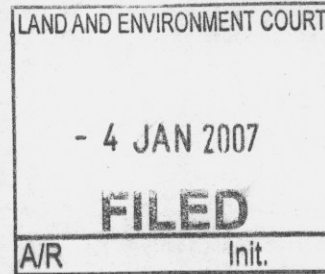
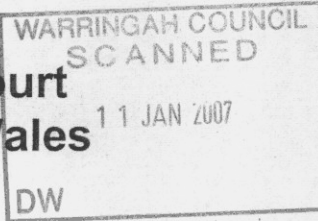


**In the Land and
Environment Court
of New South Wales**



No. 10042 of 2005

**Alexander & Dwyer
Group Pty Ltd on
behalf of Hills
Flower Market Pty
Ltd**

Applicant

Warringah Council

Respondent

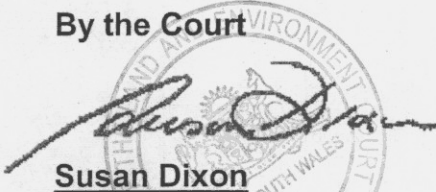
Order

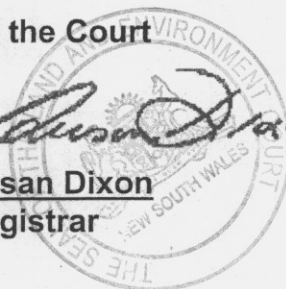
The Court orders by consent that:

1. The appeal is upheld.
2. The application to modify development application No. (2004/1012) by:
 - Relocation of two (2) basement car spaces to at grade car spaces.
 - Rearrangement of on-site parking and access roads.
 - Increasing the overall car parking from 121 spaces to 125 spacesat 287 Mona Vale, Terrey Hills, is determined by the modification of the development consent as set out in Annexure "A".
3. The exhibits, except for Exhibits A and 3 are returned.

Ordered: 18 December 2006

By the Court


Susan Dixon
Registrar
rjs



Annexure "A"

Conditions of Consent

Hills Flower Market Pty Ltd v Warringah Council

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:

PLANS	ISSUE	DATE	TITLE
DA A.0.01	B	October 2005	Site Plan
DA A.0.0.2	G	October 2005	Area Calculations
DA A.0.03	G	October 2005	Site Analysis
DA A.0.04	G	October 2005	Existing Uses
DA A.0.05	G	February 2004	Proposed Uses
DA A.0.06	G	October 2005	Area Calculations – Proposed Development Areas
DA A.1.01	G	October 2005	Plan – Ground Floor, Loop Road
DA A.1.02	G	October 2005	Plans – Car Park & First Floor
DA A.1.03	DA	October 2005	Access Ways & Car Parking Layout
DA A.2.01	G	February 2004	Elevations
DA A.2.02	G	October 2005	Elevations
DA A.4.01	G	October 2005	Sections

Document Number	Dated
Wastewater Management Report, prepared by Aqua Consulting: Water and Environment Consultants.	5 December 2005

except as modified by Modification 1 Reference 2004/1012/1 plans listed below:

Drawing Number	Title	Revision	Revision Date	Drawn by
GA-1.01	Site Plan – Car Parking	K	14/12/2006	Alexander Dwyer Group
A2.01	Basement Level Plan	J	29/09/2006	Alexander Dwyer Group

Except where amended by other conditions of consent.

No construction works (including excavation) shall be undertaken prior to

the release of the Construction Certificate.

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

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. **[A1 (1) [Amended by S. 96 Application LEC Proceedings No 10042 of 2005]**

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 and development consent) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance. **[A2]**

3. Demolition of Extra Fabric

Alterations to, and demolition of the existing building shall be limited to that shown on the approved plans (by way of notation). No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is shown to be retained.

Reason: To ensure compliance with the approved development. **[A3]**

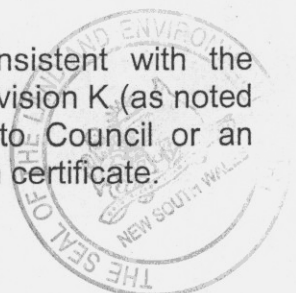
4. Approved Landscaping Plan

Landscaping works on the site are to be undertaken generally in accordance with the landscaping plans numbered LC01A and LC02B prepared by Selena Hannan Landscape Design dated 26/04/2005 and 03/06/2005 respectively.

The approval of the 'Landscape Plans' relates solely to the landscape works proposed and not to any structure identified on the subject plans.

In the event of any inconsistency with the landscape plans and the architectural plans for the development layout, the architectural plans shall prevail to the extent of that inconsistency.

An amended 'Landscape Plan' being generally consistent with the architectural layout as detailed on plan no. GA 1.01 Revision K (as noted in Condition 1 of this consent) is to be submitted to Council or an accredited certifier prior to the issue of any construction certificate.



Reason: To ensure appropriate landscaped area and landscaping amenity at the final inspection stage of the development. [A4]
[Amended by S. 96 Application LEC Proceedings No 10042 of 2005]

5. New Development Application Required

This consent is for alterations and additions to the existing flower market building, increasing the capacity of the cafe/restaurant to 130 seats, demolition of the two glasshouses, modifications to vehicle access roads and provision of parking for 125 vehicles only. If during the course of certification, demolition or construction, the remaining fabric of the building is removed or demolished a new development application will be required and relevant planning controls will apply.

Reason: To ensure compliance with the approved plans. [A5]
[Amended by S. 96 Application LEC Proceedings No 10042 of 2005]

5a. Landuses

Nothing in this development consent shall authorise a turf supplies outlet, a rain water tank outlet, a rural supplies outlet or the use of the existing training room as a milk bar/shop. All references to these landuses are to be removed from the plans prior to the issue of any Construction Certificate.

Reason: To prevent conflicting development consents. [Amended by S. 96 Application LEC Proceedings No 10042 of 2005]

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

6. Construction Management Program (Commercial and Mixed use Development)

A Construction Management Program shall be submitted and approved by Council or an accredited certifier PRIOR TO THE ISSUE OF ANY Construction Certificate. Any use of Council property shall require appropriate approvals. The program shall detail:

- (a) The proposed method of access to and egress from the site for construction vehicle, including the proposed method of traffic control, access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area. Access across public parks and open space reserves is prohibited;

- (b) The proposed phases of demolition, excavation and construction works on the site, and the expected duration of each construction phase;
- (c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
- (d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process;
- (e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. On site drainage is a requirement of this consent. Mobile cranes if used shall be located wholly within the site or only utilised during the demolition and excavation phase, and in association with the establishment and removal of a site crane, removal of excavation equipment and the like;
- (f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
- (g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
- (h) A work method statement is to be provided detailing the regrading of the Right of Way (50-52 Myoora Road) and dust suppression methods which include the regular watering down of the unsealed portions of the vehicular access roads including the Right of Way (50-52 Myoora Road);
- (i) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an appropriately qualified and practicing Structural Engineer and shall not involve any permanent or temporary encroachment onto Councils property;
- (j) Proposed protection for Council and adjoining properties. Details are to include site fencing and the provision of hoardings over footpaths and laneways;
- (k) The location and operation of any on site crane;
- (l) The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval; and



- (m) A Building Waste Management Plan detailing the proposed method of removal and disposal of demolition and building waste.

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. [B2] [Amended by S. 96 Application LEC Proceedings No 10042 of 2005]

7. Provision of Services

Certification must be obtained from the relevant statutory authority that adequate services are available to satisfy the demands of the proposed development. Such certification is to be provided to the Council / Accredited Certifier prior to the issue of the Construction Certificate.

Reason: To ensure that services have been provided as required by this Consent. [B4]

8. Deleted Condition [Amended by S. 96 Application LEC Proceedings No 10042 of 2005]

9. General Terms of Approval - Rural Fires Act 1997 (Bushfire Protection)

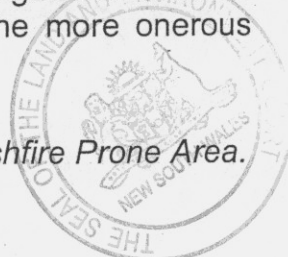
The following general terms of approval have been imposed by the NSW Rural Fire Service as the integrated authority (defined under Section 91 of the EPA Act 1979):

- (a) Access shall comply with Section 4.3.2 Planning for Bushfire Protection 2001, prepared by Planning NSW. Details shall be submitted to the satisfaction of the Rural Fire Service prior to the issue of the Construction Certificate; and
- (b) The vegetation around the access shall be maintained to a distance of 5 metres as an 'Inner Protection Area' (IPA) and another 5 metres, shall be maintained as an Outer Protection Area (OPA) as outlined within Section 4.2.2 in Planning for Bushfire Protection 2001, prepared by Planning NSW.

Section 100B - authorisation under section 100B must be obtained.

Note: These conditions have not been imposed by Council but are required to be incorporated as conditions of development consent. Where there is any inconsistency between these general terms of approval and other conditions of this consent the more onerous requirement prevails.

Reason: To protect access to land located within a Bushfire Prone Area.



10. Unauthorised uses

That the following unauthorised uses shall cease immediately and be removed from the site prior to the issue of any Construction Certificate unless authorised by a new/separate development consent:

(a) Horseland (occupying part of the existing flower market building as identified on Plan A.0.04 Revision G);

(b) Furniture Outlet (operating from the dwelling house as identified on Plan A.0.04 Revision G);

(c) Cabinet Making (operating from Units 4 and 5 in Shed A as identified on Plan A.0.04 Revision G);

(d) Eagle Art (operating from Unit 1 in Shed B as identified on Plan A.0.04 Revision G); and

(e) Computer Sign Shop (operating from Unit 2 in Shed B as identified on Plan A.0.04 Revision G).

Reason: *This consent does not endorse or approve unauthorised uses.*
[Amended by S. 96 Application LEC Proceedings No 10042 of 2005]

11. Sealing of Right of Carriageway and Provision of Drainage Pits

The Existing Right Of Carriageway located on Lot 2 DP 845094 which is unsealed is to be hard paved with reinforced concrete for a width of 5 metres. Drainage pits are also to be provided at suitable intervals and the stormwater drainage line connected to the existing drainage easement located on the adjoining property, Lot 128 DP752017.

The property owner of No. 287 Mona Vale Road shall be fully responsible for the care and maintenance of the Right of Way located on Lot 2 DP 845094 in a westerly direction from the common property boundary of the two allotments up to any vehicular access point to Lot 2 DP 845094.

Engineering plans for the above works are to be prepared by a consulting Civil engineer in accordance with Councils specification for engineering works and/or the relevant Australian Standards and are to be submitted to the Principal Certifying authority for approval prior to the issue of the Construction Certificate.

Reason: *To ensure the engineering works and associated drainage are in accordance with Council's specification for engineering works.*
[Amended by S. 96 Application LEC Proceedings No 10042 of 2005]



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

12. 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]*

13. 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.

Note that any approval granted by Council does not necessarily ensure compliance with the *Disability Discrimination Act (1992)* (Commonwealth) and the applicant should investigate it's liability under the Act. The applicant is directed to the following sources to assist compliance with the Act: -

- (a) Advisory Notes on Access to Premises - Human Rights and Equal Opportunity Commission (1998); and
- (b) Disability Discrimination Act (1992) (Commonwealth).

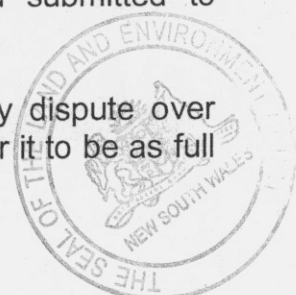
Details being submitted and approved by Council / Accredited Certifier prior to the issue of a Construction Certificate.

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

14. 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]

15. Pump-Out System Design for Stormwater Disposal

The design of the pump-out system for stormwater disposal is required and will be permitted for drainage of basement areas only, and must be designed in accordance with the following criteria:

- (a) The pump system shall consist of two pumps, connected in parallel, with each pump being capable of emptying the holding tank at the rate equal to the rate of inflow for the one-hour duration storm. The holding tank shall be capable of holding one hour's runoff from a one-hour duration storm of the 1 in 20 year storm.
- (b) The pump system shall be regularly maintained and serviced, every six (6) months.
- (c) Any drainage disposal to the street gutter from a pump system must have a stilling sump provided at the property line, connected to the street gutter by a suitable gravity line.

Engineering details demonstrating compliance with these criteria, and certified by an appropriately qualified and practicing Civil Engineer shall be provided to the Council / Accredited Certifier for approval with the Construction Certificate **unless** the applicant can provide satisfactory detail to the Council prior to the Construction Certificate demonstrating that the drainage of the basement can be gravity fed.

Reason: To ensure adequate provision is made for the discharge of sub-surface stormwater from the excavated parts of the site. [C10]

16. Kerb Security Bond

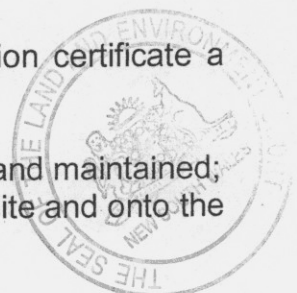
A bond of \$7000.00 shall be deposited with Council and inspection fees paid, prior to the issue of any construction certificate, against the potential for damage to Council's footpath and road reserve infrastructure during the construction process. (See Schedule)

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

17. Bond for Silt & Sediment Control

The payment of \$3000.00 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]

18. Bond for Construction, Excavation and Associated Works

Payment to Warringah Council of a \$5000.00 bond as security against damage to Council's roads caused by the transport and disposal of materials and equipment to and from the site. This amount to be paid prior to the issue of the Construction Certificate and to be verified by the accredited certifier.

Reason: To ensure appropriate security for road damage. [C21]

19. S94 Contributions

The payment of the following developer contributions prior to the approval/release of the Construction Certificate.

Increase in Commercial / Industrial Floor space	Increase calculated at @ \$3.09/sqm	TOTAL
926.5sqm	\$2,863.00	\$2,863.00

These amounts have been calculated using the Warringah Section 94 Contributions Plan. They are current at the time of issue of this Consent. They will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). An updated schedule of Council's contribution rate is issued each quarter and is available at Council's office. 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:
An increase of 926.5sqm of commercial/industrial floor space

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. [C70]

20. 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	
287 Mona Vale Road, Terrey Hills	
DEVELOPMENT APPLICATION NUMBER 2004/1012	



SECURITY BONDS	AMOUNT (\$)
Kerb Security Bond	\$7000.00
Kerb Security Inspection Fee	\$ 200.00
Silt and Sediment Control Bond	\$3000.00
Others	
TOTAL BONDS	\$10,200.00
FEES	
Section 94 contribution	\$2863.00
Long Service Levy	\$3,713.50
Others	
TOTAL FEES	\$6,576.50

Reason: Compliance with the development consent. [C71]

21. Access for People with Disabilities

Ramps and access for people with disabilities are to be provided to and within each ground floor retail tenancy. Consideration must be given to the means of dignified and equitable access from public places to adjacent buildings, to other areas within the building and to footpath and roads. Compliant access provisions for people with disabilities shall be clearly shown on the plans submitted with the Construction Certificate. All details shall be prepared in consideration of, and construction completed to achieve compliance with the provisions of the Disability Discrimination Act, and the relevant provisions of AS1428.1 and AS1428.4.

Reason: To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards. [C36]

22. Parking for People with Disabilities

The designated accessible car parking facilities shall be:

- Located at the closest point to each accessible public entry;
- Linked to an accessible entrance to the building by a continuous accessible path of travel, preferably undercover;
- Provided at the rates specified in table D3.5 of the Building Code of Australia (Table 3 in Appendix Two) and the provisions of AS2890.1-1993 or otherwise provide an alternative solution submitted as a report to the certifying authority illustrating how the relevant performance requirements can be satisfied;
- A minimum of 3.2m in width, with a minimum length of 5.5m and a minimal vertical clearance of 2.5m. Dead-end parking spaces shall have a minimum width of 4.2m;
- Clearly signposted by painting the signage on the surface of the paved space as well as signposted at a height of not less than

- 1500mm centrally located at the end of the space;
- (f) Signposted at the entrance to the car park.

All details shall be prepared in consideration of, and construction completed in accordance with Australian Standard AS2890.1-1993 to achieve compliance with the Disability Discrimination Act, and the relevant provisions of AS1428.2 and AS1428.4.

Details of compliance are to be clearly identified on the plans for the Construction Certificate.

Reason: To ensure equity of access and appropriate facilities are available for people with disabilities in accordance with Federal legislation. [C37]

23. Line Marking

All off-street parking spaces, together with access driveways, shall be constructed, paved, line marked and signposted in accordance with the approved development plans, appropriate Australian Standards and industry best practice as appropriate. The plans shall also nominate the allocation of parking spaces for specific purposes as required by conditions of this consent. A certificate prepared and certified by an appropriately qualified and practicing Civil Engineer for the construction of these areas in accordance with this requirement shall be submitted with the Construction Certificate.

Reason: To ensure ongoing compliance with this development consent and Australian Standards relating to manoeuvring and access of vehicles. [C38] [Amended by S. 96 Application LEC Proceedings No 10042 of 2005]

24. Cleanliness and Maintenance of Food Preparation Areas

To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas, all building work in connection with the occupation or use of the premises for the preparation and storage of food shall be designed and carried out in accordance with the requirements of:

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



(j) The ANZ Foods Standards Code

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

- construction, materials and finishes;
- installation of fixtures, fittings and equipment;
- washing facilities, other facilities and special requirements;
- mechanical ventilation and exhaust discharges; and
- temperature control.

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

Reason: To ensure compliance with acceptable standards for the construction of food premises established under environmental health and safety legislation. [C42]

25. 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, covered at the floor/wall intersection, graded and appropriately drained with a tap in close proximity to facilitate cleaning;
- (b) Include provision for the separation and storage 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.

Details of the storage area are to be provided to, and approved by the Council / Accredited Certifier prior to issuing of the Construction Certificate.

Reason: To ensure the provision of appropriate waste facilities for



residents and protect community health, and to ensure efficient collection of waste by collection contractors. [C45]

26. Sediment Control

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, details including plans and specifications shall be submitted to Council / Accredited Certifier accompanying the Construction Certificate, which provide adequate measures for erosion and sediment control. As a minimum, control techniques are to be in accordance with Warringah Council Guidelines on Erosion and Sediment Control, or a suitable and effective alternative method. The Control Plan shall incorporate and disclose:

- (a) All details of drainage to protect and drain the site during the construction processes;
- (b) All sediment control devices, barriers and the like;
- (c) Sedimentation tanks, ponds or the like;
- (d) Covering materials and methods;
- (e) A schedule and program of the sequence of the sediment and erosion control works or devices to be installed and maintained.

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

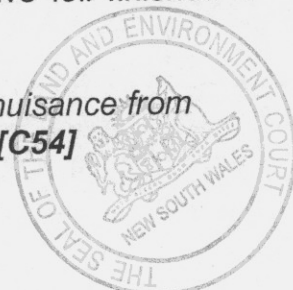
Reason: *To protect the environment from the effects of sedimentation and erosion from development sites. [C46]*

27. Reflectivity Index of Glazing

The reflectivity index (expressed as a percentum of the reflected light falling upon any surface) of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20%. Written confirmation of the reflectivity index of materials is to be submitted with the Construction Certificate.

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

Reason: *To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development. [C54]*



28. Roofing Materials - Reflectivity

The external finish to the roof shall be constructed in colourbond roof sheet colours generally consistent with the current colour (December 2006) "woodland grey" for canopy roof and generally consistent with the current colour (December 2006) "bushland" for the main roof and shall be generally in accordance with the colour scheme as noted in the amendments to sheet DA A.2.01 as referred to in condition 1 of this consent. Demonstrated compliance with this condition is to be submitted to the satisfaction of Council or an accredited certifier prior to the issue of any Construction Certificate.

Reason: *To ensure that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development. [C55]*
[Amended by S. 96 Application LEC Proceedings No 10042 of 2005]

29. Colours & Finishes

That a schedule of colours and finishes shall be submitted, to the satisfaction of Council or an accredited certifier, prior to the issue of the Construction Certificate.

Reason: *Amenity. [C56 (1)]/[Amended by S. 96 Application LEC Proceedings No 10042 of 2005]*

30. No External Service Ducts

Service ducts shall be provided within the building to keep external walls free of plumbing or any other utility installations. Such service ducts are to be concealed from view from the street. Details demonstrating compliance are to be provided in the Construction Certificate.

Reason: *To ensure quality built form of the development. [C57]*

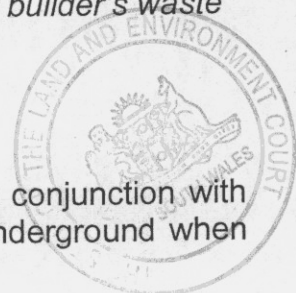
31. Cigarette Butt Receptacle - Commercial

That provision be made for cigarette butt receptacles on the site to minimise littering. Cigarette butt receptacles must be provided during building works on any site, and permanently provided to any restaurant/bar/retail/commercial component of the development after construction. Details of the size and the location of the receptacle are to be provided in the Construction Certificate.

Reason: *To ensure that adequate provision is made for builder's waste and waste upon completion of the development. [C58]*

32. Underground Electricity and Other Services

All electricity provision to the site is to be designed in conjunction with Energy Australia so that it can be easily connected underground when



the street supply is relocated underground. Details to be shown on plans submitted and approved with the Construction Certificate.

Reason: To provide infrastructure that facilitates the future improvement of the streetscape by relocation of overhead lines below ground. [C61]

33. Toilet Facilities in Accordance with BCA

Permanent toilet facilities are to be provided within the development site in accordance with the provisions of the Building Code of Australia, in relation to the number of occupants of the development being 130. Details demonstrating compliance with these requirements are to be submitted with the Construction Certificate.

Reason: To ensure appropriate toilet facilities to service the number of patrons of the development. [C69]

34. Fire Safety

The applicant is to engage the services of an Accredited Certifier, Building Grade 1 or 2 (NSW or equivalent) to carry out a Building Code of Australia audit that is based upon inspections(s) of the building in terms of the deemed-to-satisfy fire safety provisions. (A list of Accredited Certifiers is available on the Department of Infrastructure Planning and Natural Resources website.)

The audit must specifically cover all clauses within Section C, D and E of the Building Code of Australia (as per the most recent amendments) reflecting compliance, non-compliance or not applicable in the circumstances. The audit (checklist) is to accompany the report.

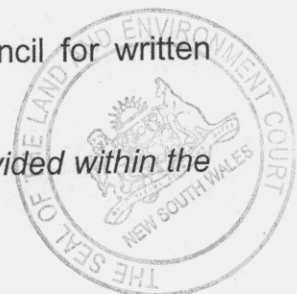
The results of the audit are to be incorporated into a report and strategy to overcome the non-compliant provisions either by performance solution or adherence to deemed-to-satisfy provisions by satisfying the fire safety objectives of Sections C, D and E of the Building Code of Australia.

The standard of satisfying the fire safety objectives of Sections C, D and E as contained within the Building Code of Australia is the specified standard for the purposes of Section 121P(1)(a) of the Act.

A schedule of existing (if applicable) and the proposed Essential Fire Safety Measures, including their standard performance must be included in this strategy.

The report and strategy must be submitted to the Council for written approval prior to issue of any Construction Certificate.

Reason: To ensure an adequate level of fire safety is provided within the premises for the life safety of building occupants. [C73]



35. High Quality Lighting

Details demonstrating high quality external lighting for security without adverse affects on public amenity form excessive illumination levels are to be submitted with the Construction Certificate.

Reason: *To ensure lighting provides security and amenity. [C78]*

36. Sanitary Facilities for Persons with Disabilities

Sanitary facilities for people with disabilities shall be provided in accordance with requirements of Part F2.4 of the Building Code of Australia. Accessible toilets shall comply with the following provisions:

- (a) The route to the toilet shall be part of the continuous accessible path of travel. The floor approach must be level and approach corridors and doorways adequate for the circulation of wheelchair users;
- (b) The toilet must be provided with a separate entrance (i.e. not entered from the male or female toilet areas) so that a person can be assisted by an attendant of the opposite sex;
- (c) Accessible toilet facilities shall be designed in accordance with AS1428.2; and
- (d) Where a staff facility (reception, front desk, office etc) is provided, an emergency call button which complies with AS1428.2 shall be installed in each accessible sanitary facility.

Details of compliance are to be clearly identified on the plans for the Construction Certificate.

Reason: *To provide adequate access to sanitary facilities for persons with a disability.*

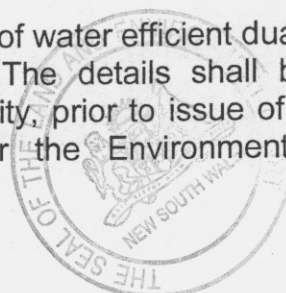
37. Accessible Entry

At least one main entry without steps and useable by people in wheelchairs shall be provided from the at grade car park area in accordance with the design requirements of the relevant Australian Standards.

Reason: *To provide equitable access.*

38. Installation of Dual-Flushing Toilets

All toilets installed within the development shall be of water efficient dual-flush capacity with a minimum "AAA" rating. The details shall be submitted for the approval of the certifying authority, prior to issue of a Construction Certificate for the building under the Environmental Planning and Assessment Act 1979.



Reason: To maximum water efficiency.

39. Installation of Water Efficient Taps

All taps installed shall be water efficient with a minimum "AAA" rating. The details shall be submitted for the approval of the certifying authority, prior to the issue of a Construction Certificate for the development under the Environmental Planning and Assessment Act 1979.

Reason: To maximise water efficiency.

40. Parking Spaces

That 125 off-street parking spaces shall be provided, inclusive of five (5) motorcycle parking spaces. Details of compliance are to be clearly identified on the plans for the Construction Certificate.

Reason: To provide adequate parking. [Amended by S. 96 Application LEC Proceedings No 10042 of 2005]

41. Car Parking Design

That all off-street parking and circulation areas (including ramp grades and widths, aisle width, height clearances and column locations) shall be designed to comply with AS2890.1-2004 with the exception of parking for people with disabilities. Parking for persons with a disability shall comply with the provisions of AS2890.1-1993. Details, demonstrating full compliance shall be submitted prior to the issuing of a Construction Certificate.

Reason: To provide adequate parking.

42. Service Bays

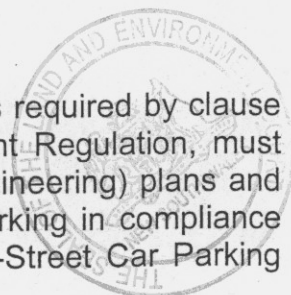
The service bays shall be designed to comply with the provisions of AS2890.2-2002. Details clearly demonstrating compliance shall be submitted prior to the issuing of the Construction Certificate.

Reason: To ensure adequate servicing.

43. Deleted Condition [Amended by S. 96 Application LEC Proceedings No 10042 of 2005]

44. Car and Commercial Parking Details

The Construction Certificate plans and specifications required by clause 139 of the Environmental Planning and Assessment Regulation, must include detailed professional engineering (traffic engineering) plans and specifications for all car and commercial vehicle parking in compliance with AS/NZS 2890.1:2004 : Parking Facilities - Off-Street Car Parking



and AS 2890.2:2002 - Off-Street Parking: Commercial Vehicle Facilities respectively.

Access levels and grades must comply with access levels and grade required by Council under the Roads Act 1993.

The Certifying Authority has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.

Reason: Adequate access.

45. Motorcycle Parking

The parking layout shall provide five (5) motorcycle parking spaces each space being a minimum of 1.2 metres x 2.5 metres. Details demonstrating compliance are to be provided with the Construction Certificate.

Reason: To promote and provide facilities for alternative forms of transport. [C35]

46. Deletion of Agricultural Supplies/Rural Supplies Use

That reference to 'Agricultural Supplies' and 'Rural Supplies' for units 1, 2 and 3, identified on plan numbers A.0.04 Revision G and A.0.05 Revision G respectively, shall be deleted from the plans prior to the issue of the Construction Certificate.

Reason: The use of these units is not the subject of this application (The above is currently being considered under development application number 2005/1010).

47. Stormwater Disposal

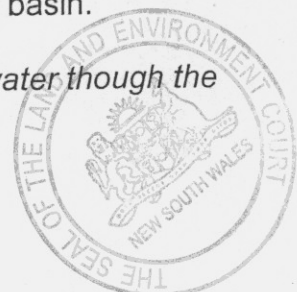
All drainage lines from the proposed buildings are to be directed through the on-site detention basin.

Reason: To ensure appropriate management of stormwater through the site [Special Condition].

48. Stormwater Disposal

All stormwater discharge from the proposed driveway within the right of carriageway of 50-52 Myoora Road is to be piped within the existing inter-allotment drainage easement and discharged into the existing drainage system downstream from the on-site detention basin.

Reason: To ensure appropriate management of stormwater through the site [Special Condition].



49. Waste Management - Cafes And Restaurants

Details of a waste bin and recycling bin storage areas shall be submitted to the Principal Certifying Authority for approval prior to the issuing of a construction certificate. The Waste bin and recycling bin storage areas shall be contained in a ventilated roofed area. The floor of the waste and recycling area shall be drained to a central point for drainage to an approved liquid waste system. Where wastewater can escape to the stormwater system, bund must be erected to contain the wastewater on site.

Reason: To minimise the amount of waste going to landfill and prevent the contamination of stormwater.

50. Installation and Maintenance of Sediment Control

Techniques used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Warringah Council guidelines. All techniques shall remain in proper operation until all development activities have been completed and the site fully stabilised. This Condition must be complied with during demolition and building work.

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

51. 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.

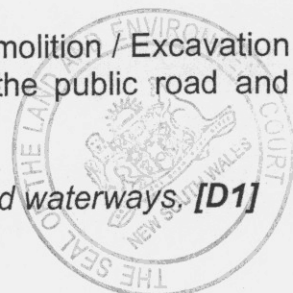
Reason: To protect the environment from the effects of sedimentation and erosion from development sites.

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

52. 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]



53. 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]

54. 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]

55. WorkCover

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

Reason: Statutory requirement. [D5]

56. 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]

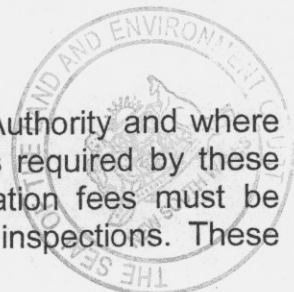
57. Excavation/Building Works

No excavation or building works shall be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions. [D13]

58. 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]

59. 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 lodgment 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]

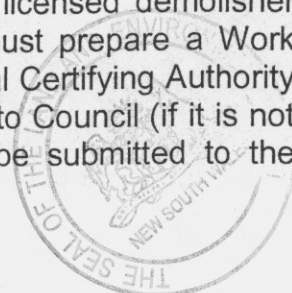
60. Directional Signs

Signs are to be erected at the entry and exit driveways and the bitumen driveway areas are to be pavement marked with arrows to clearly indicate to customers and delivery vehicles the traffic flow through the site. A "Wrong Way" sign is to be erected at the southern ingress point on Mona Vale Road to prevent the public and delivery vehicles exiting via the entry driveway. A "No Entry" sign is to be erected at the northern egress point on Mona Vale Road to prevent members of the public and delivery vehicle alike from entering the site via the exit driveway.

Reason: To facilitate the safe entry and exit of vehicles and the safe movement of vehicles and pedestrians through the site.

61. Demolition Work Method Statement

Prior to the commencement of demolition work a licensed demolisher who is registered with the WorkCover Authority must prepare a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy sent to Council (if it is not the PCA). A copy of the Statement must also be submitted to the WorkCover Authority.



That Statement must be in compliance with AS2601-1991 Demolition of Structures, the requirements of WorkCover Authority and condition of the Development Approval, and must include provisions for:

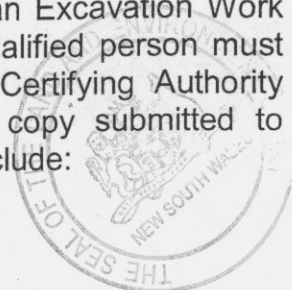
- (a) Enclosing and making the site safe, any temporary protective structures must comply with the Guidelines For Temporary Protective Structures (April 2001);
- (b) Induction training for on-site personnel;
- (c) Inspection and removal of asbestos, and contamination and other hazardous materials;
- (d) Dust Control: Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
- (e) Disconnection of gas and electrical supply to the relevant buildings;
- (f) Fire Fighting: Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services must not be obstructed;
- (i) Control of water pollution and leachate and cleaning of tyres:- Proposal shall be in accordance with the Protection of the Environment Operations Act 1997;
- (j) Working hours, in accordance with this Development Consent;
- (k) Confinement of demolished materials in transit;
- (l) Proposed truck routes;
- (m) Location and method of waste disposal and recycling.

The demolition by induced collapse, the use of explosives or on-site burning is not permitted.

Reason: *Safety.*

62. Excavation Work Method Statement

Prior to commencement of site excavation works, an Excavation Work Method Statement prepared by an appropriately qualified person must be submitted to the satisfaction of the Principal Certifying Authority (PCA) (Council or an accredited certifier) and a copy submitted to Council (if it is not the PCA). The Statement must include:



- (a) Name and address of the company/contractor undertaking excavation works;
- (b) The name and address of the company/contractor undertaking off-site remediation/disposal of excavated materials (if applicable);
- (c) Name and address of the transport contractor, and location of the disposal site;
- (d) Type and quantity of material to be removed from the site;
- (e) A Materials Handling Statement for the removal of refuse from the demolition site, in accordance with the provisions of the Waste Minimisation and Management Act 1995;
- (f) A Dust Control Method Statement for excavated sandstone or other excavation materials;
- (g) Procedures to be adopted for the prevention of loose or contaminated material, spoil, dust and litter from being deposited onto the public way from trucks and associated equipment, and the proposed method of cleaning surrounding roadways from such deposits;
- (h) Measure to enclose the excavation site, including safety barriers, particularly if the excavation is greater than 1.5m deep. Plastic jersey kerb barriers are not permitted;
- (i) Any WorkCover Authority requirements.

Note:

- (i) A copy of all Reports/Statements referenced in the Work Method Statement must be appended to the Statement.
- (ii) The PCA is to be notified of any proposed alteration of the above information during the course of demolition.
- (iii) On completion of removal of material, a certificate shall be submitted to the PCA, and a copy provided to Council (if it is not the PCA) testifying to the safe and proper disposal, and amount of all material.

Reason: Safety and maintenance of site.

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



63. 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]*

64. 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]*

65. Dust Emission and Air Quality

Materials must not be burnt on the site.

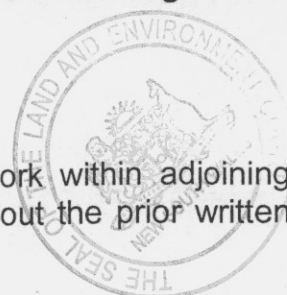
Vehicles entering and leaving the site with soil or fill material must be covered.

Dust suppression measures including but not limited to the regrading of the Right of Way (50-52 Myoora Road) and the regular watering down of the unsealed portions of the vehicular access roads including the Right of Way (50-52 Myoora Road) 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]/[Amended by S. 96 Application LEC Proceedings No 10042 of 2005]*

66. No Work on Public Open Space

The applicant shall not enter or undertake any work within adjoining public lands (i.e. Parks, Reserves, Roads etc) without the prior written



consent of Council. In this regard the applicant is to liaise with Council prior to the commencement of any design works or preparation of a Construction Management Plan.

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

67. Construction Access Over Public Reserve

No building, demolition, excavation or material of any nature is to be placed on a public reserve and no vehicular or other access is to be gained over a public reserve.

A separate application for access is to be made only in circumstances where direct access from a street frontage is not reasonable.

Reason: *To ensure the proper management of public land. [E20]*

68. No Removal of Trees on Public Property

No trees on public property (footpaths, roads, reserves, etc.) unless specifically approved in its consent shall be removed or damaged during construction including for the erection of any fences, hoardings or other temporary works.

Reason: *Protection of existing environmental infrastructure and community assets. [E21]*

69. 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]*

70. 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 lodgment 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]*

71. Installation and Maintenance of Sediment Control

Techniques used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Warringah Council guidelines. All techniques shall remain in proper operation until all development activities have been completed and the site fully stabilised. This Condition must be complied with during demolition and building work.

Reason: *To protect the environment from the effects of sedimentation and erosion from development sites. [E28]*

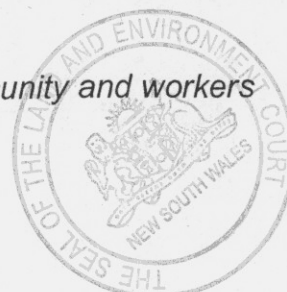
72. Health and Safety

The work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that; warn the public to keep out of the site, and provide a contact telephone number for enquiries. This Condition shall be complied with during demolition and building work.

Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the Internet at www.WorkCover.nsw.gov.au.

Reason: *To ensure the health and safety of the community and workers on the site. [E30]*

73. Prohibition on Use of Pavements



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

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

74. 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]

75. Removal of Extra Fabric

Should any portion of the existing building, trees, or curtilage of the site which is indicated on the approved plans to be retained be damaged for whatever reason, all the works in the area of the damaged portion are to cease and written notification given to Council. No work is to resume until the written approval of Council is obtained. Failure to comply with the provisions of this condition will result in the Council taking further action including legal proceedings if necessary.

Reason: To ensure compliance with the terms of this development consent. [E40]

76. 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]

77. 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.



78. Road Reserve

Footpath and roadway being kept free of obstruction by building materials and plant. All concrete trucks, pumps and/or agitators being kept wholly within the building site. No concrete or slurry being discharged onto Council's street surfaces, nature strips, drains/gutters, reserves parks etc. 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: *Pedestrian safety.*

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

79. Building Code of Australia

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

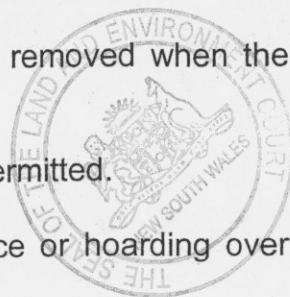
Reason: *Prescribed - Statutory. [F1]*

80. 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]*

81. Site Sign

- (1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - (a) stating that unauthorised entry to the work site is prohibited;
 - (b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - (c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- (2) Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.
- (3) This condition does not apply to building works being carried out inside an existing building.

Reason: *Statutory requirement. [F9]*

82. 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 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 and to a reticulated water supply provided by Sydney Water or an approved rainwater tank; or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
 - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.
- (3) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.
- (4) In this clause:

accredited sewage management facility means a sewage management facility to which Division 4A of 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 clause 95B 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.

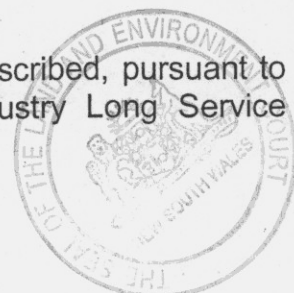
sewage management facility has the same meaning as it has in the Local Government (General) Regulation 2005.

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

83. 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. This payment is not required where the value of the works is less than \$25,000.

The Long Service Levy is calculated at the rate prescribed, pursuant to Section 35 of the Building and Construction Industry Long Service Payments Act 1986.



Note: At the date of this consent the rate is 0.35% on the erection of the building commenced after 1 January 2006.

Reason: Prescribed - Statutory. [F12]

84. Prescribed

Change of building use:

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

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

Category 1 fire safety provision means the following provisions of the *Building Code of Australia*, namely, EP1.3, EP1.4, EP1.6, EP2.1, EP2.2 and Ep3.2 in Volume One of that Code and P2.3.2 in Volume Two of that Code.

Reason: Statutory Requirement. [F14]

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

85. 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]

86. 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]

87. Access for People with Disabilities

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

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

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

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

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

89. Location of hand washing facilities

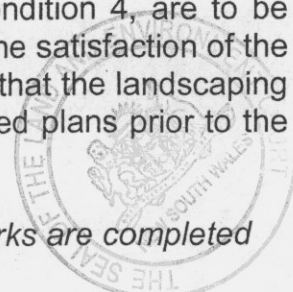
Hand washing facilities shall be located and installed so that they are; not obstructed, are at bench height either permanently fixed to the wall, to a supporting frame (freestanding hand basins) or set in a bench top and accessible and no further than 5m from any place where food handlers are handling open food. Hand basins shall be provided with a towel dispenser that dispenses a single-use paper or cloth towel or automatically dispenses a single-use portion of paper or cloth towel or other means of effectively drying hands and arms, which prevents the transfer of pathogenic micro-organisms to the hands or arms. The allocation of hand basins must comply with AS 4674 -2004.

Reason: To ensure compliance with the Australian Standard AS 4674 - 2004 - 'Design, Construction and fit-out of food premises and to ensure personal hygiene can be maintained.

90. Completion of Landscaping

The approved landscape works, as identified in Condition 4, are to be completed. The landscape architect is to submit to the satisfaction of the Principal Certifying Authority a statement confirming that the landscaping has been carried out in accordance with the approved plans prior to the occupation and use of the buildings.

Reason: To ensure that the approved landscape works are completed



prior to the occupation of the use.

91. Design Construction and Fitout

Restaurant kitchen and food preparations area shall comply with the requirements of Australian Standard AS 4674 -2004 - Design, Construction and fit-out of food premises.

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

92. Mechanical (Kitchen) Exhaust Ventilation

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

Certification, from an appropriately qualified and practicing Mechanical Engineer, is to be submitted to the Principal Council / Accredited Certifier, detailing that the exhaust ventilation system has been installed in accordance with AS1668, prior to completion and the issue of any Occupation Certificate.

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

93. Notification

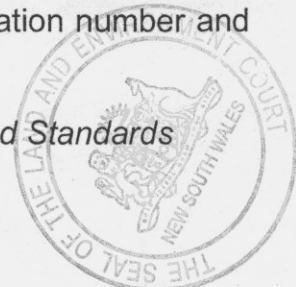
The proprietor of a food business must not conduct the food business unless the proprietor has given written notice, in the approved form, of the information specified in the Food Safety Standards that is to be notified to the appropriate enforcement agency before the business is conducted.

Notification may be done either online at www.foodnotify.nsw.gov.au <<http://www.foodnotify.nsw.gov.au>> or by lodging a completed NSW Food Authority notification form to the NSW Food Authority or Council.
Note: A fee applies when lodging notification forms with Council.

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

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

94. Disposal of Onsite Wastewater Effluent



All wastewater generated on the site must be removed by a licensed waste disposal contractor excepting where the effluent complies with the appropriate standard specified in Column 2 of **Table 1** contained in **Condition 120**.

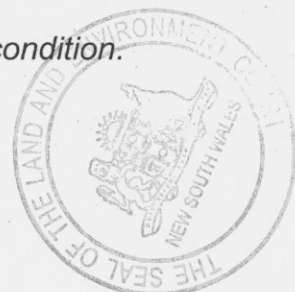
- (a) Liquid wastes and treated wastes must not be applied to land in any of the following circumstances:
 - (i). during wet weather, or
 - (ii). when the soil is saturated or,
 - (iii). otherwise in any circumstances which is likely to result in contamination of waters or neighbouring property.
- (b) Waste and treated waste must not be applied to any land other than the approved irrigation area.
- (c) The land application area if accessible by the public is to be surrounded by an effective man-proof fence, or otherwise the effluent disposal is to be wholly sub-surface.
- (d) An in-line cumulative flow meter shall be installed to measure plant effluent.
- (e) The volume of liquid applied to the approved irrigation area must not exceed 4.5 kilolitres per day unless otherwise approved by Council in writing.
- (f) An operating and maintenance manual must be maintained on site, which specifies all measures necessary for the proper and efficient operation of the plant.
- (g) Waste and treated waste must not be applied to the irrigation area unless the concentration of any pollutant in the liquid discharged, or applied to that area, does not exceed the limits specified for that pollutant or characteristic in **Table 1** contained in **Condition 120**.

Reason: To ensure public health is maintained and prevent the contamination of the surrounding land.

95. Building Waste

Prior to the issuing of an Occupation Certificate, certification of completion of waste handling works, in accordance with other relevant development consent conditions must be submitted to the PCA.

Reason: To ensure the site is left in a clean and safe condition.



96. Condition Deleted. [Amended by S. 96 Application LEC Proceedings No 10042 of 2005]

97. Demolition of Glasshouses

Both glasshouses, identified on plan number A.0.04 Revision G, shall be demolished and re-landscaped prior to occupation.

Reason: To ensure compliance with the conditions of this consent.

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

98. No Commercial Use

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

Reason: Information and clarification of terms of this consent. [I1]

99. Hours of Operation

The hours of operation for the respective uses shall be restricted to the following:

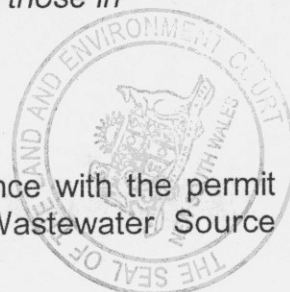
Land Use	Hours of Operation
Retail Plant Nursery	7:00am until 8:30pm seven days per week.
Existing Flower Market Building and associated cool rooms, work room, storage and gift shop.	7:00am until 8:30pm seven days per week.
Cafe/Restaurant	8:30am until 10:00pm seven days per week.

Upon expiration of the permitted hours, all restaurant service shall immediately cease, no person shall be permitted entry and all customers on the premises shall be required to leave within the following half hour.

Reason: Information to ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality. [I2]

100. Trade Waste

Trade waste water shall be disposed of in accordance with the permit requirements of Sydney Water Corporation Ltd, Wastewater Source



Control Branch.

Reason: To ensure compliance with Sydney Water's requirements and protect the environment. [I6]

101. Loading Within Site

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

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

102. Vehicle Egress Signs

Appropriate sign(s) shall be provided and maintained within the site at the point(s) of vehicular egress to compel all vehicles to stop before proceeding onto the public way.

Reason: To ensure pedestrian safety. [I14]

103. Minimum Headroom for Car Parking

Minimum headroom of 2.2m shall be provided over all car parking areas.

Reason: To ensure compliance with relevant standards and provide appropriate headroom. [I15]

104. Concealed Wiring

All wiring to the under awning sign shall be concealed within the fabric of the building and in the support structure of the sign.

Reason: To ensure that wiring is not exposed to potential vandalism and reduce visual clutter. [I17]

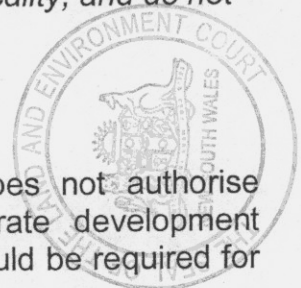
105. No Illumination

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

Reason: To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties. [I23]

106. No Entertainment

This approval is for a restaurant/cafe only and does not authorise musical or other forms of entertainment. A separate development consent and Place of Public Entertainment licence would be required for



such activities/events.

Reason: Clarification of terms of this consent and ensure compliance with relevant legislation. [125]

107. No Live Bands

No live bands shall perform on the premises.

Reason: Clarification of terms of this consent and ensure compliance with relevant legislation. [127]

108. Daily Cleaning

The applicant is to ensure that at all times when the premises are open and at the end of each day after the premises have closed, all rubbish including loose papers, cigarette butts, bottles etc which may be left on the premises or immediately adjacent is picked up and placed in the proprietor's rubbish bins.

Reason: To ensure waste generated by the approved use or activity is properly managed by the person acting upon this consent, to prevent unsightly build up of waste material. [129]

109. Commercial Waste and Recycling Storage

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins. In addition, the commercial waste storage area must not be visible from a public place.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed. [130]

110. Waste Collection

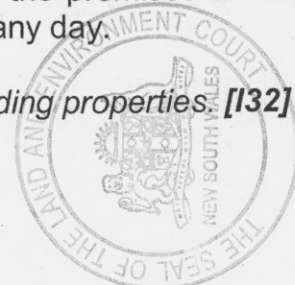
Waste and recyclable material, generated by this premises, must not be collected between the hours of 10pm and 6am on any day.

Reason: To ensure the acoustic amenity of surrounding properties. [131]

111. 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. [132]



112. Shop Premises Registration

The shop premises must be registered with Council and NSW Health prior to commencement of business. This will require the following:

- (a) a registration application has been submitted to Council's Health and Environmental Protection for the Food Shop, and
- (b) notification to the NSW Health Department under Standard 3.2.2 Division 2 Section 4 Notification. This requirement is to be met by notification through the following website:
www.foodnotify.nsw.gov.au.

Reason: To ensure compliance with environmental health legislation.
[133]

113. Lighting

No flood lighting is to be provided to the building.

Reason: To ensure energy efficiency and residential amenity is maintained. [134]

114. Work Site

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

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

115. Loading and Unloading

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

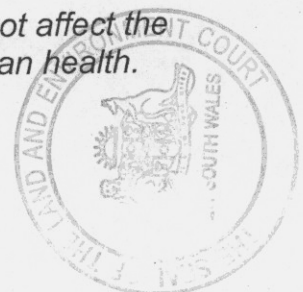
Reason: Safety. [151]

116. Protection Of Surrounding Amenity

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

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

117. Food Safety Standards



The operation of the restaurant shall comply with the "FSANZ Food Standards Code", in particular Chapter 3; Food Safety Standards.

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

118. Use of hand washing facilities

Hand washing facilities are to be only used for the washing of hands, arms and face.

Reason: To ensure the facility is always available for use and does not become contaminated.

119. Designation of hand washing facilities

Hand basins are to be clearly designated for the sole purpose of washing hands, arms and face.

Reason: To prevent the facility being used for a purpose other than washing hands, arms and face and to prevent contamination of the hand basin.

120. Onsite Wastewater Treatment Compliance Monitoring

The plant owner must, as a minimum, monitor (by sampling and obtaining results by analysis) the concentration of each pollutant specified in Column 1 of **Table 1** contained below. The plant owner must use the sampling method, units of measure, and sample at the frequency, specified opposite in the other columns.

Table 1

Column 1	Column 2	Column 3	Column 4	Column 5
Parameter	Concentration in Effluent Irrigation Area			Compliance Monitoring
	Surface Irrigation (fenced off to the public)	Surface Irrigation (accessible to the public)	Subsurface Irrigation	
pH	6.5-8.5	6.5-8.5	6.5-8.5	First Year: at three calendar monthly intervals. Second & Third Year: at six calendar monthly
BOD (mg/L)	20	20	20	
Turbidity (NTU)		2	N/A	



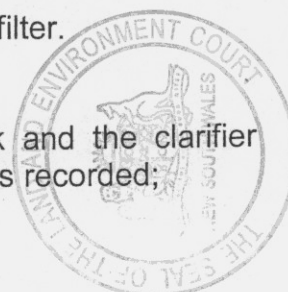
Thermo tolerant Coliforms cfu/ 100mL	<1000	<10	N/A	intervals except where the required concentration levels have been met for 2 consecutive years, in which case at 12 monthly calendar monthly intervals is sufficient.
--------------------------------------	-------	-----	-----	---

Subject to any express provision to the contrary in this approval, monitoring for the concentration of a pollutant applied to a disposal or utilisation area must be done in accordance with the Approved Methods Publication unless another method has been approved by the Council in writing before any tests are conducted.

Reason: To ensure the wastewater treatment system is operating efficiently

121. Onsite Wastewater Process Control Monitoring

- (a) An alarm system shall be incorporated into the operation of the wastewater treatment system to alert for malfunction of any of the pumps in the treatment system, the air blower and the chlorination unit. This alarm system shall be in an accessible position and shall be inspected at least twice daily (once at the end of the working day). If the alarm is on for any part of the treatment system, the maintenance contractor must be contacted immediately for urgent and appropriate action.
- (b) Every three months:
 - (i) Samples shall be analysed quarterly for the parameters presented in Table 2 below to ensure that the treatment system operates according to the design operating parameters;
 - (ii) An inspection shall be carried out of all mechanical, electrical and functioning parts of the system including:
 - All pumps and ensuring that pump rates are within the design operational criteria;
 - The air blower is function according to design capacity;
 - The alarm system;
 - The chlorinator;
 - The operation of the sludge return system; and
 - Check and clean the septic tank effluent filter.
 - (iii) Every year:
 - Sludge accumulation in the septic tank and the clarifier shall be checked and details of the results recorded;



- Undertake sludge wasting from the clarifier by pumping sludge from the clarifier directly to the septic tank or carted to a certified waste management facility;
 - A sludge bulking, known as the Sludge Volume Index (SVI₃₀) shall be undertaken annually. The SVI is not to exceed 200mg/l;
 - The effluent irrigation distribution pipes and pump shall be inspected and flush clean and/or fixed as required.
- (iv) Every 3 years the septic tank shall be de-sludged.

Location	Parameter	Acceptable Criteria
Anoxic Tank	pH	6.5-8.0
	MLSS	3000-8000mg/L
	DO	<1mg/L
Aerobic Tank	pH	6.5-8.0
	MLSS	2000-6000
	DO	>2mg/L

Reason: To ensure the wastewater treatment system is operating efficiently.

122. Onsite Wastewater Monitoring Records

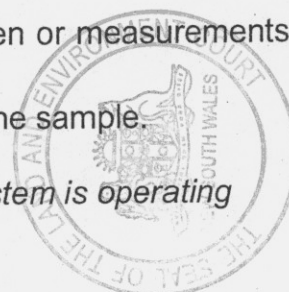
The results of any monitoring required to be conducted by this approval must be recorded and retained as set out in this condition.

All records required to be kept by this approval must be in a legible form, or in a form that can readily be reduced to a legible form, kept for at least 4 years after the monitoring or event to which they relate took place; and produced in a legible form to any authorised officer of Council who asks to see them.

The following records must be kept on the premises in respect of any samples, required to be collected or measurements to be made, for the purposes of this approval:

- (a) the date(s) on which the sample was taken or measurements to be made;
- (b) the time(s) at which the sample was collected or measurements to be made;
- (c) the point at which the sample was taken or measurements to be made; and
- (d) the name of the person who collected the sample.

Reason: To ensure the wastewater treatment system is operating



efficiently

123. Care of Building Surrounds

The owner/manager of the site shall ensure that the forecourt and the surrounds of the building are to be kept clean and free of litter at all times.

Reason: *Hygiene.*

124. Seating Capacity

The cafe/restaurant shall have a maximum seating capacity of 130 patrons. Any variation to this patronage capacity shall be the subject of a separate development application.

Reason: *To ensure compliance with this approval.*

125. Use of Shed A

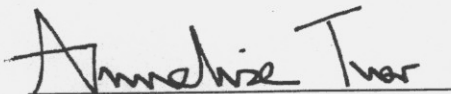
Shed A, containing units 4 and 5, as identified on plan numbers A.0.04 Revision G and A.0.05 Revision G, shall only be used for storage purposes that are ancillary to any approved activity on site. Any future change of use of Shed A shall be the subject of a new development application.

Reason: *To ensure compliance with the approved plans.*

126. Signage

That any proposed signage shall be the subject of a separate application unless identified as exempt development pursuant to Schedule 1 of Warringah Local Environmental Plan 2000.

Reason: *Signage is not the subject of this consent.*



Annelise Tuor
Commissioner of the Court
ljr

