



NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION

Development Application No: DA 2006/1148

DEVELOPMENT APPLICATION DETAILS

Applicant Name: Aust-Equity Properties Pty Ltd

Applicant Address: PO Box 48, Pymble, NSW 2073

Land to be developed (Address): Lot 1, DP 800376, No. 170-172 Harbord Road, Brookvale

Proposed Development: Demolition of existing structures and construction of new multi-unit industrial and warehouse complex.

DETERMINATION

Made on (Date): 8 May 2007

Consent to operate from (Date): 10 May 2007

Consent to lapse on (Date): 10 May 2010

Details of Conditions

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

NOTE:

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

Pursuant to Section 95(2) of the Environmental Planning and Assessment Act 1979, Council has varied the provisions of Section 95(1) and advise that the consent will lapse 3 years from the date upon which the consent operates.

Section 95A of the Environmental Planning and Assessment Act 1979, allows for an extension of 1 year to the period in which the consent will lapse, except for complying development. Such an application must be made in accordance with Clause 114 of the Environmental Planning and Assessment Regulation 2000.

GENERAL CONDITIONS

CONDITIONS THAT IDENTIFY APPROVED PLANS

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

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 approval) 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 Landscaping Plan

Landscaping works on the site are to be undertaken generally in accordance with the landscaping plan numbered LP01A prepared by *Wolski Lycenko Brecknock Architects*



dated 29 January 2007.

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

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

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

CONDITIONS THAT REQUIRE 'ANCILLARY' MATTERS TO BE COMPLETED TO THE SATISFACTION OF COUNCIL OR ANOTHER NOMINATED PERSON PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

4. Construction Management Program (Industrial Development)

A construction traffic management program, which addresses construction vehicle access to and from the site during excavation and building works is to be submitted for Council's consideration and approval. The need for a works zone adjacent to the site frontage in Miles Street is to be considered as part of the construction program. (The provision of a work zone will require approval from Warringah Traffic Committee. Applications for work zones are available from Customer Service and should be lodged at least 4 weeks prior to work commencing).

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

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

5. Amended Advertising signage

Advertising signs for the building facade including notice boards and window signage is limited to the following restrictions:

- i. All signage above RL 13.8 indicated on the plans for north elevation (Miles Street) is to be deleted with the exception of one multiple tenancy board (max 3.0m x 3.6m) to be located immediately above the car park entry;
- ii. All signage on the east elevation (Harbord Road) is to be deleted with the exception of one multiple tenancy board (max 3.0m x 3.6m) positioned centrally to the wall facade. No signage is to be placed within the window spaces on this

- facade;
- iii. All signage on the west elevation (Ethel Avenue) is to be deleted with the exception of one multiple tenancy board (max 3.0m x 3.6m) to be located immediately above the car park entry. No signage is to be placed within the window spaces on this facade;
 - iv. A maximum of 8 (eight) signage boards of 0.3m x 3.6m are to be positioned above the window and grill spaces along Miles Street frontage at a maximum height of RL 13.8 as indicated on the plans;
 - v. The total maximum area of all under awning signs below RL 10.85 (including window spaces) is limited to 5 m² for Miles Street elevation;
 - vi. The total maximum area of all under awning signs below RL 10.85 for the Harbord Road elevation is 3.1 m² (including any window spaces);
 - vii. The total maximum area of all under awing signs below RL 13.8 for the Ethel Avenue elevation is 2.2 m² (including any window spaces);
 - viii. No signage is to be positioned on or above the parapets/roof edge.

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

Reason: *To ensure compliance with the Warringah LEP 2000 and SEPP 64 for advertising signs.*

6. Approved Materials

The colour, texture and substance of all external materials shall be generally in accordance with that detailed in the application.

External wall colours for panels "B" and "C" are to have increased colour contrast in order to accentuate the articulation of the building architecture. Details to be included on the Construction Certificate plans to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

Reason: *To ensure compliance with the terms of this development consent. [E6]*

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. 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]*

9. Damage to Public Infrastructure

The applicant shall bear the cost of all restoration works to Council's property damaged during the course of this development. The applicant shall advise Council, in writing, of any existing damage to Council property before commencement of the development. A dilapidation survey of Council's assets, including photographs and written record, must be prepared by a suitably qualified person and submitted to Council prior to the issuing of any Construction Certificate.

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

Reason: *To ensure the protection of existing built public infrastructure. [C6]*

10. Shoring for Adjoining Private Property

Where it is proposed to provide shoring to support an adjoining property, or Council road reserve, which involves encroachment of ancillary structural elements onto adjoining land to provide structural support of the shoring via rock anchors or the like, Council and/or owner's consent for the encroachment from the affected property owner shall be provided with the engineering drawings. Details to be submitted with the Construction Certificate.

Reason: *Council owners consent for ancillary works, and to ensure the protection of adjoining properties and the road reserve. [C7]*

11. Kerb Security Bond

A \$10,000 kerb bond, shall be deposited with Council and \$200 kerb inspection fee



paid, prior to the issue of any construction certificate, against the potential for damage to Council's footpath and road reserve infrastructure during the construction process. (See Schedule)

Reason: *To ensure appropriate security is in place for the protection or repair of Public Infrastructure. [C16]*

12. Bond for Engineering Construction Works - Kerb and Gutter, Footpaths, Vehicular Crossing

A Bond of \$5,000 shall be deposited with Council against any damage or failure to complete to the relevant specification the construction of any vehicular crossings, kerb and gutter and any footpath paving works required as part of this consent prior to the issue of any Construction Certificate. (See Schedule). An inspection fee is to be paid to Council prior to the issue of a Construction Certificate so that the site may be inspected prior to commencement of works.

The bond will only be refunded upon the completion of a six (6) month maintenance period, if the work has been completed in accordance with the approved plans, conditions to the satisfaction of the Principal Certifying Authority. Requests for refunds must be made in writing to Council.

Reason: *To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure. [C17]*

13. Bond for Silt & Sediment Control

The bond payment of \$5,000 to account Reg 009 - TF036 prior to issue of a construction certificate a security to ensure that:

- (a) all silt and sediment control measures are installed and maintained;
- (b) there is no transmission of material, soil etc off the site and onto the public road and/or drainage systems; and
- (c) maintenance of all facilities in accordance with Council's Specification for Erosion Control and Sediment Control.

Reason: *To ensure appropriate for works and environmental protection. [C20]*

14. Footpath Reconstruction or Construction

The applicant shall construct a footpath along the Miles Street and Ethel Avenue frontages. The footpath is to be constructed in plain concrete 1.2 metres wide. The works shall be designed in accordance with the following:

- (a) All footpath works are to be constructed in accordance with Council's specification for footpath works.
- (b) The footpath and grass verge shall be placed on a single straight grade of 3% rising from top of the kerb.

- (c) Footpath pavement transition works are required to ensure gentle changes in grades.
- (d) A certificate prepared by an appropriately qualified and practicing Civil Engineer, shall be provided with the proposed design to Council / Accredited Certifier to certify compliance with these requirements prior to the issuing of the Construction Certificate.
- (e) Installation of the footpath and associated street trees and grass verges shall be carried out in accordance with this consent and approved landscape plan prior to the issue of any Occupation Certificate.
- (f) Council or an Accredited Certifier (Civil Works) is to inspect the footpath works prior to pouring of concrete to ensure the works are in accordance with Council's specification for footpath works and certification is to be submitted to Council / Accredited Certifier prior to issue of the Occupation Certificate.

Reason: *To ensure that public infrastructure arising from the development is of an appropriate form for the locality. [C23]*

15. Soil and Water Management Plan

A Soil and Water Management Plan shall be prepared and submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate. The Soil and Water Management Plan shall be prepared and implemented by the person(s) supervising the works on site and must be in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004), and include:

- Planned stages of excavation and building;
- The slope of the land;
- Location of all pits, waterways and drains on and nearby the site;
- Location of wash down and storage of material areas;
- Proposed erosion and sediment controls and their location.
- Sediment control basin locations and volume.

Reason: *To ensure appropriate access and infrastructure protection that is integral with infrastructure on surrounding sites. [C29]*

16. Property Alignment Levels

The property alignment levels shall match the existing levels except where modified for the vehicular crossing. The applicant shall design and construct having regard for the aforementioned levels. No approval is granted for any change to existing property alignment levels to accommodate the development.

Reason: *To facilitate suitable vehicular access to private sites, without disruption to pedestrian and vehicular traffic and to ensure appropriate access and infrastructure protection that is integral with infrastructure on surrounding sites. [C30]*

17. Vehicle Crossings



Provision of 2 vehicle crossing/s 6 metres and 12 metres wide in accordance with Warringah Council Design "Drawing No A4-3330/1 Normal" and specifications. An Application for Street Levels is to be made prior to the issue of the Construction Certificate. Vehicle crossings and associated works within the road reserve shall be constructed in **plain concrete** by an Authorised Vehicle Crossing Contractor, for details see Warringah Council's website <http://www.warringah.nsw.gov.au> or phone (02) 9942 2111. All redundant laybacks and crossings are to be restored to footpath/grass.

Prior to the pouring of concrete, the vehicle crossing/s are to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Reason: *To facilitate suitable vehicular access to private property. [C32]*

18. Garbage and Recycling Facilities

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

- (a) All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning;
- (b) Include provision for the separation and storage of in appropriate categories of material suitable for recycling;
- (c) The storage area shall be adequately screened from the street, with the entrance to the enclosures no more than 2m from the street boundary of the property;
- (d) If a storage facility is to be provided at another suitable location within the building, a complementary garbage bin holding bay shall be provided no more than 2m from the street boundary of the property;
- (e) Garbage enclosures serving residential units are not to be located within areas designated for non-residential uses; and
- (f) Garbage enclosures serving non-residential uses are not to be located within areas designated for dining purposes.

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

19. Dilapidation Survey

A photographic survey of adjoining property No.168 Harbord Road detailing the physical condition of the property, both internally and externally, including such items as walls, ceilings, roof, structural members and other similar items, SHALL BE submitted to Council / Accredited Certifier prior to the issue of a Construction Certificate. This survey is to be prepared by an appropriately qualified independent person agreed to in writing by both the applicant and the owner of the adjoining

property.

On completion of the excavation and building works and prior to occupation of the building, a certificate prepared by the person agreed to by the parties to the effect that no damage has resulted to adjoining premises, is to be provided to the Principal Certifying Authority.

If damage is identified by the person agreed to by the parties which is considered to require rectification, the damage shall be rectified or a satisfactory agreement for rectification of the damage is to be made with the affected person/s as soon as possible and prior to occupation of the development.

All costs incurred in achieving compliance with this condition shall be borne by the person entitled to act on this Consent.

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant **MUST DEMONSTRATE**, in writing, to the satisfaction of Council / Accredited Certifier that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed.

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

Reason: Proper management of records. [C47]

20. Removal of more than 200 square metres of Bonded Asbestos

Anyone who removes, repairs or disturbs areas of 200 square metres or more of bonded asbestos must hold a bonded or a friable asbestos licence, or a demolition licence. A person licensed for friable asbestos removal work does not need an additional licence for bonded asbestos removal work.

Licensed contractors must notify Work Cover NSW of which bonded asbestos removal project of 200 square meters or more, under Clause 345 of the Regulation.

The notification must be given at least 7 days prior to the start of work. You will need to provide the following information:

- Details about the removal contractor and nominated competent person and independent supervisor (building owner's representative)
- Type, quantity and location of bonded asbestos material
- Work method statement of removal procedure s to be carried out
- Commencement and completion dates
- Disposal arrangements



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

Reason: *To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily.*

21. Asbestos & Hazardous Material

In relation to the demolition of the existing building on the site:

- a) A report prepared by an appropriately qualified person (such as an occupational hygienist, environmental consultant or asbestos consultant) is to be submitted to the Council /Accredited Certifier prior to the commencement of works, detailing whether any asbestos or hazardous materials exist on the site that are affected by the proposed building works (e.g. lead in paints and ceiling dust or asbestos).

Note: If no hazardous materials are identified, the demolition may proceed in accordance with Australian Standard AS2601 - The Demolition of Structures and the following conditions, including dust control and Work Cover requirements.

- b) Should any hazardous materials be identified as per item (a), a Hazardous Substances Management Plan (HSMP) shall be submitted to the Council /Accredited Certifier at least seven (7) working days prior to work commencing. The HSMP must satisfy the requirements of Chapters 6 & 8 of the Occupational Health and Safety Regulation 2001 and Australian Standard AS2601 - The Demolition of Structures. The report shall contain details regarding:
 - a) The type of hazardous material
 - b) The level or measurement of the hazardous material in comparison to National Guidelines;
 - c) Proposed methods of containment; and
 - d) Proposed methods of disposal;
 - e) Details of signage to be provided on the site to comply with the provisions of the Occupational Health and Safety Regulation 2001, to ensure persons are warned, by the use of signs, labels or other similar measures, of the presence of asbestos or asbestos-containing material in a place at which construction work is being carried out.
- c) Where unacceptably high levels of lead are found in a premises to be demolished, item (b) is to be followed, and if directed by the appropriately qualified person, the soil sample from site is to be tested by a NATA Registered laboratory before and after demolition and the results submitted to the Council /Accredited Certifier. This will determine whether remediation of the site is necessary.
- d) The demolition must be undertaken in accordance with Australian Standard AS2601 - The Demolition of Structures.



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

Reason: *To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily*

22. S94A Contributions

The payment of **\$35,481** under Section 94A of the Environmental Planning and Assessment Act 1979 levy prior to the approval/release of the Construction Certificate.

This amount has been calculated using the Warringah Section 94A Development Contributions Plan 2006. It is current at the time of issue of this Consent. The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

The basis for the contributions is as follows:

<i>Warringah Section 94A Development Contributions Plan</i>			
Contribution based on total development cost of		\$3,548,114.00	
Contribution - all parts Warringah	Levy Rate	Contribution Payable	Council Code
S94A Levy	0.95%	\$33,707	6923
S94A Planning and Administration	0.05%	\$1,774	6924
Total	1.0%	\$35,481	

Reason: *To retain a level of service for the existing population and to provide the same level of service for the population resulting from new development. [C82]*

23. Security Bond Schedule

All fees and security bonds in accordance with the schedule below must be paid or in place prior to the issue of the required Construction Certificate:

SECURITY BOND & FEE SCHEDULE	
170 Harbord Road, Brookvale	
DEVELOPMENT APPLICATION NUMBER 2006/1148	
SECURITY BONDS	AMOUNT (\$)
Builders Road/Kerb Security Bond	10,000.00
Engineering Construction Bond · Road Pavement	5,000.00
Silt and sedimentation	5,000.00

TOTAL BONDS	\$20,000.00
FEES	
Kerb Security Inspection Fee	200.00
Section 94A contribution	35,481.00
Long Service Levy	12,418.00
Street level application fee	200.00
TOTAL FEES	\$48,299.00

***Reason:** Compliance with the development consent. [C71]*

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

24. Silt & Sediment Control

Provision shall be made throughout the period of demolition / Excavation & Construction to prevent transmission of soil to the public road and drainage system by vehicles leaving the site.

***Reason:** To avoid siltation to adjoining properties and waterways. [D1]*

25. 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]*

26. 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]*

27. Work Cover

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

***Reason:** Statutory requirement. [D5]*

28. Road opening permit



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

Reason: Statutory requirement (Roads Act 1993) [D6]

29. Special Permits (Traffic)

An application for a ‘Construction Zone’ from Council adjacent to the site frontage be lodged prior to work commencing, together with the required deposit and rental charges.

Reason: Traffic Control. [D7]

30. Structural adequacy and Excavation work

Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

- (a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
- (b) comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

Before excavation, the responsible person must notify their intention to the adjoining owner/s and shall at the same time furnish to such owner/s particulars of the work proposed to be carried out.

Reason: Safety. [D9]

31. Protection of Trees During Works

All trees that are to be specifically nominated to be retained by notation or condition as a requirement of development consent shall be maintained and protected during demolition, excavation and construction on the site. Protection methods shall be provided to the Principal Certifying Authority by an appropriately qualified person prior to commencement of any works on the site.

Reason: To ensure compliance with the requirement to retain significant planting on the site. [D10]

32. Temporary Fences and Tree Protection

All protected trees on-site shall be tagged with luminous tape or the like for purposes of identification prior to excavation or construction, and no materials or builder's waste are to be stored in the vicinity of the tree / trees.

Appropriate fencing or barricades, not less than the distance shown in the schedule hereunder, shall be installed to the satisfaction of the Principal Certifying Authority prior to demolition or commencement of any building works and maintained for the duration of the works:

SCHEDULE:

Description of Tree	Distance
2 Existing trees on Harbord Road frontage indicated on Site Plan Drawing DA01 C prepared by <i>Wolski Lycenko Brecknock Architects</i>	3 metres (as site conditions allow)

Reason: *To protect the trees to be retained on the site during construction works. [D11]*

33. Trees

During the construction period the applicant is responsible for ensuring all protected trees are maintained in a healthy and vigorous condition. This is to be done by ensuring that all identified tree protection measures are adhered to. In this regard all protected plants on this site shall not exhibit:

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.
- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

The presence of any of these symptoms or signs may be considered by Council as a breach of the Conditions of Development Approval.

Any tree pruning necessary for construction shall be carried out under the supervision of an appropriately qualified Arborist and shall be in accordance with AS 4373-1996 Pruning of Amenity Trees.



Reason: Protection of trees. [D12]

34. Inspection Fees

Where Council is acting as the Principal Certifying Authority and where an inspection of building, civil or landscape work is required by these conditions, inspection fees and component certification fees must be paid to Council before Council will undertake any inspections. These fees may be paid at the time of submission of the required Notice of Commencement of works. This condition applies regardless of whether a Certification fee is also payable.

Note: The submission of a Notice of Commencement of works form to Council at least two (2) days prior commencing works is a statutory requirement.

Reason: Statutory requirement and information. [D14]

35. Public Liability Insurance - Works on Public Land

Any person or contractor undertaking works on public land must take out Public Risk Insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent. The Policy is to note, and provide protection for Warringah Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public land.

(Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.)

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land. [D17]

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

36. Notification of Inspections

If Council is the Principal Certifying Authority, Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

- (a) Installation of Silt and Sediment control devices
- (b) Prior to backfilling of pipelines
- (c) Prior to pouring of stormwater gully pits
- (d) Prior to pouring of kerb and gutter
- (e) Sub grade level/base course level
- (f) Sealing road pavement



NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification as conditioned above. Council approval or acceptance of any stage of the work must be obtained in writing, and will only be issued after completion of the work to the satisfaction of Council and receipt of the required certification.

Reason: *Appropriate notice for works to be carried out. [E1]*

37. Sign on Site

A visually prominent sign to be erected and maintained on-site adjacent to the property's access point, for the duration of the landfill works. This condition must be complied with during demolition and building work.

Reason: *Proper identification of landfill works. [E2]*

38. Road Reserve works

Lighting, fencing, traffic control and advanced warning signs shall be provided for the protection of the works and for the safety and convenience of the public and others, to the satisfaction of the Principal Certifying Authority, and in accordance with Council's standard specifications for engineering works. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works. This Condition must be complied with during demolition and building work.

Reason: *Public Safety. [E4]*

39. No Changes To Openings

The windows / doors / fenestration shall not be enlarged or relocated on any elevation of the development. The use of rooms served by windows shall not be altered from that detailed on the approved plans.

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

40. Progress Inspections

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

- (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]*

41. 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]*

42. 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 following conditions of this development consent: [INSERT]

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

43. Noise and Vibration

Noise emissions and vibration must be minimised where possible and work is to be carried out in accordance with Environment Protection Authority guidelines for noise emissions from construction/demolition works and must also comply with the provisions of the Protection of the Environment Operations Act 1997. This Condition must be complied with during demolition and building work.

Reason: *To ensure residential amenity is maintained in the immediate vicinity. [E17]*

44. 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]*

45. Protection of Trees

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

All trees that are not listed as exempt or noxious in Warringah that are not indicated for removal on Drawing No. LP01A dated November 2006 prepared by *Wolski Lycenko Brecknock Architects*.

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

46. Special Permits

Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development are to occur entirely on the property. The applicant, owner or builder must apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property pursuant to S138 of the Roads Act. A minimum of forty-eight (48) hours notice is required for any permit:

(1) On-street mobile plant

Eg. cranes, concrete pumps, cherry-pickers, etc. - restrictions apply to the hours of



operation, the area of operation, etc. Separate permits are required for each occasion and each piece of equipment. It is the responsibility of the applicant, owner and builder to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

Reason: Proper management of public land. [E24 (1)]

(2) Hoardings

Permits are required to erect Class A, Class B and Class C hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

Reason: Proper management of public land. [E24 (2)]

(3) Storage of building materials and building waste containers (skips) on Council's property

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given. Storage of building materials and waste containers on open space reserves and parks is prohibited.

Reason: Proper management of public land. [E24 (3)]

(4) Kerbside restrictions, construction zones

The applicant's attention is drawn to the existing kerbside restrictions adjacent to the development. Should the applicant require alteration of existing kerbside restrictions, or the provision of a construction zone, the appropriate application must be made and the fee paid. Applicants should note that the alternatives of such restrictions may require referral to Council's Traffic Committee and may take considerable time to be resolved. An earlier application is suggested to avoid delays in construction programs.

Reason: Proper management of public land. [E24 (4)]

47. Noxious Plants

All lantana, privet, rubber trees, parateria, and other declared noxious plants on the site, shall be eradicated before the commencement of landscape works.

Reason: To ensure that plants identified as weed species are not allowed to proliferate or interfere with a quality-landscaping outcome. [E25]

48. 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]*

49. 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]*

50. Installation and Maintenance of Sediment Control

Sediment and erosion controls must be installed in accordance with Landcom's 'Managing Urban Stormwater: Soils and Construction' (2004).

Techniques used for erosion and sediment control on site are to be adequately maintained and monitored at all times, particularly after periods of rain, and shall remain in proper operation until all development activities have been completed the site is sufficiently stabilised with vegetation.

Reason: To protect the surrounding environment from the effects of sedimentation and erosion from the site. [E28]

51. Trees

- (1) All approved excavation carried out within the specified radius of the Trunk/Trunks of the following tree/trees shall be hand dug without severing any roots greater than 50mm:

Plant species	Radius from trunk
2 Existing trees on Harbord Road frontage indicated on Site Plan Drawing DA01 C prepared by <i>Wolski Lycenko Brecknock Architects</i>	4 metres

Reason: Protection of trees. [E37 (1)]

- (2) Tree roots of 50mm or greater in diameter encountered during excavation, shall only be cut following consultation with a qualified Arborist. Tree roots between 10mm and 50mm in diameter, severed during excavation, shall be cut cleanly by hand.

Reason: Protection of trees. [E37 (2)]

- (3) Underground services should use common trenches as far away from tree roots as possible. If the services need to be run within the protection zone, all utility pipes are to be laid using appropriate directional boring techniques. Directional Boring shall be carried out at least 600mm beneath natural ground to avoid damage to tree/trees root system. Entry and exit points are to be located outside the protected area. No tree roots are to be severed, or damaged during this work. Should problems arise, work is to cease until those problems are resolved and confirmed in writing by Council's Tree Management Officer and Assigned DA Officer.

Reason: Protection of trees. [E37 (3)]

- (4) All overhead utility services are to be located outside the canopies of existing trees.

Reason: Protection of trees. [E37 (4)]

- (5) The following guidelines are to be complied with at all times:
- (a) The applicant shall ensure that at all times during the development period no activities, storage or disposal of materials shall take place beneath the canopy of any tree covered under Council's Tree Preservation Order unless specifically approved by Council.
 - (b) Trees marked for retention are not to be damaged or used to display signage, or as fence or cable supports for any reason.



- (c) Siting of sheds, stockpiles and vehicle parking should be sited so that they are remote from trees.
- (d) Site personnel are to be made aware of tree requirements and protective measures. Paving materials placed within the drip line of any tree should be of a porous material.

Reason: Protection of trees. [E37 (5)]

52. Applicant's Cost of Work on Council Property

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

Reason: To ensure the proper management of public land and funds. [E38]

53. Maintenance of Road Reserve

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: Public Safety [E39]

54. Sediment and Erosion Control Signage

A durable sign, which is available from Council, shall be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained.

Reason: To protect the environment from the effects of sedimentation and erosion from development sites. [E41]

55. Demolition Works

All Demolition Work shall be carried out in a safe manner by trained personnel under the management of a licensed demolisher who is registered with the Work Cover Authority, in accordance with the following:-

(1)

- (a) Approved Demolition Work Method Statement;
- (b) Australian Standard AS2601 Demolition of Structures;
- (c) Relevant Codes of Practice and guidelines of the Work Cover Authority (NSW);
- (d) Relevant provisions of the *Occupational Health and Safety Act 2000* and the *Occupational Health and Safety Regulation 2001*; and

(e) All other relevant Acts and Regulations.

(2) All demolition works shall comply with the following requirements:

- (a) Demolished materials shall not be stockpiled and are to be removed from the site within seven (7) days of demolition unless such material is to be re-used in the development on the site in which case all such material to be re-used is to be stored in a clean and tidy manner and not within the drip line of any tree;
- (b) Materials shall not be used for the purposes of fill;
- (c) Burning off of any demolition material on site is not permitted;
- (d) Demolition is not to commence until required fences, hoardings and sedimentation control measures are in place (refer to other conditions of this consent);
- (e) Adequate fire precautions are to be taken at all times to prevent the possibility of fire;
- (f) The site is to be kept free from vermin at all times and control measures implemented prior to demolition commencing should vermin be present on the site;
- (g) Waste containers are to be stored wholly within the property and not on the public footpath, place or road unless otherwise approved in writing by Council;
- (h) The site is to be cleared of all debris and left in a clean and tidy condition at the completion of all works;
- (i) The use of explosives is not permitted;
- (j) All spillage of materials on the public footpaths or roadways are to be removed immediately.

Reason: *To ensure residential amenity is maintained in the immediate vicinity, a satisfactory standard of demolition works and that all waste materials are disposed of adequately. [E45]*

56. Supervision of Potentially Contaminated Land During Excavation

A suitably qualified and experienced person must be nominated and available during excavations to assess any unexpected contamination, such as asbestos or underground storage tanks. This person must have sufficient authority to halt works should contamination be revealed by excavation works.

The name, qualifications and contact details of the suitably qualified person must be submitted to Council or the accredited certifier prior to commencement of excavation.

Reason: *To protect employees, occupants and the environment from potential contamination arising from excavation of the soils.*

57. Site Remediation Validation



Prior to the commencement of any works, the applicant is to provide to the Principal Certifying Authority a Clearance Certificate from an appropriately qualified person (such as an occupational hygienist, environmental consultant or asbestos consultant) validating that the site has been remediated in relation to the removal of asbestos or any other contaminated material identified on site.

***Reason:** To protect employees, occupants and the environment from potential harm arising from contaminated material.*

58. Requirement to notify about new contamination evidence

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

***Reason:** To protect human health and the environment.*

59. Removing, Handling and Disposing of Asbestos

Any works involving asbestos based products in relation to removal, handling and disposing of material must be undertaken in accordance with the following requirements:

- Occupational Health and Safety Act 2000
- Occupational Health and Safety Regulation 2001
- Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)] and
- Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)]
- Clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005.

***Reason:** To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily*

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

60. 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]*

61. Sydney Water



A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. 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 build and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Reason: To ensure compliance with the statutory requirements of Sydney Water. [F3]

62. 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]

63. Support for Neighbouring Buildings

- (1) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - (a) must preserve and protect the building from damage;
 - (b) if necessary, must underpin and support the adjoining building in an approved manner Subject to adjoining owner’s consent; and
 - (c) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (2) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
- (3) In this clause, allotment of land includes a public road and any other public place.



Reason: *To ensure adjoining owner's property rights are protected and protect adjoining properties from potential damage. [F7]*

64. Protection of Public Places

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

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

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained. Any application needs to be accompanied by plans indicating the type of hoarding and its layout.

Fees are assessed and will form part of any approval given. These fees must be paid prior to the approval being given.

Approval for hoardings will generally only be given in association with approved building works, maintenance or to ensure protection of the public. An application form for a Hoarding Permit can be downloaded from Council's website.

Reason: *To ensure public safety and the proper management of public land. [F8]*

65. 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 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]

66. 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 4 Sub-division 5 of the Local Government (General) Regulation 2005 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 of the Regulation.

approved by the Council means the subject of an approval in force under the Local Government (General) Regulation 2005.

public sewer has the same meaning as it has in the Local Government (General)



Regulation 2005.

sewage management facility has the same meaning as it has in the Local Government (General) Regulation 2005.

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

67. Long Service Levy

Payment of the Long Service Levy is required prior to the release of the Construction Certificate. This payment can be made at Council or to the Long Services Payments Corporation.

Advisory note: The rate of the Long Service Levy at the time of consent is 0.35% of the building construction works. At the time of consent, payment is not required where the value of the works is less than \$25,000. For works that are \$25,000 or over, a fee is required at the prescribed rate. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply and is based on the building construction works identified in the Construction Certificate.

Reason: *Prescribed - Statutory. [F12]*

68. Redundant Vehicle Crossing

Redundant gutter crossings are to be removed and the adjacent footpath paving or grass and kerb restored. Access levels across road reserve area to comply with Warringah Council access requirements.

Reason: *To facilitate suitable vehicular access to private property. [B6]*

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

69. Occupation Certificate Required

An Interim / Final Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of those parts of the building.

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

70. 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]*

71. Conservation of Water & Energy

Compliance with Clause 68 “Conservation of Energy and Water” of Warringah Local Environmental Plan 2000 with respect to appliances. Details to be submitted with the Occupation Certificate.

Reason: *Provision of energy requirements. [G5]*

72. Street Number

Street number being affixed to building prior to occupation.

Reason: *Proper identification of buildings. [G7]*

73. Reinstatement of Kerb

All redundant lay-backs and vehicular crossings shall be reinstated to conventional kerb and gutter, foot-paving or grassed verge as appropriate. All costs shall be borne by the applicant, and works shall be completed prior to the issue of an Occupation Certificate.

Reason: *To facilitate vehicular access to private sites, without disruption to pedestrian and vehicular traffic, and the preservation of on street parking spaces. [G9]*

74. On-Site Stormwater Detention Compliance Certification

The on-site detention system and associated drainage works are to be in accordance with the drainage plan submitted by *Lipscombe & Associates*; Drawing No 20050090 SW00, SW02C, SW03C, SW04C, SW05C, SW06C and SW07C; dated 02/02/07. On completion of works a works as executed drawing and certification of the works by the design engineer is to be submitted to the Principal Certifying Authority. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the above approved plans and Council’s “On-site detention technical specification”, the compliance certificate is to be submitted to the Principal Certifying Authority prior to occupation. Council can issue the Compliance Certificate if required subject to prescribed fee.

Reason: *To ensure appropriate provision is made for the disposal and management of stormwater generated by the development, and to ensure that public infrastructure in Council’s care and control is not overloaded. [G27]*



75. Creation of Positive Covenant and Restriction as to User

Where any conditions of this Consent require the creation of a positive covenant and/or restriction as to user, the original completed request forms shall to be submitted to Warringah Council for authorisation. A certified copy of the documents shall be provided to Warringah Council after final approval and registration has been affected by the “NSW Land and Property Information Department” prior to occupation.

Reason: *To identify encumbrances on land. [G28]*

76. Restrictions as to User

Restrictions as to User shall be created over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction is to be prepared to Warringah Council’s standard requirements at the applicant’s expense and endorsed by Council prior to lodgement with the “NSW Land and Property Information Department”. Warringah Council shall be nominated as a party to release, vary or modify such restriction.

Reason: *To ensure no modification of the stormwater detention structure without Council’s consent. [G29]*

77. Positive Covenant (Onsite Detention Structure)

Creation of a Positive Covenant of the Title of the land requiring the proprietor of the land to maintain the stormwater detention structures required by this Consent, in accordance with the standard requirements of Council. The Positive Covenant is to be prepared by the applicant using terms acceptable to, and which are available from Warringah Council. The positive covenant is to be endorsed by Council prior to its lodgement with the ‘NSW Land and Property Information Department’.

Reason: *To ensure ongoing maintenance of the stormwater detention structure. [G32]*

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

78. 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]*

79. 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]*

80. Advertising Signs

All advertising signage is to be restricted to approved signage spaces (see condition 5) and is to be for business identification only with no product advertising.

The footpath area is part of Council's Road Reserve and is to be kept clear of obstructions. In this regard no goods, fixed or moveable signs, A-frame signs, furniture, or other items are to be placed on the footpath area unless specifically licensed by Council and the appropriate insurance is maintained. No flood lighting or illumination is permitted.

Reason: *To control advertising signage and ancillary items in accordance with WLEP 2000.*

81. Advertising Signs Consent

Any additional advertising signs will require further development consent. All advertising signage is limited to 15 years of development approval and will require new approval 15 years after the endorsement date of this Notice of Determination.

Reason: *Statutory limitation in accordance with SEPP 64*

82. Occupation of Units

This consent relates to the occupation of all units for “Industry” and “Warehouse” uses as defined under the Warringah Local Environmental Plan 2000.

No retail sales shall occur from the building without Development Consent.

Any other proposed uses that are not in accordance with Schedule 1 – Exempt development or Complying Development requirements of the Warringah Local Environmental Plan 2000 shall be the subject of a separate Development Application.

Reason: *To enable legal occupation of Units in accordance with the permissible industry and warehouse uses for the locality.*

SCHEDULE 2. CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA SUBDIVISION OR SUBDIVISION CERTIFICATE

83. Plans

If the Strata Subdivision Certificate Application is lodged with Council, the linen plan



and nine (9) copies of the strata plan are to be lodged with the application, or if the Subdivision Certificate is obtained from an Accredited Certifier, a copy of the endorsed Subdivision Certificate plan is to be forwarded to Council within 14 days of lodgement with the “NSW Land and Property Information Division”.

Reason: *To ensure compliance with the Conveyancing Act 1919. [S2 (12)]*

Lapsing of Consent

Council as the Consent Authority pursuant to Section 95(2) of the Environmental Planning and Assessment Act 1979, vary the provisions of Section 95(1) and advise the Applicant that this consent will lapse 3 years from the date in which it operates.

Right to Review by the Council

You may request the Council to review the determination of the application under Section 82A of the Environmental Planning & Assessment Act 1979. Any request to review the application must be within 12 months after the date of determination shown on this notice.

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

Right of Appeal

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

Signed on behalf of the consent authority

Signature _____
Name

Date 8 May 2007