

AGREEMENT BETWEEN THE PARTIES

Section 34(3)(a) and (b) of the *Land and Environment Court Act 1979*

COURT DETAILS

Court	Land and Environment Court of New South Wales
Class	1
Case number	2016/00150752

TITLE OF PROCEEDINGS

Applicant	Ascot Project Management Pty Ltd
Respondent	Northern Beaches Council

FILING DETAILS

Filed for	Ascot Project Management Pty Ltd, Applicant
Legal representative	Anthony Whealy Mills Oakley Level 12 400 George Street Sydney NSW 2000 DX 13025 Sydney Market Street
Legal representative reference	AJWS/MDSS/3183111
Contact name and telephone	Matt Sonter 8035 7850
Contact email	msonter@millssoakley.com.au

AGREEMENT BETWEEN THE PARTIES

1. The parties have reached an agreement as to the terms of a decision in the proceedings that would be acceptable to the parties (being a decision that the Court could have made in the proper exercise of its functions).
2. The terms of the decision are as follows:
 - (a) The appeal is upheld.
 - (b) Development Application DA 540/2015 for a 20 lot community title subdivision and construction of associated infrastructure and access roads located at 10 Fern Creek Road, Warriewood is approved subject to the conditions contained in Annexure "A".
3. Pursuant to section 34(3)(a) of the *Land and Environment Court Act 1979* the parties request the Commissioner to dispose of these proceedings in accordance with the terms of the decision set out in paragraph 2 above.

DATED:  June 2016

SIGNATURE - COMMISSIONER

Signature

SIGNATURE - APPLICANT

Signature of legal representative



SIGNATURE - RESPONDENT

Signature of legal representative



CONSENT NO: N0470/15
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED)
NOTICE TO APPLICANT OF DETERMINATION OF A DEVELOPMENT APPLICATION

Applicants Name and Address:

Ascot Project Management
Level 7, 25 Bligh Street
Sydney NSW 2000

Being the applicant in respect of Development Application **N0540/15** for:

The Community title subdivision of 1 lot into 20 lots and the construction of associated infrastructure at 10 Fern Creek Road, Warriewood (Lot 6 DP 736961)

CONDITIONS OF APPROVAL

This consent is not an approval to commence building work. The works associated with this consent can only commence following the issue of the Construction Certificate.

Note: Persons having the benefit of development consent may appoint either a council or an accredited certifier as the principal certifying authority for the development or for the purpose of issuing certificates under Part 4A of the Environmental Planning and Assessment Act. When considering engaging an accredited certifier a person should contact the relevant accreditation body to ensure that the person is appropriately certified and authorised to act in respect of the development.

A. Prescribed Conditions:

1. The development is to be undertaken in accordance with the information provided by the applicant in support of the application, including the Statement of Environmental Effects, and in accordance with the following plans and documents:
 1. Letter from Willow Tree Planting "Development Application N540/15 – 10 Fern Creek Road, Warriewood, Proposed 20 Lot Community Title Subdivision. Response to Statement of Facts and Contentions Dated 23 March 2016 and Following discussion at Section 34 Conference on 11 May 2016" dated 19 May 2016.
 2. Letter from Northrop "Development Application N540/15 – 10 Fern Creek Road, Warriewood, Proposed 20 Lot Community Title Subdivision. Response to Statement of Facts and Contentions Dated 23 March 2016 and Following discussion at Section 34 Conference on 11 May 2016" dated 18 May 2016.
 3. Letter from Northrop " 6 Orchard Street Stage 2 and 10 Fern Creek Road, Warriewood Valley Residential Subdivision (DA N0470/15) and (DA N0540/15) – Additional DA Information in Response to Section 34 Conference" dated 25 May 2016
 4. Updated Plan of Subdivision, dated May 2016, prepared by Stephen Bowers Architects. Drawings numbered:
 - o DA-01 (Revision B)
 - o DA-02 (Revision B)
 - o SK-01 (bulk earthworks plan).
 5. Updated civil engineering drawings, dated May 2016, prepared by Northrop. Drawings numbered:
 - o DA1.11 (Revision 6)
 - o DA1.31 (Revision 5)
 - o DA3.11 (Revision 1)

- DA4.01 (Revision 5)
 - DA4.02 (Revision 5)
 - DA4.21 (Revision 5)
 - DA4.22 (Revision 4)
 - DA4.31 (Revision 5).
6. Arboricultural Statement and Tree Protection Method prepared by Treehaven Envirosapes dated 31 May 2016, together with Addendum to Arboricultural Statement and Tree protection Method prepared by Treehaven Envirosapes dated 15 June 2016, and accompanying Tree Schedule v03.
 7. Design to Existing Cut to Fill Diagram, dated 14 June 2016, prepared by Stephen Bowers Architects. Drawing number DA3,11 (Revision 3).
 8. Tree Retention and Removal Plan, dated 20 June 2016, prepared by sym.studio. Drawings numbered:
 - ASC07.1-SK-01 (Issue G)
 - ASC07.1-SK-02 (Issue G).
 9. Landscape Plans, dated 17 September 2015, prepared by sym.studio. Drawing numbers:
 - ASC07.1-DD-101 (Issue E); and
 - ASC07.1-DD-102 (Issue F).
 10. Community Management Stated, prepared by Phillipa Russel Lawyers, dated 20 June 2016.
2. All works are to be carried out in accordance with the requirements of the Building Code of Australia.
 3. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, there is to be such a contract in force.
 4. Critical stage inspections are to be carried out in accordance with clause 162A of the *Environmental Planning & Assessment Regulation 2000*. To allow a Principal Certifying Authority or another certifying authority time to carry out critical stage inspections required by the Principal Certifying Authority, the principal contractor for the building site or the owner-builder must notify the Principal Certifying Authority at least 48 hours before building work is commenced and prior to further work being undertaken.
 5. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - a. showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - c. stating that unauthorised entry to the work site is prohibited.
 Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
 6. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - a. in the case of work for which a principal contractor is required to be appointed:
 - i. The name and licence number of the principal contractor, and
 - ii. The name of the insurer by which the work is insured under Part 6 of that Act.
 - b. in the case of work to be done by an owner-builder:
 - i. The name of the owner-builder, and

- ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
7. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.
8. The hours of construction are restricted to between the hours of 7.00am and 5.00pm Monday - Friday and 7.00am to 1.00pm on Saturdays. No works are to be carried out on Sundays or Public Holidays. Internal building work may be carried out at any time outside these hours, subject to noise emissions from the building or works not being audible at any adjoining boundary.

B. Matters to be incorporated into the development and maintained over the life of the development:

1. This approval/consent relates only to the new work nominated on the approved consent plans and does not approve or regularise any existing buildings or structures within the property boundaries or within Council's road reserve.
2. The recommendation of the risk assessment required to manage the hazards as identified in Geotechnical Report referenced in this consent are to be incorporated into the construction plans.
3. If any Aboriginal Engravings or Relics are unearthed all work is to cease immediately and the Metropolitan Local Aboriginal Land Council (MLALC) and Department of Environment & Climate Change (DECC) are to be notified.
4. In accordance with Council's Tree Preservation Order, all existing trees as indicated in the Tree Retention and Removal Plan, dated 20 June 2016, prepared by sym.studio shall be retained. For all other tree issues not related to a development application, applications must be made to Council's Tree Management Officers.
5. No environmental weeds are to be planted on the site. Refer to Council's website for environmental weed lists.
6. Prior to the completion of works, all declared noxious weeds are to be removed/controlled in accordance with the Noxious Weeds Act 1993. Environmental weeds are to be removed and controlled. Refer to Council's website for noxious/environmental weed lists.
7. Any vegetation planted onsite outside the approved landscaping is to be consistent with:
 - a. Locally native species growing onsite and/or selected from the list pertaining to the vegetation community growing in the locality as per the vegetation mapping and Native Plants for Your Garden guide available on Council's website.
 - b. The *Warriewood Valley Release Area Landscape Masterplan and Design Guidelines (Public Domain)*.Other plant species can only be used with written approval of Council
8. No building materials or other materials are to be placed/stored on riparian vegetation. Sediment is not to leave the site or enter areas of riparian vegetation, and appropriate sediment fencing is to be installed.
9. Any new fencing (with the exception of swimming pool fencing) must be:

- a. Made passable to native wildlife. Hole dimensions are to be a minimum of 150mm wide x 100mm high at ground level spaced at 6 metre intervals.
 - b. Where fencing is required to contain a domestic animal the enclosed area shall be up to 25% of the site cover and in a location that does not impede the passage of native wildlife between sites.
10. Domestic pet animals are to be kept from entering wildlife habitat areas at all times. Dogs and cats are to be kept in an enclosed area or on a leash such that they cannot enter areas of bushland, unrestrained, on the site or on surrounding properties or reserves. No ferrets or rabbits are permitted to be kept within the new subdivision.
11. Street address numbering can only be authorised by Council. Before proceeding to number each lot, approval of the numbers must be sought from Council's Planning and Assessment Business Unit.
12. The street names for the Community Title roads must be in accordance with the *Warriewood Valley Street Name Register*.
13. The adjustment and construction of all utilities, services and drainage systems, and the creation of appropriate easements are to be at the full cost of the developer, including:
 - a. Electrical and telecommunications for the proposed lots, which are to be provided underground. The location of any trenching and if required, pad mounted substation(s), is to take into account future/proposed landscaping in the public domain.
 - b. Street lighting facilities on the Community Title roads and the existing Fern Creek Road public road reserve frontage are to be provided in accordance with the requirements of Ausgrid.
 - c. All utility services including overhead power supply and communication cables located in the Fern Creek Road public road reserve are to be placed underground for the full length of the public road reserve frontage of the development site at the full cost to the developer. The location of undergrounded services shall be sited to ensure the safe retention of existing canopy trees.
14. No water pollution shall result from the operation of any plant or equipment or activity carried out.
15. Noise from the operation of any plant or equipment at the premises shall comply with the noise provisions of the *Protection of the Environment Operations Act 1997*.
16. No odour nuisance to the public or adjoining properties shall be created by the operation of any plant or equipment or any procedure carried out at the premises.
17. No emissions causing air pollution shall be created by the operation of any plant equipment of any procedure carried out at the premises.
18. Existing canopy trees identified as retained in Appendix 2 of Arboricultural Statement and Tree Protection Method prepared by Treehaven Envirosapes dated 31 May 2016, together with Addendum to Arboricultural Statement and Tree protection Method prepared by Treehaven Envirosapes dated 15 June 2016, and accompanying Tree Schedule v03 referenced in this consent are to be retained for the life of the development.
19. Replacement canopy trees are to be provided in accordance with the Landscape Plans referenced in this consent, and are to be retained for the life of the development.
20. All water management facilities proposed for the development, including rainwater tanks, stormwater quality improvement devices (ie 18 x Stormwater 360 Stormfilter cartridges utilising a media consisting of Zeolite, Pearlite and Granulated Activated Carbon),

Stormwater 360 'enviropod' 200 micron baskets (or similar) in all stormwater pits in the development, bioretention systems on certain lots as shown in the Northrop plans, on-site detention facilities, and private stormwater drainage are to remain in private ownership, be located within private property (except where the private stormwater crosses public land or the outlet enters the public creek corridor) and maintained in accordance with the manufacturer's specifications. The maintenance is to be carried out by the owners of the development or the Neighbourhood Association over the life of the development.

21. The minimum floor level shall be at or above the Flood Planning Level plus Climate Change.
22. The storage of all chemical, toxic and hazardous material shall be at or above the FPL.
23. All building structures are to be ensured structural integrity for immersion and the impact of hydraulic forces of floodwaters and debris up to the Probable Maximum Flood (PMF).
24. All structural elements below the PMF level are to be flood compatible in terms of materials used and in the design.

C. Matters to be satisfied prior to the issue of the Construction Certificate:

Note: All outstanding matters referred to in this section are to be submitted to the accredited certifier together. Incomplete Construction Certificate applications / details cannot be accepted.

1. Submission of construction plans and specifications and documentation which are consistent with the approved Development Consent plans, the requirements of Building Code of Australia and satisfy all conditions shown in Part B above, are to be submitted to the Principal Certifying Authority.
2. Prior to issue of the Construction Certificate, Form 2 of the *Geotechnical Risk Management Policy for Pittwater* (Appendix 5 of P21 DCP) is to be completed and submitted to the Accredited Certifier.
3. No works are to be carried out in Council's Road Reserve without the written approval of the Council.

Note: Separate approval is required for access driveways, paths, connections to underground services (stormwater, gas, sewer, electricity, etc:), and landscaping works within Council's Road Reserve.

4. Construction works approved by this consent must not commence until:
 - a. Construction Certificate has been issued by a Principal Certifying Authority;
 - b. A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment, and
 - c. at least 2 days notice, in writing has been given to Council of the intention to commence work.
5. In accordance with section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate of 0.0035 of the total cost of the work to either the Long Service Payment Corporation or Council for any work costing \$25,000 or more.
6. A satisfactory Detailed Site Investigation report is to be submitted to the Council to demonstrate that the land is suitable (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out. The Detailed Site Investigation Report is:

- a. To be conducted and prepared by suitably qualified and appropriately experienced contaminated land professionals who are experienced in contaminated site assessment and management as required by the NSW Environmental Protection Authority.
 - b. Required to confirm the presence and extent of contamination in order to address the data gaps identified in the Preliminary Site Investigation report referenced in this consent and to determine the suitability of the site for the proposed residential development.
 - c. To comply with:
 - i. *State Environmental Planning Policy No 55—Remediation of Land*.
 - ii. *Managing Land Contamination: Planning Guidelines: SEPP55 - Remediation of Land* (Department of Urban Affairs and Planning and NSW EPA 1998).
 - iii. *Contaminated Land Management Act 1997*.
 - iv. NSW Environmental Protection Authority requirements/guidelines regarding contaminated lands.
 - d. To identify the need for the completion of any related site Remediation Action Plan, work to be carried out on site, Validation, Site Monitoring and Notice of Completion of remediation.
7. Should remediation be required as a consequence of the Detailed Site Investigation, a Notice of Completion of remediation for the site is to be provided by a suitably qualified and appropriately experienced contaminated land professional who is experienced in contaminated site assessment and management, confirming that the site works identified within the Detailed Site Investigation Report and related site Remediation Action Plan have been complied with in accordance with NSW EPA requirements. The documentation is to confirm that site/excavation works were periodically monitored for leaching of contaminants and that investigation, sampling, remediation and validation works comply with:
- a. *State Environmental Planning Policy No 55—Remediation of Land*.
 - b. *Managing Land Contamination: Planning Guidelines: SEPP55 - Remediation of Land* (Department of Urban Affairs and Planning and NSW EPA 1998).
 - c. *Contaminated Land Management Act 1997*.
 - d. NSW Environmental Protection Authority requirements/guidelines regarding contaminated lands.
8. An Erosion and Sediment Management Plan is to be submitted prior to the issue of a Construction Certificate. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises shall be undertaken through the installation of erosion control devices such as catch drains, diversion drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams and sedimentation basins. Such plan is to be accompanied by a certification from an appropriately qualified person, that the plans/ details have been designed in accordance with the requirements of *Managing Urban Stormwater: Soils and Construction* (Landcom 2004). The plan is also to include specific details required to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.
9. An application is to be made to and approved by Council's Traffic Committee as the consent authority for all parking restrictions on both public and Community Title roads and any traffic control facilities (to be certified by a Traffic Engineer). Applications to Council's Traffic Committee are to:
- a. Achieve a road design and landscaped effect consistent with the *Warriewood Valley Landscape Masterplan and Design Guidelines (Public Domain)*
 - b. Meet the objectives and requirements of:
 - i. *The Warriewood Valley Roads Master Plan*;
 - ii. *Austroads*;
 - iii. *AusSPEC*; and
 - iv. P21 DCP.

- c. The engineering design and plans for road and drainage works are to be certified as meeting the requirements of parts (a) and (b) of this condition by a suitably qualified and experienced Civil Engineer who is NPER accredited by Engineers Australia.
10. Prior to the issue of a Construction Certificate, written approval under Section 139 of the Roads Act is to be obtained from Council for works within the Fern Creek Road reserve up to the centreline and for the full length of the development site. Engineering plans and specifications for the said works are to include the following:
- a. The works in relation to the full length of the Fern Creek Road frontage of the development site and including the works in relation to the vehicular access to the development are to be provided.
 - b. Kerb and gutter and associated stormwater drainage to drain the road pavement for the full length of the roadway of that part of Fern Creek Road for the full frontage of the site subject to this consent (vertical faced kerb only will be permitted).
 - c. Road shoulder and road pavement construction including pavement design and treatments up to the road centre line in Fern Creek Road for the full frontage of the site subject to this consent.
 - d. Footpath/cycleway 2.1 metres wide for the full length of the frontage in Fern Creek Road at a level to match the kerb and gutter, is to be provided.
 - e. Pavement design and treatments.
 - f. The public shared path in Fern Creek Road is to be wholly located on public land.
 - g. The intersection of the Community Title roads with Fern Creek Road is to be designed to cater for safe movements by a 12.0 metre long single unit truck (Austroads standard) entering and leaving the Community Title road.
 - h. Street lighting using Ausgrid standard lights/poles is to be provided in Fern Creek Road with lighting of the pedestrian refuge and intersection to meet the relevant RMS and Australian Standards.
 - i. The undergrounding of existing services, including overhead power supply and communication cables, for the full length of the public road reserve.
 - j. Street name signs (complying to Council's requirements) to be provided in Fern Creek Road at the intersection with the Community Title roads.
 - k. All traffic facilities in Fern Creek Road to be designed to cater for semi-trailers and articulated buses with no vehicle overhang of nature strips and a minimum 300mm as a clearance of all kerb and traffic islands, for all wheel paths.
 - l. The road design plans for Fern Creek Road are to extend for a minimum distance of 30 metres along Fern Creek Road beyond the side boundaries of both sides of the site to ensure the works will match into future roadworks in Fern Creek Road in front of adjacent properties.
 - m. The roadway of the intersection of the Community Title road with Fern Creek Road is to be constructed in concrete from the edge of the road carriageway (kerb and gutter) in Fern Creek Road for the full width of the nature strip.
 - n. Landscaping incorporating:
 - i. A 2.1m wide footpath along the Fern Creek Road verge frontage of Lot 2, Lot 3, Lot 4, and a portion of Lot 21 adjacent to Lot 4, shall be located directly behind the kerb, with no landscape strip between the kerb and footpath.
 - ii. A 2.1m wide footpath along the Fern Creek Road verge (north-south alignment) fronting a portion of Lot 21, Lot 10, Lot 11, Lot 12, Lot 13, and Lot 14, shall be located 600mm from the property boundary.
 - iii. A 1.5m wide footpath along the Community Title road adjacent to Lot 12, shall be located 600mm from the property boundary.
 - iv. All underground utility services located under the footpath.
 - v. Kerb ramps located in association with the footpaths for all road crossings.
 - vi. Along the Fern Creek road verge, a total of 16 *Angophora costata* street trees shall be planted.
 - vii. Road reserve street tree planting shall be in accordance with the following requirements:
 - all street trees shall be installed as 400 litre size

- all street trees shall be located a minimum of 1.5m from the back of kerb
- understorey planting to all street trees shall be in accordance with the Landscape Plans

- o. Any inconsistencies between proposed plans are to be clarified and resubmitted for consideration.

The plans required above are to meet the objectives and requirements of the *Warriewood Valley Roads Master Plan, Austroads, AusSPEC*, and P21 DCP and achieve a road design and landscaped effect consistent with the *Warriewood Valley Landscape Masterplan and Design Guidelines (Public Domain)*.

The engineering design and plans for road and drainage works must be certified as meeting the requirements outlined above by a suitably qualified and experienced Civil Engineer who is NPER accredited by the Institution of Engineers (Australia) prior to submission to Council.

11. Payment of the Engineering Plan Assessment fee (in accordance with Council's adopted Fees and Charges) is required prior to Council releasing the approved engineering plans. Engineering plans and specifications for works within all Community Title roads are to include the following:
 - a. Kerb and gutter (vertical faced kerb) and associated stormwater drainage to drain the road pavement for the full length of the roadway.
 - b. Street lighting using Ausgrid standard lights/poles.
 - c. Pavement design and treatments.
 - d. Landscaping incorporating:
 - i. Along the Community Title road servicing Lots 5-10 and Lot 21, a total of 4 *Angophora costata* and 3 *Syzygium paniculatum* shall be installed within the road verge.
 - ii. Along the Community Title road fronting Lots 12 to 20, a total of 9 *Waterhousia floribunda* shall be installed within the road verge.
 - iii. Within the Community Title road verge adjoining No. 9 Fern Creek Road, a total of 4 *Angophora costata* shall be installed within the road verge.
 - e. Any inconsistencies between proposed plans are to be clarified and resubmitted for consideration.

All community roads to be designed to cater for the safe movement of a 12.0 metre long single unit truck (*Austroads Standards*).

The plans required under this condition must meet the objectives and requirements of the *Warriewood Valley Roads Masterplan, Austroads, AusSPEC*, and P21DCP, as relevant and achieve a road design and landscaped effect consistent with the *Warriewood Valley Landscape Masterplan and Design Guidelines (Public Domain)*.

The engineering design and plans for road and drainage works must be certified as meeting the requirements of this condition by an experienced civil engineer who is NPER accredited by the Institution of Engineers (Australia).

12. Any internal roadway or driveway is to be constructed to an all-weather standard finish to be of dark or earthy tones, line-marked and signposted.
13. Civil engineering details of any proposed excavation/landfill are to be submitted to the Accredited Certifier or Council with the Construction Certificate application. Each plan/sheet is to be signed by a qualified practising Civil Engineer who has corporate membership of the Institution of Engineers Australia (M.I.E) or who is eligible to become a corporate member and has appropriate experience and competence in the related field.

14. Where waste water is directed to the Sydney Water sewerage system the installation of in-sink food waste disposal units is prohibited due to the increased loading placed on the Warriewood Sewage Treatment Plant particularly during wet weather.
15. A satisfactory Construction Traffic Management Plan (CTMP) prepared by a suitably qualified traffic consultant is to be submitted prior to the issue of a Construction Certificate. The CTMP is to detail:
 - a. Quantity of material to be transported;
 - b. Proposed truck movements per day;
 - c. Proposed hours of operation; and
 - d. Proposed traffic routes, noting that 3 tonne load limits apply to some roads within the local government area.
 - e. Location of on/off site parking for workers associated with construction for the whole period of construction.
16. A cash contribution of \$1,104,395.94 (subject to (a) below) is to be made for the provision of public infrastructure and services pursuant to Section 94 of the *Environmental Planning and Assessment Act 1979*.
 - a. The cash contribution will be adjusted at the time of payment in accordance with the latest Consumer Price Index as published quarterly by the Australian Bureau of Statistics as outlined in Council's *Warriewood Valley Section 94 Contributions Plan (Plan No. 15)*. The monetary component of the developer contribution is to be paid prior to issue of the first Construction Certificate or Subdivision Certificate (whichever occurs first) or prior to the issue of the Subdivision Certificate where no Construction Certificate is required. The proponent shall provide evidence of payment of the cash contribution (subject to (a) above) to the Certifying Authority within 14 days of fulfilling the condition (a).
 - b. The applicant may negotiate with Council for the direct provision of other facilities and services, the dedication of land in lieu of the cash contribution above (or any portion of that cash contribution) or the deferral of payments through a Material Public Benefit offer to Council in accordance with the *Warriewood Valley Section 94 Contributions Plan (Plan No. 15)*. Any Material Public Benefit agreement between the applicant and Council must be finalised, formally signed and in place prior to the payment being made.

The *Warriewood Valley Section 94 Contributions Plan (Plan No.15)* may be inspected at Council's Mona Vale Office, 1 Park Street Mona Vale or Council's website.

17. Prior to the issue of the Construction Certificate, a suitably qualified arborist is to provide a detailed Tree Protection Plan and Specification detailing the required tree protection measures to ensure retention of the 29 trees identified to be retained in Appendix 2 of Arboricultural Statement and Tree Protection Method prepared by Treehaven Envirosapes dated 31 May 2016, together with Addendum to Arboricultural Statement and Tree protection Method prepared by Treehaven Envirosapes dated 15 June 2016, and accompanying Tree Schedule v03. The Tree Protection Plan and Specification is to identify and document the required protection measures for each of the 29 trees to be retained, and be in accordance with any recommendations made within the statement by Treehaven Envirosapes dated 31/05/2016.

18. Plans are to be provided prior to Construction Certificate that demonstrate all proposed works, and all indicative building envelopes, are outside the TPZ of the 29 trees to be retained as identified in Appendix 2 of Arboricultural Statement and Tree Protection Method prepared by Treehaven Envirosapes dated 31 May 2016, together with Addendum to Arboricultural Statement and Tree protection Method prepared by Treehaven Envirosapes dated 15 June 2016, and accompanying Tree Schedule v03. Where this is not able to be achieved, a qualified arborist is to provide certification that the impacts of proposed works under this consent, or future works associated with the indicative building

envelopes, can be managed such that the trees are able to be retained. Such management techniques are to be set out in the tree protection specification referenced in Condition C17.

19. Tree numbers T84 and T150 shall be protected in accordance with the Addendum to Arboricultural Statement and Tree protection Method prepared by Treehaven Environscapes dated 15th June 2016. The horizontal boring required for these two trees shall occur in accordance with site investigation of the exact location and depth of roots via 'root mapping' techniques. This investigation is to be undertaken prior to the issue of construction certificate, and the appropriate depth for the location of stormwater infrastructure established by a qualified arborist such that the trees shall be retained and protected.

20. The applicant is to consult with Sydney Water to establish whether there are any Section 73 Compliance Certificate requirements for this proposal, under the provisions of the *Sydney Water Act, 1994*. A copy of any Notice of Requirements letter which may be issued by Sydney Water is to be provided to the Private Certifying Authority with the Construction Certificate application.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

21. Prior to the issue of a Construction Certificate the following documentation is to be prepared and certified by a suitably qualified Hydraulic Engineer:
- a. A revised Water Management Report (based on the "Stormwater Management Report" prepared by Northrop, DA Submission Revision B – September 2015 and as amended by:
 - b. Letter from Northrop "Development Application N540/15 – 10 Fern Creek Road, Warriewood, Proposed 20 Lot Community Title Subdivision. Response to Statement of Facts and Contentions Dated 23 March 2016 and Following discussion at Section 34 Conference on 11 May 2016" dated 18 May 2016.
 - c. Letter from Northrop " 6 Orchard Street Stage 2 and 10 Fern Creek Road, Warriewood Valley Residential Subdivision (DA N0470/15) and (DA N0540/15) – Additional DA Information in Response to Section 34 Conference" dated 25 May 2016:
 - d. providing detailed designs, plans and the required information for all works needed to achieve full compliance with the Warriewood Valley Water Management Specification February 2001 (WMS (2001)) and Pittwater 21 Development Control Plan including:
 - The WMS (2001) document Checklist – Construction Certificate is to be certified and submitted and approved prior to the issue of any Construction Certificate.
 - The revised Water Management Report is to be submitted to the Council for its records.
 - A bulk earthworks plan showing areas of cut and fill, including existing and post-works levels to demonstrate how each lot will drain to the proposed raingardens.
 - A Subdivision plan clearly indicating any drainage or other easements.
 - Details of how the water management facilities that are to be owned and operated by the Community Association will be maintained (including the lot-based raingardens) and how this information is to be incorporated in the Community Management Statement

- An amended Flood Emergency Response Plan prepared to generally accord with Section B3.25 of the Pittwater DCP for those lots affected by overland flow up to the Probable Maximum Flood event.
 - Baseline water quality and sediment quality of Fern Creek in accordance with the Warriewood Valley Water Management Specification (2001).
 -
- e. The detailed design of all works associated with the water management system must provide for a complete system which meets the objectives and requirements of the Warriewood Valley Water Management Specification (February 2001):
- The System is to be in accordance with the revised Water Management Report referred to in this condition.
 - The System is to be designed to meet the objectives and requirements of the Warriewood Valley Integrated Water Management Strategy and Warriewood Valley Water Management Specification and is to include and provide for:
 - Staging of the works to ensure that the objectives of the Warriewood Valley Water Management Specification are achieved prior to the release of any Subdivision Certificate.
 - The Stormwater Management System is to comply with relevant Australian Standards and contemporary engineering best practice.
 - The stormwater drainage design is to incorporate pipe capacities to allow for an additional 30% increase in rainfall intensity for the climate change scenario.
 - The Water Management Report and all associated plans and detailed design must be certified in accordance with the Warriewood Valley Water Management Specification (February 2001).
- f. Updated drainage design plans, longsections and supporting documentation showing all
- drainage within the subject site and extending downstream to the creek outlet including drainage in any relevant easements.
 - that the drainage network to detention systems and the tank itself has been sized to accommodate the 1% AEP plus an allowance of 30% increased rainfall.
- g. Documentation demonstrating that no lots will be created below the relevant Flood Planning Level.

22. An Erosion and Sediment Management Plan is to be submitted prior to the issue of a Construction Certificate. Control over discharge of stormwater and containment of run-off and pollutants leaving the site/premises shall be undertaken through the installation of erosion control devices such as catch drains, diversion drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams, sedimentation basins. Such plan is to be accompanied by a certification from an appropriately qualified person, that the plans/ details have been designed in accordance with the requirements of Managing Urban Stormwater: Soils and Construction (Landcom 2004).

The plan is also to include specific details required to remove clay from vehicles leaving the site so as to maintain public roads in a clean condition.

23. Prior to the issue of a Construction Certificate, the Applicant shall provide documentation to Council demonstrating that the proposed connection into the private interallotment drainage system within Stage 1 of the adjacent property, 6 and 6A Orchard Street, that demonstrates:

- The drainage has been sized appropriately;
- They have a legal right to drain through the neighbouring Orchard Street site; and

- That, in the event the drainage system in 6 Orchard Street is not in place prior to the commencement of the subject development at 10 Fern Creek Road, permission exists or would be granted to enter 6 Orchard Street for construction purposes.
24. Prior to the issue of a Construction Certificate, the draft Section 88B Instrument annexed to this consent and marked "A" is to be amended, as follows;
- To restrict the physical location of the rain garden on the said lot(s), such that the rain garden is located along the rear or eastern boundary fence of lots 2-8 and 17-20.
 - To make specific reference to the design requirements for the rain gardens for lots 2-8 and 17-20 prescribed on Northrop Drawings 150483 4.01 and 4.02 Revision 5 and the associated Stormwater Management Report (as referenced in this consent), and any amended report or drawing as required by conditions in this consent.
 - To ensure that any damage to the raingardens on lots 2-8 and 17-20 that occurs after the construction of the raingarden (e.g. as a result of the construction of a dwelling following the subdivision of the land) are repaired prior to the occupation of that dwelling.

D. Matters to be satisfied prior to the commencement of works and maintained during the works:

Note: It is an offence to commence works prior to issue of a Construction Certificate.

1. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
2. Where site fill material is necessary, fill materials must:
 - a. be Virgin Excavated Natural Material (VENM) only, as approved under the Department of Climate Change "General Resource Recovery Exemption;
 - b. be free of slag, hazardous, contaminated, putrescibles, toxic or radioactive excavated material and soil, rock or similar material. Putrescibles and non-putrescibles solid waste (including demolition material) is not permitted.
 - c. Be the subject of testing and monitoring throughout the course of the works, and is to consist of clean fill inert material only, that is, non-contaminated excavated material and soil, and suitable material. Putrescible and non-putrescible solid waste (including demolition material) is not permitted. All imported fill must be sourced locally where practicable to reduce traffic movements.
 - d. Be deposited and works carried out in strict compliance with *Managing Urban Stormwater: Soils and Construction* (Landcom 2004).
3. Prior to commencement of any works, temporary sedimentation and erosion controls in accordance with the approved Erosion and Sediment Management Plan are to be installed to eliminate the discharge of sediment from the site and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction including:
 - a. A site fence and silt and sediment control fence is to be erected and maintained during the course of works along any street boundary and park/reserve boundary to the site.
 - b. Sediment is not to leave the site or enter areas of Bushland vegetation, and the appropriate sediment fencing is to be installed.
 - c. The capacity and effectiveness of runoff and erosion control measures shall be maintained at all times to conform to the specifications and standards quoted and to any conditions of approval of those measures.

- d. Measures shall be applied, to the satisfaction of council, to prevent site vehicles tracking sediment and other pollutants onto any sealed roads serving the development.
 - e. Measures required in permits issued under the *Water Management Act* shall be implemented. This Act requires that people obtain approval for any proposed excavation or fill in or within 40 metres of a watercourse. Permits should be sought from the Department of Primary Industries – Water (formally NSW Office of Water).
 - f. Approved runoff and erosion controls shall be installed before site vegetation is cleared (other than that associated with the construction of the controls). These shall be as shown on an ESCP approved by council.
 - g. Topsoil shall be stripped only from approved areas and stockpiled for re-use during site rehabilitation and landscaping.
 - h. Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage line or easement, waters, footpath, kerb or road surface and shall have measures in place to prevent the movement of such materials onto the areas mentioned. All stockpiled materials are to be retained within the property boundaries.
 - i. Uncontaminated runoff shall be intercepted up-site and diverted around all disturbed areas and other areas likely to be disturbed. Diversion works shall be adequately stabilised.
 - j. Runoff detention and sediment interception measures shall be applied to the land. These measures will reduce flow velocities and prevent topsoil, sand, aggregate, or other sediment escaping from the site or entering any downstream drainage easements or waters.
4. Personnel with appropriate training, or demonstrated knowledge and experience in erosion and sediment control shall be responsible for supervising the installation and maintenance of approved erosion and sediment control measures – during and after construction and until the site has been restored to the satisfaction of council.
 5. An all-weather accessway at the front of the property consisting of 50-75mm aggregate or similar material at a minimum thickness of 200mm and 15metres long laid over geotechnical fabric is to be constructed prior to commencement of works and maintenance over the works period.
 6. The site must be fenced throughout construction and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.
 7. Waste materials generated through demolition, excavation and construction works are to be minimised by re-use on site, recycling or where re-use or recycling is not practical, disposal at an appropriate authorised waste facility.

All waste dockets and receipts regarding demolition, excavation and construction waste are to be retained on site to confirm which facility received the material for recycling or disposal.

The ongoing operation of Recycling and Waste Management Services is to be undertaken in accordance with the Waste Management Plan.

8. Prior to commencement of works, at least three photographs of the public road reserve and footpath area adjoining the site, one front-on and one from each side of the property, are to be submitted to Council with the notification of commencement of works, showing the condition of the street trees and road reserve. The photographs must be dated, and accompanied by a statement that they are a true and accurate representation of the scene depicted.
9. No works are to be carried out in Council's Road Reserve without the written approval of the Council.

10. A Road Opening Permit, issued by Council, must be obtained for any road openings, or excavation within Council's Road Reserve associated with the development on the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
11. No skip bins or materials are to be stored on Council's Road Reserve.
12. No native canopy trees are to be removed from Council's Road Reserve without prior approval from Council.
13. A clearly legible *Site Management Sign* is to be erected and maintained throughout the course of the works. The sign is to be centrally located on the main street frontage of the site and is to clearly state in legible lettering the following:
 - a. The builder's name, builder's telephone contact number both during work hours and after hours.
 - b. That no works are to be carried out in Council's Road Reserve without the written approval of the Council.
 - c. That a Road Opening Permit issued by Council must be obtained for any road openings or excavation within Council's Road Reserve associated with development of the site, including stormwater drainage, water, sewer, electricity, gas and communication connections. During the course of the road opening works the Road Opening Permit must be visibly displayed at the site.
 - d. That no skip bins or materials are to be stored on Council's Road Reserve.
 - e. That the contact number for Pittwater Council for permits is 9970 1111.
14. All construction in the public road reserve must be undertaken by a Council authorised contractor. Alternatively, prior to the commencement of works, Council must be notified of each contractor undertaking works within the public road reserve. Each contractor must be able to provide/demonstrate each of the following;
 - Incorporated company/ business name and ABN;
 - Public Liability Insurance;
 - Professional Indemnity Insurance;
 - Workers Compensation Insurance;
 - Accident/ Injury Insurance Cover;
 - Other Insurances;
 - Company Licences, Registrations, Permits, Certificates etc.;
 - WorkCover Construction Industry General Induction Card;
 - WHS Documents;
 - Employee qualifications – Certificates, Licences etc.;
 - Contractor Services;
 - Client Services; and
 - WHSMS Self Evaluation.
15. A stamped copy of the approved plans is to be kept on the site at all times, during construction.
16. The Construction Traffic Management Plan (CTMP) is to be implemented, throughout the construction phase of the development on site, including site preparation or demolition.
17. Toilet facilities are to be provided in a location which will not detrimentally affect the amenity of any adjoining residents at or in the vicinity of the work site during the duration of the development.

18. The public footways and roadways adjacent to the site are to be maintained in a safe condition at all times during the construction phase. Pedestrian access is to be maintained at all times during the construction phase.
19. Prior to the commencement of works, all tree protection measures are to be implemented in accordance with the Tree Protection Plan and Specification provided as required by conditions C17 and C18 of this consent, and certified by a suitably qualified arborist as being adequate and in accordance with the specifications of *AS4970-2009 Protection of Trees on Construction Sites*.
20. Documented evidence of a qualified arborist supervising the works in proximity to trees being retained and ensuring that all tree protection measures are adopted as specified in the Tree Protection Plan and Specification provided as required by conditions C17 and C18 of this consent, is required. This documentation is to be provided prior to the issue of the Subdivision Certificate.
21. Prior to commencement of any works, temporary sedimentation and erosion controls in accordance with the approved Erosion and Sediment Management Plan are to be installed to eliminate the discharge of sediment from the site and shall not be removed until the site has been stabilised or landscaped to the Principal Certifying Authority's satisfaction including:
 - A site fence and silt and sediment control fence is to be erected and maintained during the course of works along any street boundary and park/reserve boundary to the site.
 - Sediment is not to leave the site or enter areas of Bushland vegetation, and the appropriate sediment fencing is to be installed.
 - The capacity and effectiveness of runoff and erosion control measures shall be maintained at all times to conform to the specifications and standards quoted and to any conditions of approval of those measures.
 - Measures shall be applied, to the satisfaction of council, to prevent site vehicles tracking sediment and other pollutants onto any sealed roads serving the development.
 - Approved runoff and erosion controls shall be installed before site vegetation is cleared (other than that associated with the construction of the controls). These shall be as shown on an ESCP approved by council.
 - Topsoil shall be stripped only from approved areas and stockpiled for re-use during site rehabilitation and landscaping.
 - Stockpiles of topsoil, sand, aggregate, spoil or other material shall be stored clear of any drainage line or easement, waters, footpath, kerb or road surface and shall have measures in place to prevent the movement of such materials onto the areas mentioned. All stockpiled materials are to be retained within the property boundaries.
 - Uncontaminated runoff shall be intercepted up-site and diverted around all disturbed areas and other areas likely to be disturbed. Diversion works shall be adequately overland.
 - Runoff detention and sediment interception measures shall be applied to the land. These measures will reduce flow velocities and prevent topsoil, sand, aggregate, or other sediment escaping from the site or entering any downstream drainage easements or waters.

Personnel with appropriate training, or demonstrated knowledge and experience in erosion and sediment control shall be responsible for supervising the installation and maintenance of approved erosion and sediment control measures – during and after construction and until the site has been restored to the satisfaction of council.

22. The bulk earthworks are to be undertaken with the Design to Existing Cut to Fill Diagram, dated 14 June 2016, prepared by Stephen Bowers Architects.

E. Matters to be satisfied prior to the issue of Subdivision Certificate:

1. The following documents and payments are to be submitted to Council in a single package to ensure the efficient release of the relevant Subdivision Certificate:
 - a. A copy of the Section 73 Compliance Certificate issued under the provisions of the *Sydney Water Act, 1994*;
 - b. Copies of the Subdivision Plans (original plus 6 copies);
 - c. The Certifying Authority's Compliance Certificates. Each component of the works as outlined above are to be certified as being carried out in accordance with the relevant plans and documentation by suitably qualified professional persons as outlined in this development consent. Certification is to include:
 - (i) The private certifier's Compliance Certificates. Each component of the works identified to be certified by suitably qualified professional persons as outlined in this development consent(s), certifying the specific work is in accordance with the relevant plans and documentation and the National Construction Code and is to include:
 - the construction of the water management system has been supervised and certified by person(s) with appropriate experience and expertise in Civil/Environmental Engineering / Environmental Science, Hydrology and Hydraulics, and must be NER registered members of the Institution of Engineers (Australia).
 - Works associated with the water management system have been completed in accordance with information required under the deferred commencement conditions of this consent and have been installed to the manufacturers' specification (where applicable). Certification is to be provided in accordance with the Warriewood Valley Water Management Specification (February 2001); and
 - (ii) Creation of appropriate easements where public and/or private (interallotment) drainage lines pass through private property as shown on Northrop Drawings 150483 4.01 and 4.02 Revision 5 or as amended by the conditions of this consent.
 - (iii) Creation of appropriate easements where service lines or drainage lines pass through private property other than the lot which they benefit.
 - (iv) Works-As-Executed plans for all structures or facilities which will be dedicated to Council or which are located within drainage easements or which will require ongoing maintenance by Council. The plans are to be in paper and electronic format (dwg or dxf file) and comprise at least the following:
 - Boundary layout;
 - Kerb and gutter, road pavement, footpaths, traffic devices, retaining walls;
 - Signage (including type and wording), line marking;
 - Easements, survey numbers and marks, reduced levels and co-ordinates;
 - Stormwater drainage locations, pipe sizes and types, pit sizes and types, subsoil drains, on-site detention tanks;
 - Water quality devices;
 - Significant landscaping.
 - d. Security deposit of a value to be determined by Council is to be made to ensure rectification of any defects during the maintenance period.
 - e. Notification to Council, certified by an appropriately qualified Water Engineer, of properties to be notated under Section 149(2) Planning Certificates and specifying the applicable flood categories as set out in the *Flood Risk Management Policy for Development in Pittwater* (Pittwater 21 DCP Appendix 8).

- f. Certification by a qualified Engineer or Architect confirming that all driveways have been constructed in accordance with the approved plans and Council's P21 DCP.
 - g. A report from an appropriately qualified and experienced geotechnical engineer certifying that the lots are geotechnically stable and will provide an appropriate platform for any subsequent building on the development site.
 - (i) Works-As-Executed plans for all structures or facilities which will be dedicated to Council or which are located within drainage easements or which will require ongoing maintenance by Council. The plans are to be in paper and electronic format (dwg or dxf file) and comprise at least the following:
 - Boundary layout;
 - Kerb and gutter, road pavement, footpaths, traffic devices, retaining walls;
 - Signage (including type and wording), line marking;
 - Easements, survey numbers and marks, reduced levels and co-ordinates;
 - Stormwater drainage locations, pipe sizes and types, pit sizes and types, subsoil drains, on-site detention tanks;
 - Water quality devices;
 - Significant landscaping.
 - h. The Community Management Statement incorporating the following:
 - i. Maintenance requirements and responsibilities of the owners of the development or its Community Association for all water management facilities related to the development site including the rainwater tanks, stormwater quality improvement devices, stormwater filters, the onsite detention basin, flood storage area, and private stormwater drainage, including the pipe outlet to Narrabeen Creek and the compensatory flood storage area, in accordance with manufacturer's specifications;
 - ii. Maintenance requirements and responsibilities of the owners of the development or its Community Association for the private road;
 - iii. The safe retention of all existing canopy trees, in accordance with the Tree Retention and Removal Plans referenced in this consent;
 - iv. The Restriction on Use of Land burdening Lots 2, 3, 6, 7, 8, 11, 19 and 20, the terms of which restrict future buildings to within the building envelopes.
2. Prior to the issue of a subdivision certificate, a restrictive covenant is to be imposed on Lots 2-20, to the following effect:
- a. The registered proprietor shall not occupy or permit the occupation of any dwelling house of other structure on the lot(s) hereby burdened unless a 3kL rainwater tank has first been constructed/installed on the said lot(s), in accordance with the Stormwater Management Report (as referenced in this consent), and plumbing from the rainwater tank to supply cold water laundry, toilet flushing and outdoor irrigation and any amendments required by conditions of consent.
 - b. The registered proprietor shall not make or permit or suffer the making of any alterations to any rainwater tank which is, or shall be, constructed on the lot(s) burdened without the prior consent in writing of Council.
- The terms of such restrictive covenant shall be in accordance with the draft Section 88B Instrument annexed to this consent and marked "A", and any amendments required by conditions of consent.
3. Prior to the issue of a subdivision certificate, a restrictive covenant is to be imposed on Lots 2-8, 17-20, to the following effect:
- a. The registered proprietor shall not make or permit or suffer the making of any alterations to any rain garden which is, or shall be, constructed on the lot(s) burdened without the prior consent in writing of Council.
- The terms of such restrictive covenant shall be in accordance with the draft Section 88B Instrument annexed to this consent and marked "A", and any amendments required by conditions of consent.

4. Damage to Council's assets adjacent or near to the site that has occurred as a result of this development, including road, kerb and gutter and drainage facilities, are to be repaired to Council's written satisfaction prior to the issue of a Subdivision Certificate. Restoration of all damaged public infrastructure caused as a result of the development to Council's satisfaction is to occur at the full cost to the developer. Council's written approval that all restorations have been completed satisfactorily must be obtained and provided to the accredited certifier with the Subdivision Certificate application.
5. Prior to issue of the Subdivision Certificate, Form 3 of the *Geotechnical Risk Management Policy* (Appendix 5 of P21 DCP) is to be completed and submitted to the Principal Certifying Authority.
6. All roads, drainage and civil engineering works required under this Consent are to be completed prior to the issue of the Subdivision Certificate.
7. A maintenance period is to apply to all civil engineering works to be dedicated to Council or which will require ongoing maintenance by Council. The maintenance period will apply for six (6) months after the issue of the Subdivision Certificate. In that period the applicant will be liable for any part of the works which fail to perform in the manner required by the relevant certifications, or would reasonably be expected under the design conditions.
8. A suitably qualified landscape architect is to provide certification that the replacement canopy tree plantings has been undertaken on the individual residential allotments, in accordance with the Landscape Plan referenced in this consent.
9. Documented evidence of a qualified arborist supervising the works in proximity to trees being retained and ensuring that all tree protection measures are adopted as specified in the Tree Protection Plan and Specification provided as required by conditions C17, C18 and C19 of this consent, is required. This documentation is to be provided prior to the issue of the Subdivision Certificate.
10. A Restriction on Use of Land is to be created, burdening lots Lots 2, 3, 6, 7, 8, 11, 19 and 20, the terms of which restrict the erection of any structure, except for on-site detention systems, outside the building footprints indicated on the approved plans. The wording of the covenant shall specify that the covenant is/was imposed by the land owner of the site. Full details are to be submitted to Council on the final plan of Subdivision/and an accompanying Section 88B instrument. The creation of the Restriction on Use of Land can be achieved through registration of the Plan of Subdivision.

Note - The applicant and owner of the land has insisted on the imposition of this condition and the condition has not been required to be imposed by Council.

11. Prior to the issue of a Subdivision Certificate, all infrastructure works are to be completed and other relevant conditions in this consent relating to the following matters are to be satisfied. The works include all water management works.
12. A maintenance period is to apply to all civil engineering works to be dedicated to Council or which will require ongoing maintenance by Council. The maintenance period will apply for six (6) months after the issue of the Subdivision Certificate. In that period the applicant will be liable for any part of the works which fail to perform in the manner required by the relevant certifications, or would reasonably be expected under the design conditions. A security deposit of a value to be determined by Council is to be made to ensure rectification of any defects during the maintenance period.
13. Notification to Council will be required to change Council's Flood Hazard Classification of the properties, for the purpose of changing notations on the Section 149(2) Planning

Certificates of the properties issued under the Environmental Planning and Assessment Act, 1979. The proposed changes are to be certified by an appropriately qualified professional. Any change in Flood Hazard Classification and accompanying change in Section 149(2) Planning Certificate notations must be adopted by the elected Council and so should be submitted in sufficient time to complete this process.

F. Advice:

1. Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act, 1979* (as amended) and/or the conditions of this Development Consent may result in the serving of penalty notices (on-the-spot fines) under the summary offences provisions of the above legislation or legal action through the Land and Environment Court, again pursuant to the above legislation.
2. The applicant is also advised to contact the various supply and utility authorities, i.e. Sydney Water, Sydney Electricity, Telstra etc. to enquire whether there are any underground utility services within the proposed excavation area.
3. It is the Project Managers responsibility to ensure that all of the Component Certificates/certification issued during the course of the project are lodged with the Principal Certifying Authority. Failure to comply with the conditions of approval or lodge the Component Certificates/certification will prevent the Principal Certifying Authority issuing an Occupation Certificate.
4. In accordance with Section 95(1) of the Act, this consent will lapse if the development, the subject of this consent, is not physically commenced within 5 years after the date from which this consent operates.
5. To ascertain the date upon which the determination becomes effective and operates, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979* (as amended).
6. The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Waters sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. The approved plans will be appropriately stamped. For Quick Check agent details please refer to the web site at www.sydneywater.com.au then see Building Developing and Plumbing then Quick Check, or telephone 13 20 92.
7. You are reminded of your obligations under the objectives of the Disability Discrimination Act (DDA) 1992.

