

Within seven (7) days of completion of the building works and prior to occupation or the issue of an Interim/Final Occupation Certificate, a Certificate of Compliance under Section 109C (1) (a) of the Environmental Planning and Assessment Act 1979 must be provided by the Principal Certifying Authority. This Compliance Certificate must certify that the completed work complies with the relevant plans and specifications and with the conditions of this development consent.

Reason: To ensure compliance with the terms of this development consent. [E13]

19. Dust Emission and Air Quality

Materials must not be burnt on the site.

Vehicles entering and leaving the site with soil or fill material must be covered.

Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction. Odour suppression measures must be carried out so as to prevent nuisance occurring at adjoining properties. This Condition must be complied with during demolition and building work.

Reason: To ensure residential amenity is maintained in the immediate vicinity. [E18]

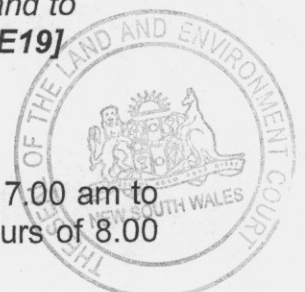
20. No Work on Public Open Space

The applicant shall not enter or undertake any work within adjoining public lands (i.e. Parks, Reserves, Roads etc) without the prior written consent of Council. In this regard the applicant is to liaise with Council prior to the commencement of any design works or preparation of a Construction Management Plan.

Reason: Protection of existing public infrastructure and land and to ensure public safety and proper management of public land. [E19]

21. Construction Hours

Building construction shall be restricted to within the hours of 7.00 am to 5.00 pm Monday to Friday and on Saturday to within the hours of 8.00



am to 1.00 pm inclusive, with no work on Sundays and Public Holidays.

Demolition and excavation works shall be restricted to within the hours of 8.00 am to 5.00 pm Monday to Friday only. (Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

The builder and excavator shall display, on-site, their twenty-four (24) hour contact telephone number, which is to be clearly visible and legible from any public place adjoining the site.

Reason: *To ensure that works do not interfere with reasonable amenity expectations of residents and the community. [E26]*

22. Out of Hours Work Permits

Where it is necessary for works to occur outside those hours allowed by these conditions, approval for such will be subject to issue of a permit on each occasion from Council's Customer Services Centre. Such permit must be obtained and the appropriate fee paid at least two (2) clear working days in advance of each relevant date. Such occurrence shall be limited to two occasions per calendar month and shall only be approved if public safety or convenience is at risk. Any further variation shall require the lodgement and favourable determination of a modification application pursuant to Section 96 of the Environmental Planning and Assessment Act 1979.

(Note: Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued, or Council pursuing any action required (including legal proceedings) to have the out of hours work cease, without prior warning.)

Reason: *To ensure that works do not interfere with reasonable amenity expectations of residents and the community. [E27]*

23. Health and Safety

The 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. This Condition shall be complied with during demolition and building work.

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. [E30]

24. Prohibition on Use of Pavements

Building materials shall not be placed on Council's footpaths, roadways, parks or grass verges and a suitable sign to this effect shall be erected adjacent to the street alignment.

Reason: To ensure public safety and amenity on public land. [E35]

25. 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 condition shall be complied with during demolition and building work.

Reason: To ensure public safety and amenity on public land. [E36]

26. Tree Preservation Order

- (1) The land is subject to a Tree Preservation Order and no trees other than those expressly granted permission as a result of this development consent, may be removed without the prior consent of Council.

Reason: Protection of trees. [E44 (1)]

- (2) Council's Tree Preservation Order applies to this site. An application will have to be made, and consent issued by Council, for the removal, lopping or wilful destruction of any existing tree affected by the proposed works.

Reason: Protection of trees. [E44 (2)]

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

27. No Changes To Openings

The windows / doors / fenestration shall not be enlarged or relocated on any elevation of the development.



Reason: To ensure compliance with the terms of this development consent. [E5]

OPERATIONAL CONDITIONS IMPOSED UNDER EP&A ACT AND REGULATIONS AND OTHER RELEVANT LEGISLATION

28. Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Reason: Prescribed - Statutory. [F1]

29. Lead

For the protection of the health and safety of workers, adjoining property owners, the public and the environment, any person renovating or demolishing any building built before the 1970's should be aware that any surfaces may be coated with lead based paint. Lead dust is a hazardous substance. The requirements of the Environmental Protection Authority are to be followed in this regard.

Reason: Safety. [F4]

30. Demolition

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. [F6]

31. Site Sign

(1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

(a) stating that unauthorised entry to the work site is prohibited;

(b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and

(c) showing the name, address and telephone number of the Principal Certifying Authority for the work.

- (2) Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.
- (3) This condition does not apply to building works being carried out inside an existing building.

Reason: Statutory requirement. [F9]

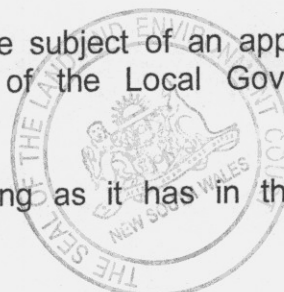
32. Toilets

- (1) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
- (2) Each toilet provided:
 - (a) must be a standard flushing toilet, and
 - (b) must be connected:
 - (i) to a public sewer; or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
 - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.
- (3) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
- (4) In this clause:

accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the Local Government (Approvals) Regulation 1993 applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the Regulation.

approved by the Council means the subject of an approval in force under Division 1 of Part 3 of the Local Government (Approvals) Regulation 1993.

public sewer has the same meaning as it has in the Local



Government (Approvals) Regulation 1993.

sewage management facility has the same meaning as it has in the Local Government (Approvals) Regulation 1993.

Reason: *To ensure adequate facilities are provided for workers on the site. [F10]*

33. Prescribed

Change of building use:

If the development involves a change of use of a building (other than a dwelling-house or a building or structure that is ancillary to a dwelling-house):

- (a) A list of the Category 1 fire safety provisions that currently apply to the existing building, and
- (b) A list of the Category 1 fire safety provisions that are to apply to the building following its change of use;

Category 1 fire safety provision means the following provisions of the *Building Code of Australia*, namely, EP1.3, EP1.4, EP1.6, EP2.1, EP2.2 and EP3.2 in Volume One of that Code and P2.3.2 in Volume Two of that Code. Details shall be provided prior to issue of the Occupation Certificate.

Reason: *Statutory Requirement. [F14]*

34. Fire Safety

The entire building housing the existing flower market is to be upgraded to meet the Fire Safety Performance requirements of the Building Code of Australia.

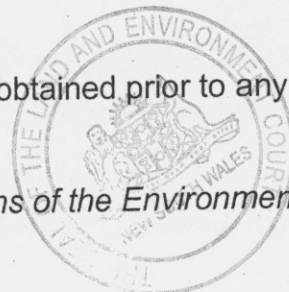
Reason: *To ensure compliance with the Environmental Planning and Assessment Regulations 2000.*

CONDITIONS WHICH MUST BE COMPLIED WITH PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

35. Occupation Certificate Required

An Interim / Final Occupation Certificate shall be obtained prior to any use or occupation of the subject building.

Reason: *To ensure compliance with the provisions of the Environmental Planning and Assessment Act. [G1]*



36. Provision of wet chemical fire extinguisher and fire blanket

The provision of a wet chemical fire extinguisher and installation of a fire blanket to the kitchen.

Reason: Fire Safety. [G2]

37. Fire Safety Certificate

To ensure the safety of occupants of the building a "Fire Safety Certificate" which identifies the schedule of "Fire Safety Measures" that have been completed to satisfactory standard shall be provided to the Principal Certifying Authority prior to the issue of an "Occupation Certificate" as required in the "Environmental Planning and Assessment Act & Regulation.

Reason: To ensure an adequate level of fire safety is provided within the premises for the life safety of building occupants. [G3]

38. Annual Fire Safety Statement for the building

In accordance with the EPA Act & Regulation the owner of a building is to provide Council with an Annual Fire Safety Statement for the building.

Reason: To ensure an adequate level of fire safety is provided within the premises for the life safety of building occupants. [G4]

39. Disabled Access from the Public Realm- Tactile Surface Indicators

Tactile ground surface indicators complying with AS1428.4 shall be provided at the point of common public access to the building and at the vehicular access points to assist people with visual impairments in gaining access to and from the public way and the premises prior to occupation. Such works are to be undertaken wholly within the boundaries of the site.

Reason: To ensure public safety, and equitable access for people with a disability. [G11]

40. Mechanical Exhaust Ventilation

The mechanical exhaust system shall be installed in accordance with AS1668, and be operated in such a way so as to minimise/prevent the creation of odours, fumes and excessive noise which may adversely affect the amenity, or interfere unreasonably with the comfort or repose of occupants of the building and adjoining premises.

Certification, from an appropriately qualified and practising Mechanical Engineer, is to be submitted to the Principal Certifying Authority,

detailing that the exhaust ventilation system has been installed in accordance with AS1668, prior to completion and the issue of any Occupation Certificate.

Reason: *To ensure compliance with acceptable standards for the construction and operation of mechanical plant. [G22]*

41. Unauthorised Signage

That all unauthorised signage, including those pertaining to the sale of solid timber/outdoor furniture, Windsor Turf and Rainwater Recycling (rainwater tanks) shall be removed from the site prior to the issue of the Occupation Certificate.

Reason: *Compliance.*

42. Unauthorised Uses

That all unauthorised uses, including the furniture outlet operating from the dwelling house and the furniture workshop operating from what is known as Shed A, shall cease prior to issue of the Occupation Certificate. Nothing in this consent shall be construed so as to give development approval to any unauthorised uses on site.

Reason: *Compliance.*

43. Access for People with Disabilities

Prior to occupation provision shall be made for access to and within the building on the site for persons with a disability in accordance with the provisions of AS 1428 Parts 1 and 4. Particular attention should be given to tactile ground surface indicators for the orientation of people with vision impairment (AS 1428.4).

Reason: *Equitable access for people with a disability. [G10]*

44. Bushfire protection

Access shall comply with section 4.3.2 of 'Planning for Bushfire Protection 2001'.

Reason: *Protection from bushfire and safety. [G34]*

ON-GOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

45. No Commercial Use



Nothing in this consent shall authorise the use of the residential dwelling/s for non-residential purposes.

Reason: Information and clarification of terms of this consent. [11]

46. Hours of Operation

The approved land uses may be open for business only between the following hours:

Land Use	Hours of Operation
Turf Outlet	7:00am until 8:30pm seven days per week.
Recycled Water Tank Outlet	7:00am until 8:30pm seven days per week.
Rural Supplies Outlet	7:00am until 8:30pm seven days per week.
Milk Bar	7:00am until 8:30pm seven days per week.

Upon expiration of the permitted hours, all service shall immediately cease.

Reason: Information to ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality. [12]

47. Trade Waste

Trade waste water shall 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. [16]

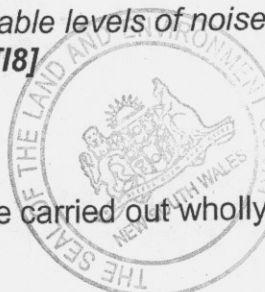
48. Noise Impact On Surrounding Area

Use of the premises shall not cause a sound level in excess of 5 dB(A) at any time above the background noise level at any point along the site boundaries.

Reason: To ensure compliance with acceptable levels of noise established under best practice guidelines. [18]

49. Loading Within Site

All loading and unloading operations shall be carried out wholly within the confines of the site, at all times.



Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian amenity. [I13]

50. No Illumination

No consent is given or implied for any form of illumination or floodlighting to any sign.

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. [I23]

51. Daily Cleaning

The applicant 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 area or immediately adjacent is picked up and placed in the proprietor'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. [I29]

52. Waste Collection

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 acoustic amenity of surrounding properties. [I31]

53. Delivery Hours

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. [I32]

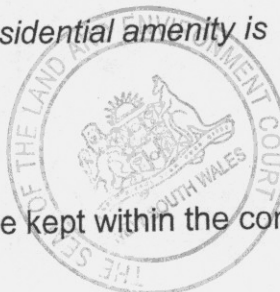
54. Lighting

No flood lighting is to be provided to any building.

Reason: To ensure energy efficiency and residential amenity is maintained. [I34]

55. Work Site

Trade materials, product and equipment to be kept within the confines of the buildings at all times.



Reason: To ensure the safety of public land. [146]

56. Loading and Unloading

Loading and unloading shall not take place outside approved loading areas.

Reason: Safety. [151]

57. Display and/or Sale of Rainwater Tanks

- (a) The rainwater tanks are to be confined to sale and display only; and
- (b) Any delivery or collection of rainwater tanks must be undertaken from a separate site; and
- (c) The display of rainwater tanks must remain immediately adjacent to the rainwater tank shop and shall not be located in a position to impede or restrict any other permitted use or the approved carparking and traffic circulation arrangements.; and
- (d) No storage of stock in relation to the rainwater tank operation is permitted outside the shop (on the site) without first obtaining consent from Council through a development approval.

Reason: Safety. To ensure the land use functions in accordance with the consent.

58. Display of Goods / Signage

Goods and signage shall not be displayed or placed in any area designated for parking or on any public area.

Reason: To ensure vehicular and pedestrian safety.

59. Protection of Surrounding Amenity

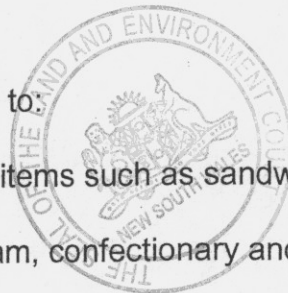
There shall be no emission of offensive noise, smoke, smell, vibration, gases, vapours, odours, dust particulate matter, or other impurities from the site.

Reason: To ensure the operation of the premises does not affect the amenity of the neighbourhood and is not injurious to human health.

60. Land Use (Milk Bar)

The operation of the "Milk Bar" shall be limited to:

- a) the preparation and the sale of food items such as sandwiches & hamburgers.
- b) the sale of bread, milk, pies, ice cream, confectionary and the like"



Reason: To ensure the operation of the business is consistent with the intent of the application and the approved land use.

61. Land Use (Rural Supplies Outlet)

The operation of the rural supplies outlet shall be permitted to sell goods (including but not limited to soils, fertilizers, animal foods and other landscape and rural type products) but shall not sell such goods in a "bulk supplies manner".

The term "bulk supplies manner" in this condition means the supply of goods and materials which by reason of volume and/or weight would require the mechanical collection and/or loading.

Reason: To minimise heavy traffic flow.

62. Car parking for the Milk Bar

Prior to the issuing of any interim/final occupation certificate Car parking spaces numbered 1-6 and 122-125 as annotated on Plan No DA-1.01 K as referred to in Condition 1 of this consent shall be signposted detailing a 15 minute time limit.

Reason: Minimise parking congestion

63. Notification of the food premises

Prior to the operation of any food premises from the site, the proprietor of a food business must not conduct the food business unless the proprietor has given written notice, in the approved form, of the information specified in the Food Safety Standards that is to be notified to the appropriate enforcement agency before the business is conducted.

Notification may be done either online at www.foodnotify.nsw.gov.au or by lodging a completed NSW Food Authority notification form to the NSW Food Authority or Council.

Note: A fee of \$55 applies when lodging notification forms with Council.

The proprietor of a food business must also contact an Environmental Health Officer of Council to inform them of their notification number and business details prior to trading.

Reason: To ensure compliance with the Australian Food Standards Code.

64. Operation of Land Uses

The operation of the Milk Bar and Rural Supplies Outlet is not permitted



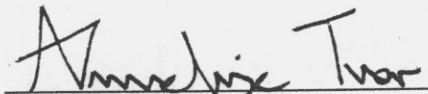
to commence trading/operating until all at grade car parking and vehicle access roads have been constructed as detailed in Development Consent 2004/1012 (as amended).

Reason: To ensure all car parking, services, facilities and building upgrades have been completed.

65. Protection of the Environment

The development shall not give rise to any form of pollution as defined under the Protection of the Environment Operations Act.

Reason: Protection of the Environment



Annelise Tuor
Commissioner of the Court

ljr

