

AGREEMENT BETWEEN PARTIES

SECTION 34(3)(a)

COURT DETAILS

Court	Land and Environment Court of New South Wales
Class	1
Case number	10424 of 2014

TITLE OF PROCEEDINGS

Applicant **MARIA POLLIFRONE**

Respondent **WARRINGAH COUNCIL**

FILING DETAILS

Filed for	Warringah Council – Respondent
Legal representative	Anthony Hudson Wilshire Webb Staunton Beattie Lawyers
Legal representative reference	AH:L7763
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AGREEMENT BETWEEN PARTIES – Section 34(3)(a)

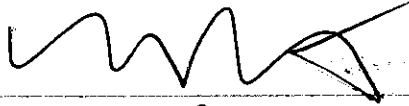
- A The parties have reached an agreement as to the terms of a decision in the proceedings that would be acceptable to the parties (being a decision that the Court could have made in the proper exercise of its functions).
- B The terms of the decision are as follows:
1. The Appeal is upheld.
 2. Modification Application No. MOD2013/0233 to modify Development Consent No. DA2013/0885 for use of premises as garden centre and ancillary dwelling at 339 Mona Vale Road, Terrey Hills is determined by approving the modifications as set out in Annexure A.
 3. As a consequence of order B2, Development Consent No. DA2013/0885 is now subject to the consolidated, modified conditions of development consent set out in Annexure B.

- C Pursuant to section 34(3)(a) of the Land and Environment Court Act 1979, the parties request that Commissioner Morris dispose of these proceedings in accordance with the terms of the decision set out in paragraph B above.

SIGNATURES

Applicant

Signature



Capacity

counsel for Applicant

Date of signature

11/9/2014

Respondent

Signature



Capacity

Solicitor on record

Date of signature

11/9/2014

ANNEXURE "A"

MARIA POLLIFRONE –v- WARRINGAH COUNCIL

LAND & ENVIRONMENT COURT PROCEEDINGS NO. 10424 of 2014

1. Condition 2 is amended as follows:

2. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Development Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Landscape Planting Plan and Typical Details CP/L/339MV/DA/E	25 August 2014	JCA

Engineering Plans		
Drawing No.	Dated	Prepared By
Stormwater Management Plan D01 A	19.12.2012	Northern Beaches Consulting Engineers
Stormwater Management Plan D02 A	19.12.2012	Northern Beaches Consulting Engineers
Stormwater Management Plan D03 A	19.12.2012	Northern Beaches Consulting Engineers

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bushfire Risk Assessment 788	12.7.2013	Ron Coffey - Planning for Bushfire Protection

b) Any Deferred Commencement conditions of Consent.

c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

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

release of the Construction Certificate.

e) The development is to be undertaken generally in accordance with the following:

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

Amended by LEC in proceedings no. 10424 of 2014 on 1 September 2014

2. Condition 9 is amended as follows:

9. On-site Stormwater Detention Compliance Certification (including Carparking and Driveway stormwater runoff areas)

Drainage plans detailing the provision of On-site Stormwater Detention system in accordance with Warringah Council's "On-site Stormwater Detention Technical Specification" and the concept drawing by Northern Beaches Consulting Engineer, drawing numbers 121210 D01, D02 and D03, revision A dated 19/12/2012.

The driveway and parking area to be constructed of 14m aggregate road base, which is rolled and sealed with a single coat spray seal.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development. (DACENC03)

Amended by LEC in proceedings no. 10424 of 2014 on 1 September 2014

3. Condition 11 is deleted

Deleted by LEC in proceedings no. 10424 of 2014 on 1 September 2014

4. Condition 12 is amended as follows:

12. Trees and / or Landscaping

In order to protect and enhance onsite vegetation and trees the following applies to the development site:

(a) Existing trees which must be retained

All trees not indicated for removal on Landscape Planting Plan -		
Drawing Number	Dated	Prepared By
CP/L/339MV/DA/E	25 August 2014	JCA

(b) Tree protection

- i) No tree roots greater than 50mm diameter are to be cut unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.

- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites.
- iv) All tree protection measures are to be in place prior to commencement of works

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAC01)

Amended by LEC in proceedings no. 10424 of 2014 on 1 September 2014

5. Condition 13 is amended as follows:

13. Side Setback Landscaping

The landscape plan referred to in condition 2 is to be amended to show:

- i) full details of the continuous 2m rear landscape area,
- ii) full details of the continuous 2m landscaped area for the whole of the north east boundary,
- iii) "5.0m Display Area" being confined to the area between the front gate and the north east boundary within the site,
- iv) additional planting details in this 5m display area to provide additional landscaping in this 5m display area,
- v) full details of the shaded plant nursery areas at the rear (being those areas that are not referenced "pots on pallets"),
- vi) the deletion of parking space 02 and landscaping in this area to match the adjoining landscaping to the north, and
- vii) delete reference – "Driveway & Parking area in One Coat Spray Seal" (see Condition 9).

Details are to be provided on the Landscape plans for the constructions Certificate to the satisfaction of the Certifying Authority.

Reason: Improve setback landscaping and boundary buffer (DACLACPCC1)

Amended by LEC in proceedings no. 10424 of 2014 on 1 September 2014

6. Condition 14 is amended as follows:

14. Rear Setback Landscaping

The landscaped rear setback shown on the approved Landscape plans referred to in condition 2 are to be amended as follows:

- i) A minimum 2.0m wide continuous landscaped side setback, including a dish drain (shallow grassed swale) is to be provided along the length of the rear boundary with No.2 Myoora Road Road;
- ii) Tree and shrub planting is to comply with *Planning for Bushfire Protection 2006*, and is to include additional / replacement "medium sized" canopy trees selected from Council's "Tree Replacement Guide"
http://www.warringah.nsw.gov.au/environment/tree_replace_guide.aspx ;
- iii) A nominal planting density of 1 medium sized tree per 10 linear metres along the side setback is to be provided in addition to the landscaping shown on the approved landscape plans; and
- iv) Trees are to be planted from a minimum 25 litre pot size.

Details are to be provided on the Landscape plans for the Construction Certificate to the satisfaction of the Certifying Authority.

Reason: Improve setback landscaping and boundary buffer (DACLACPC2)

Amended by LEC in proceedings no. 10424 of 2014 on 1 September 2014

7. Condition 15 is amended as follows:

15. Compliance with Standards

~~The development is required to be carried out in accordance with relevant Australian Standards.~~

~~Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.~~

~~Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)~~

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (b) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (c) AS 4970 - 2009 'Protection of trees on development sites'**
- (d) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (e) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (f) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (g) AS 1428.1 - 2009* Design for access and mobility - General requirements for access - New building work**
- (h) AS 1428.2 - 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**
- (j) AS1668 The use of mechanical ventilation

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website http://www.humanrights.gov.au/disability_rights/buildings/good.htm

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to. (DACPLC02)

Amended by LEC in proceedings no. 10424 of 2014 on 1 September 2014

- 8. Condition 18 is deleted.
- 9. Condition 19 is deleted.
- 10. Condition 20 is deleted.

11. Condition 23 is deleted.
12. Condition 28 is modified as follows:

28. Plan of Management

A Plan of Management (PoM) is to be prepared for the Garden Centre addressing the following site management issues, but is not limited to:

- Lot and DP and business operation / description to which the PoM applies;
- Reference to compliance with conditions of this consent;
- Environmental management of stagnant water in pots on a weekly basis to control mosquito breeding;
- Management / disposal of nursery waste items, litter, surplus items, waste packaging, and the like;
- Restriction of no items, banners, flags and the like to be placed along the road reserve / frontage to attract attention of passing traffic;
- Customer parking and delivery on-site management, including no parking / loading in the road reserve;
- Use of any plant equipment (i.e. forklift) restricted to normal business hours;
- Safe storage, management, containment and safe use of any pesticides, weed controls, chemicals as applicable;
- Appendices of the PoM is to include a copy of the Notice of Determination, site plan and any other relevant consent documents;
- Complaint management register and details of any complaint handling;
- Contact details and person/s responsible for implementing and maintaining the PoM.
- Provision that the dwelling on site, if occupied, is to be used as "caretaker's residence".

The Plan of Management is to be kept on site in the Garden Centre office and available for inspection by an authorised Council Officer upon request.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim Occupation Certificate.

Reason: Site management (DACBCFPOC1)

Modified by LEC in proceedings no. 10424 of 2014 on 1 September 2014

13. Condition 38 is amended as follows:

38. Required Planting

The tree/s listed in the following schedule shall be planted in accordance with the following schedule:

No. of Trees Required.	Species	Location	Minimum Pot Size
All trees	As indicated on Landscape Planting Plan drawing No. CP/L/339MV/DA/E prepared by JCA dated 25 August 2014	As indicated on the Landscape Plan	As indicated on the Landscape Planting Plan
1 tree per 10m distance	Trees selected from Council Tree Replacement Guide – Medium Canopy Trees	Within the side setbacks and rear setback buffer. Evenly spaced.	25 litre pot
3 trees	Spotted gum	Between 15m and 30m from the front boundary shown on the plans by [JCA dated new date] Evenly spaced.	25 litre pot

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Interim Occupation Certificate.

Reason: To maintain environmental amenity. (DACLAF01)

Modified by LEC in proceedings no. 10424 of 2014 on 1 September 2014

14. Condition 41 is amended as follows:

41. Dwelling Private Open Space

The balcony of the existing dwelling shall be used exclusively as 'private open space' for the occupants for the dwelling.

Details to be provided to the Certifying Authority prior to the issue of the interim / final Occupation Certificate.

Reason: Private Open Space(DACPLFPOC1)

Amended by LEC in proceedings no. 10424 of 2014 on 1 September 2014

15. Condition 43 is amended as follows:

43. Allocation of Spaces

Car parking spaces provided shall be provided, made accessible and maintained at all times. The spaces shall be allocated as follows:

2 - Residential dwelling

- 13 - Garden Centre - staff and customers
- 1 - Space for persons with a disability - customer or staff

Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space allocated to a particular use shall be line marked and numbered or signposted to indicate the use to which it is allocated.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure that adequate parking facilities to service the development are provided on site. (DACPLG01)

Modified by LEC in proceedings no. 10424 of 2014 on 1 September 2014

16. Condition 50 is modified as follows:

50. Special Display Area

An area of 5m width only, between the front gate and the north-east side boundary within the site may be used for the temporary display of selected portable Garden Centre items. No permanent fixtures, walls, fixed displays or other miscellaneous items are to retained / be within the remaining primary setback area, as per the approved plans drawn by JCA dated 26 August 2014.

Reason: Landscaped Front Setback(DACPLGOG2)

Modified by LEC in proceedings no. 10424 of 2014 on 1 September 2014

17. A new condition 51 is added as follows:

51. Time Limit to Complete Works

If all the works as shown on the approved plans and in compliance with the conditions of this consent are not completed to the Council's reasonable satisfaction on or before 1 March 2015 (or such later date agreed with the Council under this Condition) then the use of the site shall cease until such time as the works are completed in accordance with this consent.

Reason: Compliance (DACPLGOG2)

Added by LEC in proceedings no. 10424 of 2014 on 1 September 2014

18. A new condition 52 is added as follows:

52. Maintenance of driveway and car parking

The sealed surface of the driveway and car parking areas are to be maintained for the life of the consent.

Reason: To ensure the driveway and carparking area are sealed.

Added by LEC in proceedings no. 10424 of 2014 on 1 September 2014

ANNEXURE "B"

MARIA POLLIFRONE –v- WARRINGAH COUNCIL

LAND & ENVIRONMENT COURT PROCEEDINGS NO. 10424 of 2014

DEFERRED COMMENCEMENT CONDITIONS

1. Stormwater Drainage Easement

As the natural fall of the land is towards the rear of the site the disposal of stormwater drainage is to be via an easement through the downstream property(s). The easement is to be created under Sections 88B, and/or 88K of the Conveyancing Act 1919. The applicant must provide Council with evidence of the creation of the easement in order to activate the consent.

Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner that protects adjoining properties. (DACENA02)

Evidence required to satisfy the deferred commencement condition/s must be submitted to Council within five (5) years of the date of this consent, or the consent will lapse in accordance with Section 95 of the Environmental Planning and Assessment Regulation 2000.

Upon satisfaction of the deferred commencement condition/s, the following conditions apply:

DEVELOPMENT CONSENT OPERATIONAL CONDITIONS

2. Approved Plans and Supporting Documentation

The development must be carried out in compliance (except as amended by any other condition of consent) with the following:

a) Approved Plans

Development Plans - Endorsed with Council's stamp		
Drawing No.	Dated	Prepared By
Landscape Planting Plan and Typical Details CP/L/339MV/DA/E	25 August 2014	JCA

Engineering Plans		
Drawing No.	Dated	Prepared By

Stormwater Management Plan D01 A	19.12.2012	<i>Northern Beaches Consulting Engineers</i>
Stormwater Management Plan D02 A	19.12.2012	<i>Northern Beaches Consulting Engineers</i>
Stormwater Management Plan D03 A	19.12.2012	<i>Northern Beaches Consulting Engineers</i>

Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	Dated	Prepared By
Bushfire Risk Assessment 788	12.7.2013	<i>Ron Coffey - Planning for Bushfire Protection</i>

b) Any Deferred Commencement conditions of Consent.

c) Any plans and / or documentation submitted to satisfy the Conditions of this consent.

d) No construction works (including excavation) shall be undertaken prior to the release of the Construction Certificate.

e) The development is to be undertaken generally in accordance with the following:

Reason: To ensure the work is carried out in accordance with the determination of Council and approved plans. (DACPLB01)

Amended by LEC in proceedings no. 10424 of 2014 on 1 September 2014

3. **Compliance with Other Department, Authority or Service Requirements**

The development must be carried out in compliance with the following:

Other Department, Authority or Service	eServices Reference	Dated
Roads and Maritime Service	Referral Response RMS	<i>6 August 2013</i>

(NOTE: For a copy of the above referenced document/s, please see Council's 'E-Services' system at www.warringah.nsw.gov.au)

Reason: To ensure the work is carried out in accordance with the determination and the statutory requirements of other Department, Authority or Body's. (DACPLB02)

4. Occupancy

Nothing in this consent shall authorise the use of site/onsite structures/units/tenancies as detailed on the approved plans for any land use of the site beyond the definition of a *garden centre*.

A *garden centre* is defined as:

"garden centre means a building or place the principal purpose of which is the retail sale of plants and landscaping and gardening supplies and equipment. It may, if ancillary to the principal purpose for which the building or place is used, include a restaurant or cafe and the sale of any the following:

- (a) outdoor furniture and furnishings, barbecues, shading and awnings, pools, spas and associated supplies, and items associated with the construction and maintenance of outdoor areas,*
- (b) pets and pet supplies,*
- (c) fresh produce."*

(development is defined by the Warringah Local Environment Plan 2011 (as amended) Dictionary)

Note: The proposal includes garden centre fit-out of the ground floor of the existing dwelling house.

Any variation to the approved land use and/occupancy of any unit beyond the scope of the above definition will require the submission to Council of a new development application.

Reason: To ensure compliance with the terms of this consent. (DACPLB03)

5. No Approval for any Signage

No approval is granted under this Development Consent for signs (as defined under Warringah Local Environment Plan 2011 and State Environmental Planning Policy No. 64). A separate Development Application for any signs (other than exempt and signs permitted under Complying Development) must be submitted for the approval prior to the erection or display of any such signs.

Reason: Control of signage. (DACPLB06)

6. Prescribed Conditions

(a) All building works must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

(b) BASIX affected development must comply with the schedule of BASIX commitments specified within the submitted BASIX Certificate (demonstrated compliance upon plans/specifications is required prior to the issue of the Construction Certificate);

(c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

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

(ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and

(iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(d) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:

(i) in the case of work for which a principal contractor is required to be appointed:

A. the name and licence number of the principal contractor, and

B. the name of the insurer by which the work is insured under Part 6 of that Act,

(ii) in the case of work to be done by an owner-builder:

A. the name of the owner-builder, and

B. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

(e) Development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (i) protect and support the adjoining premises from possible damage from the excavation, and
- (ii) where necessary, underpin the adjoining premises to prevent any such damage.
- (iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- (iv) the owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

Reason: Legislative Requirement (DACPLB09)

7. General Requirements

(a) Unless authorised by Council:

Building construction and delivery of material hours are restricted to:

- o 7.00 am to 5.00 pm inclusive Monday to Saturday,
- o No work on Sundays and Public Holidays.

Demolition and excavation works are restricted to:

- o 8.00 am to 5.00 pm Monday to Saturday 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).

(b) At all times after the submission the Notice of Commencement to Council, a copy of the Development Consent and Construction Certificate is to remain onsite at all times until the issue of a final Occupation Certificate. The consent shall be available for perusal of any Authorised Officer.

(c) Where demolition works have been completed and new construction works have not commenced within 4 weeks of the completion of the demolition works that area affected by the demolition works shall be fully stabilised and the site must be maintained in a safe and clean state until such time as new construction works commence.

(d) Onsite toilet facilities (being either connected to the sewer or an accredited sewer

management facility) for workers are to be provided for construction sites at a rate of 1 per 20 persons.

(e) Prior to the release of the Construction Certificate payment of the Long Service Levy is required. This payment can be made at Council or to the Long Services Payments Corporation. Payment is not required where the value of the works is less than \$25,000. The Long Service Levy is calculated on 0.35% of the building and construction work. 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.

(f) Smoke alarms are to be installed throughout all new and existing portions of any Class 1a building in accordance with the Building Code of Australia prior to the occupation of the new works.

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

(h) No building, demolition, excavation or material of any nature shall be placed on Council's footpaths, roadways, parks or grass verges without Council Approval.

(i) All sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level when measured from any property boundary and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.)

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

(k) Prior to the commencement of any development onsite for:

- i) Building/s that are to be erected
- ii) Building/s that are situated in the immediate vicinity of a public place and is dangerous to persons or property on or in the public place
- iii) Building/s that are to be demolished
- iv) For any work/s that is to be carried out
- v) For any work/s that is to be demolished

The person responsible for the development site is to erect or install on or around the development area such temporary structures or appliances (wholly within the development site) as are necessary to protect persons or property and to prevent unauthorised access to the site in order for the land or premises to be maintained in a safe or healthy condition. Upon completion of the development, such temporary structures or appliances are to be removed within 7 days.

(l) Any Regulated System (e.g. air-handling system, hot water system, a humidifying system, warm-water system, water-cooling system, cooling towers) as defined under the provisions of the Public Health Act 2010 installed onsite is required to be registered with Council prior to operating.

Note: Systems can be registered at www.warringah.nsw.gov.au

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. (DACPLB10)

FEES / CHARGES / CONTRIBUTIONS

8. Bonds

(a) *Security Bond*

A bond (determined from cost of works) of \$500 and an inspection fee in accordance with Council's Fees and Charges paid as security to ensure the rectification of any damage that may occur to the Council infrastructure contained within the road reserve adjoining the site as a result of construction or the transportation of materials and equipment to and from the development site.

(b) *Construction, Excavation and Associated Works Bond (Drainage)*

A Bond of \$2000 as security against any damage to Council's stormwater drainage infrastructure or failure to complete the construction of stormwater drainage works as part of this consent.

An inspection fee in accordance with Council adopted fees and charges (at the time of payment) is payable for each kerb inspection as determined by Council (minimum (1) one inspection)

All bonds and fees shall be deposited with Council prior to Construction Certificate or demolition work commencing, details demonstrating payment are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure adequate protection of Council's infrastructure. (DACENZ01)

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

9. On-site Stormwater Detention Compliance Certification (including Carparking and Driveway stormwater runoff areas)

Drainage plans detailing the provision of On-site Stormwater Detention system in accordance with Warringah Council's "On-site Stormwater Detention Technical Specification" and the concept drawing by Northern Beaches Consulting Engineer, drawing numbers 121210 D01, D02 and D03, revision A dated 19/12/2012.

The driveway and parking area to be constructed of 14m aggregate road base, which is rolled and sealed with a single coat spray seal.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To ensure appropriate provision for the disposal of stormwater and stormwater management arising from the development. (DACENC03)

Amended by LEC in proceedings no. 10424 of 2014 on 1 September 2014

10. Vehicle Crossings Application Formwork Inspection

An application for street levels shall be made with Council subject to the payment of fee applicable at the time of payment. The fee includes all Council inspections relating to the driveway construction and must be paid.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To facilitate suitable vehicular access to private property. (DACENC12)

11. [Deleted]

Deleted by LEC in proceedings no. 10424 of 2014 on 1 September 2014

12. Trees and / or Landscaping

In order to protect and enhance onsite vegetation and trees the following applies to the development site:

(a) Existing trees which must be retained

All trees not indicated for removal on Landscape Planting Plan -		
Drawing Number	Dated	Prepared By
CP/L/339MV/DA/E	25 August 2014	JCA

(b) Tree protection

- i) No tree roots greater than 50mm diameter are to be cut unless authorised by a qualified Arborist on site.
- ii) All structures are to bridge tree roots greater than 50mm diameter unless directed otherwise by a qualified Arborist on site.
- iii) All tree protection to be in accordance with AS4970-2009 Protection of trees on development sites.
- iv) All tree protection measures are to be in place prior to commencement of works

Reason: To ensure compliance with the requirement to retain and protect significant planting on the site. (DACLAC01)

Amended by LEC in proceedings no. 10424 of 2014 on 1 September 2014

13. Side Setback Landscaping

The landscape plan referred to in condition 2 is to be amended to show:

- i) full details of the continuous 2m rear landscape area,
- ii) full details of the continuous 2m landscaped area for the whole of the north east boundary,
- iii) "5.0m Display Area" being confined to the area between the front gate and the north east boundary within the site,
- iv) additional planting details in this 5m display area to provide additional landscaping in this 5m display area,
- v) full details of the shaded plant nursery areas at the rear (being those areas that are not referenced "pots on pallets"),
- vi) the deletion of parking space 02 and landscaping in this area to match the adjoining landscaping to the north, and
- vii) delete reference – "Driveway & Parking area in One Coat Spray Seal" (see Condition 9).

Details are to be provided on the Landscape plans for the Construction Certificate to the satisfaction of the Certifying Authority.

Reason: Improve setback landscaping and boundary buffer (DACLACPCC1)

Amended by LEC in proceedings no. 10424 of 2014 on 1 September 2014

14. Rear Setback Landscaping

The landscaped rear setback shown on the approved Landscape plans referred to in condition 2 are to be amended as follows:

- i) A minimum 2.0m wide continuous landscaped side setback, including a dish drain (shallow grassed swale) is to be provided along the length of the rear boundary with No.2 Myoora Road;
- ii) Tree and shrub planting is to comply with *Planning for Bushfire Protection 2006*, and is to include additional / replacement "medium sized" canopy trees selected from Council's "Tree Replacement Guide"
http://www.warringah.nsw.gov.au/environment/tree_replace_guide.aspx ;
- iii) A nominal planting density of 1 medium sized tree per 10 linear metres along the side setback is to be provided in addition to the landscaping shown on the approved landscape plans; and
- iv) Trees are to be planted from a minimum 25 litre pot size.

Details are to be provide on the Landscape plans for the Construction Certificate to the satisfaction of the Certifying Authority.

Reason: Improve setback landscaping and boundary buffer (DACLACPCC2)

Amended by LEC in proceedings no. 10424 of 2014 on 1 September 2014

15. Compliance with Standards

~~The development is required to be carried out in accordance with relevant Australian~~

Standards.

~~Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.~~

~~Reason: To ensure the development is constructed in accordance with appropriate standards. (DACPLC02)~~

Advice to Applicants: At the time of determination in the opinion of Council, the following (but not limited to) Australian Standards are considered to be appropriate:

- (a) AS4282:1997 Control of the Obtrusive Effects of Outdoor Lighting**
- (b) AS 4373 - 2007 'Pruning of amenity trees' (Note: if approval is granted) **
- (c) AS 4970 - 2009 'Protection of trees on development sites'**
- (d) AS/NZS 2890.1:2004 Parking facilities - Off-street car parking**
- (e) AS 2890.2 - 2002 Parking facilities - Off-street commercial vehicle facilities**
- (h) AS/NZS 2890.6 - 2009 Parking facilities - Off-street parking for people with disabilities**
- (f) AS 1742 Set - 2010 Manual of uniform traffic control devices Set**
- (g) AS 1428.1 - 2009* Design for access and mobility - General requirements for access - New building work**
- (h) AS 1428.2 - 1992*, Design for access and mobility - Enhanced and additional requirements - Buildings and facilities**
- (j) AS1668 The use of mechanical ventilation

*Note: The Australian Human Rights Commission provides useful information and a guide relating to building accessibility entitled "the good the bad and the ugly: Design and construction for access". This information is available on the Australian Human Rights Commission website http://www.humanrights.gov.au/disability_rights/buildings/good.htm

**Note: the listed Australian Standards is not exhaustive and it is the responsibility of the applicant and the Certifying Authority to ensure compliance with this condition and that the relevant Australian Standards are adhered to. (DACPLC02)

Amended by LEC in proceedings no. 10424 of 2014 on 1 September 2014

16. Sewer / Water Quickcheck

The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre prior to works commencing to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website www.sydneywater.com.au for:

- Quick Check agents details - see Building Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water Assets - see Building Developing and Plumbing then Building and Renovating.
- Or telephone 13 20 92.

Reason: To ensure compliance with the statutory requirements of Sydney Water.
(DACPLC12)

17. Surrender of Consent

The applicant shall surrender to Warringah Council, Development Consent No:DA2007/0273 (Driveway Access) (including any modifications to those consents), in accordance with the requirements of the *Environmental Planning and Assessment Act 1979*.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

Reason: To prevent inconsistencies between consents applying the site (ref s80A (5) EPAA & cl97 EPA Reg). (DACPLCPCC1)

18. Front Setback Landscaping

~~The landscaped side setbacks shown on the approved Landscape plans drawn by JCA, dated 26.6.2013 are to be amended as follows:~~

- ~~i) An additional three (3) Spotted gum trees are to be included in the secondary setback area between 15m and 30m from the front boundary, on the north eastern side of the driveway;~~
- ~~ii) Tree and shrub planting is to comply with Planning for Bushfire Protection 2006, and is to include additional / replacement "medium sized" canopy trees selected from Council's "Tree Replacement Guide"
http://www.warringah.nsw.gov.au/environment/tree_replace_guide.aspx;~~
- ~~iii) A nominal planting density evenly spaced; and~~
- ~~iv) Trees are to be planted from a minimum 25 litre pot size.~~

~~Details are to be provide on the Landscape plans for the Construction Certificate to the satisfaction of the Certifying Authority.~~

Reason: Improve front setback landscaping (DACPLCPCC2)

Deleted by LEC in proceedings no. 10424 of 2014 on 1 September 2014

19. Disabled Persons Parking Space

~~Car parking space marked "02" adjacent the south-western boundary is to be amended to provide a disabled persons parking space in compliance with AS2890. The proposed parking spaces marked "03" shown on the approved plans, drawn by JCA, dated 26.6.2013 is to be deleted and replaced with landscaping and a shared pedestrian zone for accessibility to the single disabled persons parking space, as required.~~

~~Details are to be shown on the Construction Certificate plans to the satisfaction of the Certifying Authority.~~

Reason: Safety and parking accessibility (DACTRCPCG1)

Deleted by LEC in proceedings no. 10424 of 2014 on 1 September 2014

20. Loading Bay

~~The loading bay within the 'loading area' identified on the approved plans drawn by JCA, dated 26.6.2013 is to be 8.8m long.~~

~~Details are to be shown on the Construction Certificate plans to the satisfaction of the Certifying Authority.~~

~~Reason: Traffic safety (DACTRCPCG2)~~

Deleted by LEC in proceedings no. 10424 of 2014 on 1 September 2014

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

21. 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.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land. (DACEND01)

CONDITIONS TO BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

22. Requirement to Notify about New Contamination Evidence

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

Reason: To protect human health and the environment. (DACBCEDW1)

23. [Deleted]

Deleted by LEC in proceedings no. 10424 of 2014 on 1 September 2014

24. Vehicle Crossings

The provision of a combined entry / exit vehicle crossing 6 metres wide at the property boundary and 9 metres wide at the gutter alignment in accordance with AS2890.1:2004. Details of compliance with this condition are to be submitted to Roads Maritime Services for consent prior to Council approval. All requirements of Roads Maritime Services are to be complied with. The vehicular crossing is to be splayed 1.5 metres both sides unless otherwise required by Roads Maritime

Services.

Provision of timber bollards with retro-reflectors on both sides of vehicle crossing to prevent vehicles from parking and manoeuvring on the footpath reserve or grass verge, to the satisfaction of Warringah Council's Manager - Stormwater and Development Engineering. Timber bollards with retro-reflectors must be constructed in accordance with Council's AUSPEC #1.

An Authorised Vehicle Crossing Contractor shall construct the vehicle crossing and associated works within the road reserve in plain concrete. All redundant laybacks and crossings are to be restored to grass. Worn/damaged grass verge areas along the Mona Vale Road frontage are to be re-instated as grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority.

Reason: To facilitate suitable vehicular access to private property. (DACENE05)

25. Maintenance of Road Reserve

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

Reason: Public Safety. (DACENE09)

26. Traffic Control During Road 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 in accordance with Council's Minor Works Policy and to the satisfaction of the Principal Certifying Authority. Traffic movement in both directions on public roads, and vehicular access to private properties is to be maintained at all times during the works.

Reason: Public Safety. (DACENE11)

27. Trees Condition

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

- (a) A general decline in health and vigour.
- (b) Damaged, crushed or dying roots due to poor pruning techniques.
- (c) More than 10% loss or dieback of roots, branches and foliage.
- (d) Mechanical damage or bruising of bark and timber of roots, trunk and branches.
- (e) Yellowing of foliage or a thinning of the canopy untypical of its species.
- (f) An increase in the amount of deadwood not associated with normal growth.
- (g) An increase in kino or gum exudation.

- (h) Inappropriate increases in epicormic growth that may indicate that the plants are in a stressed condition.
- (i) Branch drop, torn branches and stripped bark not associated with natural climatic conditions.

Any mitigating measures and recommendations required by the Arborist are to be implemented.

The owner of the adjoining allotment of land is not liable for the cost of work carried out for the purpose of this clause.

Reason: Protection of Trees. (DACLA03)

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

28. Plan of Management

A Plan of Management (PoM) is to be prepared for the Garden Centre addressing the following site management issues, but is not limited to:

- Lot and DP and business operation / description to which the PoM applies;
- Reference to compliance with conditions of this consent;
- Environmental management of stagnant water in pots on a weekly basis to control mosquito breeding;
- Management / disposal of nursery waste items, litter, surplus items, waste packaging, and the like;
- Restriction of no items, banners, flags and the like to be placed along the road reserve / frontage to attract attention of passing traffic;
- Customer parking and delivery on-site management, including no parking / loading in the road reserve;
- Use of any plant equipment (i.e. forklift) restricted to normal business hours;
- Safe storage, management, containment and safe use of any pesticides, weed controls, chemicals as applicable;
- Appendices of the PoM is to include a copy of the Notice of Determination, site plan and any other relevant consent documents;
- Complaint management register and details of any complaint handling;
- Contact details and person/s responsible for implementing and maintaining the PoM.
- Provision that the dwelling on site, if occupied, is to be used as "caretaker's residence".

The Plan of Management is to be kept on site in the Garden Centre office and available for inspection by an authorised Council Officer upon request.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim Occupation Certificate.

Reason: Site management (DACBCFPOC1)

Modified by LEC in proceedings no. 10424 of 2014 on 1 September 2014

29. Site Management

A validation and site monitoring report is to be prepared in accordance with relevant guidelines issued under the *Contaminated Land Management Act 1997* and must be submitted to the Council within one month from completion of work / interim occupation.

The plan must identify the extent and depth of all fill material in relation to existing roadways and buildings, as applicable. The survey must also include a detailed survey of all sites used as landfill disposal pits, identifying boundaries and depth of disposal pits in relation to existing roadways and buildings, as applicable for a site to be frequented by the general public.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: Public safety. (DACBCFPOC2)

30. Authorisation of Legal Documentation Required for On-site Stormwater Detention

The original completed request forms (Department of Lands standard forms 13PC and/or 13RPA) must be submitted to Council, with a copy of the Works-as-Executed plan (details overdrawn on a copy of the approved drainage plan), hydraulic engineers certification and Compliance Certificate issued by an Accredited Certifier in Civil Works.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To create encumbrances on the land. (DACENF01)

31. Registration of Encumbrances for On-site Stormwater Detention

A copy of the certificate of title demonstrating the creation of the positive covenant and restriction for on-site storm water detention as to user is to be submitted.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To identify encumbrances on land. (DACENF02)

32. Restriction as to User for On-site Stormwater Detention

A restriction as to user shall be created on the title over the on-site stormwater detention system, restricting any alteration to the levels and/or any construction on the land. The terms of such restriction are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Council prior to lodgement with the Department of Lands. Warringah

Council shall be nominated as the party to release, vary or modify such restriction.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure modification to the on-site stormwater detention structure is not carried without Council's approval. (DACENF04)

33. Stormwater Disposal

The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified person.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Note: The following Standards and Codes applied at the time of determination:

- (a) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003 - Plumbing and drainage - Stormwater drainage
- (b) Australian/New Zealand Standard **AS/NZS 3500.3** - 2003/Amdt 1 - 2006 - Plumbing and drainage - Stormwater drainage
- (c) National Plumbing and Drainage Code.

Reason: To ensure appropriate provision for the disposal of stormwater arising from the development. (DACENF05)

34. On-Site Stormwater Detention Compliance Certification

Upon completion of the on-site stormwater detention (OSD) system, certification from a consulting engineer and a "work as executed" (WAE) drawing certified by a registered surveyor and overdrawn in red on a copy of the approved OSD system plans are to be provided to Council. Additionally a Compliance Certificate is to be issued by an Accredited Certifier in Civil Works registered with the Institute of Engineers Australia, stating that the works are in accordance with the approved plans.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure stormwater disposal is constructed to Council's satisfaction. (DACENF10)

35. Positive Covenant for On-site Stormwater Detention

A positive covenant shall be created on the title of the land requiring the proprietor of the land to maintain the on-site stormwater detention structure in accordance with the standard requirements of Council. The terms of the positive covenant are to be prepared to Council's standard requirements, (available from Warringah Council), at the applicant's expense and endorsed by Warringah Council's delegate prior to lodgement with the Department of Lands. Warringah Council shall be nominated as

the party to release, vary or modify such covenant.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure ongoing maintenance of the on-site stormwater detention system. (DACENF12)

36. Creation of Positive Covenant and Restriction as a User

Where any conditions of this Consent require the creation of a positive covenant and/or restriction as a user, the original completed request forms, (Department of Lands standard forms 13PC and/or 13RPA), shall be submitted to Warringah Council for authorisation.

A certified copy of the documents shall be provided to Warringah Council after final approval and registration has been affected by the "Department of Lands".

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of a Interim / Final Occupation Certificate.

Reason: To identify encumbrances on land. (DACENF14)

37. Reinstatement of Road Reserve

The road reserve adjacent to the property boundary (Mona Vale Road frontage) is to be reinstated with appropriate ground cover, native shrubs and turf and effective frangible barriers must be in place to prevent future parking on the road reserve. In this regard, a detailed plan for landscaping works within the road reserve is to be submitted to Warringah Council and RMS under Section 138 of the *Roads Act 1993*. The professionally prepared plan details is to include:

- i) Details of the driveway crossing area to be retained.
- ii) Details of landscaping works to reinstate adequate top soil and native shrub planting in the road reserve area in front of the site (excluding driveways) that has been damaged by previous vehicle parking activity.
- iii) Details of 'frangible' bollards/posts to be provided in front of the site (excluding driveways) to prevent carparking access in the vicinity of the site along the Mona Vale Road verge.
- iv) Landscaping within the road verge is to comply with sight safety distances required under Australian Standard 2890.
- v) Plans are to be drawn at 1:100 or 1:200 scale on A3 or A2 paper with three (3) copies and an electronic copy submitted.

The road reserve works plan is to be submitted to Warringah Council for approval by Warringah Council. Details of approval under Section 138 of the *Roads Act 1993* by Warringah Council/RMS for the proposed road reserve works are to be provided to the Certifying Authority prior to the issue of the interim / final Occupation Certificate.

Reason: Protect condition of the road reserve and Council assets (DACHPFPOC1)

38. Required Planting

The tree/s listed in the following schedule shall be planted in accordance with the following schedule:

No. of Trees Required.	Species	Location	Minimum Pot Size
All trees	As indicated on Landscape Planting Plan drawing No. CP/L/339MV/DA/E prepared by JCA dated 25 August 2014	As indicated on the Landscape Plan	As indicated on the Landscape Planting Plan
1 tree per 40m distance	Trees selected from Council Tree Replacement Guide—Medium Canopy Trees	Within the side setbacks and rear setback buffer. Evenly spaced.	25 litre pot
3 trees	Spotted gum	Between 15m and 30m from the front boundary shown on the plans by [JCA dated new date] Evenly spaced.	25 litre pot

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Interim Occupation Certificate.

Reason: To maintain environmental amenity. (DACLAF01)

Modified by LEC in proceedings no. 10424 of 2014 on 1 September 2014

39. Removal of All Temporary Structures/Material and Construction Rubbish

Once construction has been completed all silt and sediment fences, silt, rubbish, building debris, straw bales and temporary fences are to be removed from the site.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure bushland management. (DACPLF01)

40. Fire Safety Matters

At the completion of all works, a Fire Safety Certificate will need to be prepared which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Interim / Final Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

Reason: Statutory requirement under Part 9 Division 4 & 5 of the Environmental Planning and Assessment Regulation 2000. (DACPLF07)

41. Dwelling Private Open Space

The balcony of the existing dwelling shall be used exclusively as 'private open space' for the occupants for the dwelling.

Details to be provided to the Certifying Authority prior to the issue of the interim / final Occupation Certificate.

Reason: Private Open Space(DACPLFPOC1)

Amended by LEC in proceedings no. 10424 of 2014 on 1 September 2014

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

42. Existing Dwelling

The dwelling is to be used exclusively as a "caretaker's residence" ancillary to and associated with the Garden Centre.

Reason: Ancillary use (DACBCGOG1)

43. Allocation of Spaces

Car parking spaces provided shall be provided, made accessible and maintained at all times. The spaces shall be allocated as follows:

2 - Residential dwelling

13 - Garden Centre - staff and customers

1 - Space for persons with a disability - customer or staff

Car-parking provided shall be used solely in conjunction with the uses contained within the development. Each car parking space allocated to a particular use shall be line marked and numbered or signposted to indicate the use to which it is allocated.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure that adequate parking facilities to service the development are provided on site. (DACPLG01)

Modified by LEC in proceedings no. 10424 of 2014 on 1 September 2014

44. Visitors Sign

A sign, legible from the street, shall be permanently displayed to indicate that visitor parking is available on the site and the visitor car parking spaces shall be clearly marked as such.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any interim / final Occupation Certificate.

Reason: To ensure that visitors are aware that parking is available on site and to identify those spaces to visitors. (DACPLG04)

45. Hours of Operation

The hours of operation are to be restricted to 6am to 6pm, seven (7) days per week (inclusive).

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Reason: Information to ensure that amenity of the surrounding locality is maintained. (DACPLG08)

46. Signs/Goods in the Public Way

No signs or goods are to be placed on the footway, road reserve or roadway adjacent to the property.

Reason: To ensure pedestrian safety and to protect the streetscape. (DACPLG15)

47. Loading Within Site

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

Reason: To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian safety and amenity. (DACPLG20)

48. 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 protect ensure the acoustic amenity of surrounding properties. (DACPLG21)

49. Unauthorised works

This development consent does not authorise any existing works on the subject land that have been undertaken without consent where prior development consent was required under the *Environmental Planning and Assessment Act 1979*.

Reason: Statutory compliance(DACPLGOG1)

50. Special Display Area

An area of 5m width only, between the front gate and the north-east side boundary within the site may be used for the temporary display of selected portable Garden Centre items. No permanent fixtures, walls, fixed displays or other miscellaneous items are to retained / be within the remaining primary setback area, as per the approved plans drawn by JCA dated 26 August 2014.

Reason: Landscaped Front Setback(DACPLGOG2)

Modified by LEC in proceedings no. 10424 of 2014 on 1 September 2014

51. Time Limit to Complete Works

If all the works as shown on the approved plans and in compliance with the conditions of this consent are not completed to the Council's reasonable satisfaction on or before 1 March 2015 (or such later date agreed with the Council under this Condition) then the use of the site shall cease until such time as the works are completed in accordance with this consent.

Reason: Compliance (DACPLGOG2)

Added by LEC in proceedings no. 10424 of 2014 on 1 September 2014

52. Maintenance of driveway and car parking

The sealed surface of the driveway and car parking areas are to be maintained for the life of the consent.

Reason: To ensure the driveway and carparking area are sealed.

Added by LEC in proceedings no. 10424 of 2014 on 1 September 2014
