



Warringah Council

## NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION

**Development Application No:** DA 2005/0912

### DEVELOPMENT APPLICATION DETAILS

**Applicant Name:** Greenfield DA Services

**Applicant Address:** Po Box 6160, Baulkham Hills, BC NSW 2153

**Land to be developed (Address):** Lot 1, DP 7022, 29 Moore Road Harbord & Lot 2, DP 7022, 29 Moore Road Harbord & Lot 3, DP 7022, 29 Moore Road Harbord & Lot 4, DP 7022, 29 Moore Road Harbord & Lot 5, DP 7022, 29 Moore Road Harbord

**Proposed Development:** Erection of an enclosed vergola over a courtyard area of an existing entertainment facility

### DETERMINATION

**Made on (Date):** 15 August 2006

**Consent to operate from (Date):** Once Council is satisfied as to those matters specified in the deferred commencement conditions, Council will nominate by way of written notice to the Applicant, the date from which the consent operates.

### **Details of Conditions – (including Section 94 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.*



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## DEFERRED COMMENCEMENT CONDITION

- 1 A Deferred Commencement Consent be granted pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979, subject to the following condition:

### Fire Safety

Engage the services of an Accredited Certifier Building Grade 1 or 2, to carry out a Building Code of Australia (BCA) Audit that is based upon inspection(s) of the building in terms of the deemed-to-satisfy fire safety provisions applicable to the buildings classification.

The audit must specifically cover all clauses within Section C, D, E & H (BCA) (as per the NSW variations) 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 adherence to the deemed-to-satisfy provisions of Sections C, D, E & H (BCA) or an "Alternative Solution" prepared in accordance with Part AO (BCA) detailing compliance with the relevant Performance Requirements.

A Schedule of existing and proposed Essential Fire Safety Measures including their standard of Performance must be attached to the report, which shall be submitted to Council.

*Reason: To satisfy the requirement of Section 94 of the Environmental Planning and Assessment Regulation 2000 and to provide an adequate provision of fire safety to assist the; prevention of fire; suppression of fire; the spread of fire, and promote the safety of occupants and emergency personnel in the event of fire.*

The applicant must provide to Council sufficient details to enable it to be satisfied of the matter above, in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000, within six (6) months from the date of this consent.

## GENERAL CONDITIONS

## CONDITIONS THAT IDENTIFY APPROVED PLANS

### 2. 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 No.	Drawing Title	Revision No.	Revision Date	Prepared By
AR SK 01	Plan and Section	A	April 2006	Tanner Architects
AR SK 02	North West Elevation	A	April 2006	Tanner Architects
AR SK 03	North East Elevation	A	April 2006	Tanner Architects



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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)]*

### **3. 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]*

### **4. 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]*

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

### **5. 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]*



## 6. Kerb Security Bond

A bond of \$550.00 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]*

## 7. Protection of Footpaths and Roadways

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

*Reason: Protection of footpath and roadways. [C22]*

## 8. Roofing Materials - Reflectivity

The external finish to the roof and structure shall be of a colour no lighter than the external finish of the existing building and similar to the external finish of the existing building. The metal roof shall not be of very light colours such as off white, silver or light grey colours. Details being submitted with the Construction Certificate.

*Reason: To ensure that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development & to maintain consistency with the existing facade. [C55]*

## 9. 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:

<b>SECURITY BOND &amp; FEE SCHEDULE</b>	
29 Moore Road Harbord	
DEVELOPMENT APPLICATION NUMBER 2005/0912	
<b>SECURITY BONDS</b>	<b>AMOUNT (\$)</b>
Builders Road/Kerb Security Bond	\$550.00
<b>TOTAL BONDS</b>	<b>\$550.00</b>
<b>FEES</b>	
<b>Kerb Security Inspection Fee</b>	\$200.00
Long Service Levy	\$175.00
<b>TOTAL FEES</b>	<b>\$375.00</b>

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



## 10. Bonds

Council will accept a bank guarantee for the purpose of any security bond imposed by these conditions of consent. Such bank guarantee shall be in a form acceptable to the Council and shall be in place prior to the issuing of any Construction Certificate and shall remain in place until the submission of the certificate required prior to the occupancy of the completed works.

*Reason: Information, Protection of infrastructure and the environment. [C72]*

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

### 11. 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]*

### 12. 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]*

### 13. 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]*

### 14. 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]*



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## 15. 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]*

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

## 16. No Changes To Openings

The windows / doors / fenestration of the existing building 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]*

## 17. Progress Inspections- (Class 5, 6, 7, 8 and 9 Buildings)

The Principal Certifying Authority (PCA) SHALL BE given a minimum of two (2) working days notice for inspection of the following, where applicable:

- (a) At the commencement of the building work.
- (b) Prior to covering any stormwater drainage connections.
- (c) After the building work has been completed and prior any Occupation Certificate being issued in relation to the building.

The appointed Principal Certifying Authority MUST do the first inspection at the commencement of building work, and at completion of building work.



Notes:

- (1) The appointed Principal Certifying Authority has a discretion to determine additional inspections, or nominate other Accredited Certifiers to undertake inspections other than the first and last inspections, which are required to ensure compliance or otherwise with relevant codes and standards. In any event, the Principal Certifying Authority MUST be advised at all of the stages of construction identified above.
- (2) The PCA must advise the person with the benefit of the consent of the mandatory critical stage inspections referred to in the EP & A Regulations.
- (3) 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.
- (4) 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:*** Prescribed mandatory inspections under legislation. [E9]

## **18. 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]

## **19. 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]



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## 20. 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]*

## 21. 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]*

## 22. 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) 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)]*

### (2) 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)]*



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### **(3) 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)]*

## **23. 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]*

## **24. 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]*

## 25. 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](http://www.WorkCover.nsw.gov.au).

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

## 26. 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]*

## 27. Plant & Equipment Kept Within Site

All plant and equipment used in the erection of the building, including concrete pumps, wagons, lifts, mobile cranes, etc, shall be situated within the boundaries of the site and so placed that all concrete slurry, water, debris and the like shall be discharged onto the building site, and is to be contained within the site boundaries. This condition shall be complied with during demolition and building work.

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

## 28. 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]*

## 29. 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]*



### 30. Stormwater Disposal

Stormwater shall be conveyed from the site to Council's street drainage system. The completed works shall be certified as compliant with Australian Standard 3500.3.2, National Plumbing and Drainage Code upon completion.

**Reason:** *To ensure appropriate provision for disposal and stormwater management arising from the development. [Special Condition]*

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

### 31. 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]*

### 32. 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]*



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### 33. 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]*

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

### 34. 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]*

### 35. Fire Safety Certificate

In accordance with Part 8, Clause 153 of the Regulations made under the Environmental Planning and Assessment Act 1979, as amended, a Fire Safety Certificate certifying that all the Fire Safety Measures identified in the Fire Safety Schedule issued with any Construction Certificate were assessed by a properly qualified person and were found to be capable of performing to at least the standard required by the Schedule shall be provided to the Principal Certifying Authority **prior to the issue of an Occupation Certificate.**

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

### 36. Fire Safety Statement

In accordance with Part 9, Clause 177 of the Regulations made under the Environmental Planning and Assessment Act 1979, as amended, the owner of the building is to provide Council on an annual basis an Annual Fire Safety Statement certifying that all the Fire Safety Measures identified in the Fire Safety Schedule issued with any Construction Certificate were assessed by a properly qualified person and were found to be capable of performing to at least the standard required by the Schedule.

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



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### 37. Compliance with the Recommendations of the Approved Fire Safety Report

The recommendations of the Fire Safety report prepared in accordance with the requirements of the deferred commencement condition of consent, and submitted to and approved by Council, are to be implemented to the entire building prior to the issue of any Interim/Final Occupation Certificate.

***Reason:** To satisfy the requirement of Clause 94, Environmental Planning and Assessment Regulation 2000 and to provide an adequate provision of fire safety to assist the; prevention of fire; suppression of fire; the spread of fire, and promote the safety of occupants and emergency personnel in the event of fire. [Special Condition]*

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

### 38. Hours of Use

The outdoor terrace area/beer garden, covered by the proposed Vergola roofing, shall not be used between the hours of 10.30pm and 8am on Monday, Tuesday, Wednesday, Thursday and Sunday except for the purposes of access and egress to and from Moore Road and Charles Street.

***Reason:** To protect the acoustic amenity of surrounding residential areas. [Special Condition]*

### 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                      Rebecca Fisher

Date                      21 August 2006