

5 February 2007

Ocean Direct Distributors
74 Kers road
FRENCHS FOREST NSW 2086

2005/0395 MOD 2
LP (PAS)

Dear Sir/Madam,

**RE: NO. 4/20 NARABANG WAY, BELROSE
MODIFICATION OF DEVELOPMENT CONSENT NO. 2005/0395DA**

We are writing to advise that the request to modify the above-mentioned Development Consent has been approved on 30 January 2007 and determined as follows:

- **Condition No. 39** of Modification No.1 approved 26 October 2006, of Development Consent 2005/0395 approved 15 July 2005 be modified to read as follows:

“39. Hours of Operation

The proposed retail sales is to be opened for business only between the following hours:

Saturday 9am to 6pm, and 9am to 1pm Sunday;

Christmas Eve 9am to 6pm & Good Friday eve from 9am to 4pm.

No display or retail sales of goods are to be carried out within the premises other than approved by this consent.

The proposed retail sales is to not be opened for business on public holidays other than approved by this consent.

Reason: *Information to ensure that amenity of the surrounding locality is maintained. [12]”*

This letter should therefore be read in conjunction with Development Consent 2005/0395DA dated 15 July 2005 and Modification No. 1 dated 26 October 2006. Please find attached a consolidated set of conditions incorporating both modifications of consent.

Section 97(1) of the Environmental Planning and Assessment Act confers on the applicant who is not satisfied with the determination of the Consent Authority has a right of appeal to the Land and Environment Court exercisable within 12 months of receipt of this notice.

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.

Should you have any further enquiries in connection with this matter, please contact the referred to Enquiry Officer.

Should you require any further information on this matter, please contact **Beverly Kong** between the hours of 9.30am and 10.30am or 3.00pm and 4.00pm, Monday to Friday, on telephone number **9942 2111**, or at any time on facsimile number **9971 4522**.

Details of development applications lodged after July 1, 2005 are also available online, to access this facility please visit our DA's Online System at www.warringah.nsw.gov.au.

Yours faithfully,

Peter Robinson
**Manager, Major Developments
Planning and Assessment Services**

**Consolidated Conditions of Modification No. 2 Approved 30 January 2007,
Modification No. 1 Approved 26 October 2006 of Development Consent 2005/0395
Approved 15 July 2005**

1. Approved Plans And Supporting Documentation

The development being carried out in accordance with the following drawing title/number listed below and endorsed with Council's stamp, except where amended by other conditions of consent:

Drawing Title / Number	Dated
Freezer Room and Cool Room Installation for Ocean Direct / unnumbered	Undated
Proposed New Freezer Room and Cool Room Installation and New Drainage Line / PFCD - 001	3 June 2005
The above plans are to be read in conjunction with the highlighted changes contained in Drawing No. PFCD – 001 Rev 1 drawn by P Harutoonian (Modification No. 1)	03/06/2005

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

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

***Reason:** To ensure the work is carried out in accordance with the determination of Council and approved plans. [A1 (1)]"*

2. Demolition of Extra Fabric

Alterations to the existing building shall be limited to that shown on the approved plans. 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**

3. 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]*

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4. 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]*

5. Kerb Security Bond

A bond of \$550.00 shall be deposited with Council and inspection fee of \$200.00 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]*

6. 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]*

7. 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 Fitout of Food Premises;
- (d) Sydney Water Corporation - Trade Waste Section;
- (e) the Clean Air (Plant and Equipment) Regulation;
- (f) AS 1668 Part 1;
- (g) AS 1668 Part 2;

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- (h) the Protection of the Environment Operations Act;
- (i) the Building Code of Australia; and
- (j) the ANZ Foods Standards Code

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

- (k) construction, materials and finishes;
- (l) installation of fixtures, fittings and equipment;
- (m) washing facilities, other facilities and special requirements;
- (n) mechanical ventilation and exhaust discharges; and
- (o) 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]

8. Structural Adequacy of Existing Building

A certificate prepared by an appropriately qualified and practising Structural Engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads shall be submitted with the Construction Certificate application.

Reason: To ensure the structural integrity of the building is maintained. [C50]

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:

SECURITY BOND & FEE SCHEDULE	
4/20 Narabang Way, Belrose (Property address)	
DEVELOPMENT APPLICATION NUMBER 2005/0395	
SECURITY BONDS	AMOUNT (\$)
Builders Road/Kerb Security Bond	\$550.00
TOTAL BONDS	\$550.00
FEES	
Kerb Security Inspection Fee	\$200.00
Long Service Levy	\$149.00
TOTAL FEES	\$349.00

Reason: Compliance with the development consent. [C71]

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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. To be provided prior to issue of Construction Certificate.

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

11. Fire Safety

(Upgrade Should NOT be tied to DA)

This could be used as a letter or “Notice” in conjunction with DA.

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]*

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12. Design, Construction and Fitout

Compliance with Australian Standard AS 4674 – 2004 “Design, construction and fit-out of food premises”.

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

13. Work Method Statement

Prior to the issue of the Construction Certificate, a work method statement is to be provided to the principal certifying authority detailing the preventative measures to be undertaken to avoid polluted water escaping from the premises.

Reason: Environmental health and protection.

**CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY
COMMENCEMENT**

14. 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]

15. 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]

15a. Notice of Commencement – Retail Food Premises

The proprietor of the retail food business must not conduct the retail 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 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 to Council.

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Reason: To ensure compliance with the Australian Food Standards Code

16. 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]

17. Building Works

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

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

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

18. 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 to 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.

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- (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]*

19. 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]*

20. Final Compliance Certificate

Within seven (7) days of completion of the building works and prior to occupation or the issue of an Interim/Final Occupation Certificate, a Certificate of Compliance under Section 109C (1) (a) of the Environmental Planning and Assessment Act 1979 must be provided by the Principal Certifying Authority. This Compliance Certificate must certify that the completed work complies with the relevant plans and specifications and with the conditions of this development consent.

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

21. 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.

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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]*

22. 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]*

23. 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]*

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

24. 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]*

25. 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 on 0.2% of the building and construction work.

***Reason:** Prescribed - Statutory. [F12]*

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

26. 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]*

27. 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]*

28. Annual Fire Safety Statement for the building

In accordance with the EPA Act & Regulation the owner of a building is to provide Council with an Annual Fire Safety Statement for the building.

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

29. 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]*

30. Utility Services

All utility services shall be adjusted, to the correct levels and/or location/s required by this consent, prior to final completion and the issue of any Occupation Certificate.

***Reason:** To ensure compliance with the terms of this consent. [G23]*

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31. Trade Waste

Prior to the occupation or use of the premises, the applicant shall comply with the requirements of Sydney Water Corporation in respect to:

- (a) Provision of grease arresters.
- (b) Provision of trade waste treatment plant or equipment.
- (c) Discharge of trade waste to sewer.

Reason: To ensure proper disposal of waste water.

32. Ventilation

To ensure that adequate provision is made for ventilation of the building, all mechanical and/or natural ventilation systems shall be designed, constructed and installed in accordance with the provisions of:

- (a) The Building Code of Australia.
- (b) Australian Standards 1668.1 and 1668.2 – 1991.
- (c) The Public Health Act, 1991.
- (d) The Public Health Act 1991 – Regulation.
- (e) WorkCover Authority.
- (f) Australian Standards 3666.

Reason: Health and amenity.

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

33. 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]

34. Provision Of Bunds Or Drains

For the purposes of environmental protection, the provision of bunds or drains inside the roller shutter of the loading dock of the subject unit to collect accidental liquid spillage. The drains are to be piped to an area suitable for the location of a collection well and capped off.

Reason: Health & amenity. [I49]

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35. Amenity

The implementation of this development shall not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.

Reason: Health and amenity.

36. Waste Collection and Deliveries

Waste collection and general deliveries may be carried out at any time, provided that they are conducted wholly within the building where the waste is generated or the delivery is made, and do not cause offensive noise to the occupants of any building or public place.

Where deliveries or waste collection cannot be made wholly within the building, any collection or delivery activities are to be conducted outside the following hours:

8:00 p.m. Monday to 7:00 a.m. Tuesday
8:00 p.m. Tuesday to 7:00 a.m. Wednesday
8:00 p.m. Wednesday to 7:00 a.m. Thursday
8:00 p.m. Thursday to 7:00 a.m. Friday
8:00 p.m. Friday to 8:00 a.m. Saturday
7:00 p.m. Saturday to 8:00 a.m. Sunday
7:00 p.m. Sunday to 7:00 a.m. Monday

Reason: To ensure the acoustic amenity of surrounding properties.

37. Food Safety Standards

Compliance with the “Food Standard of Australia and New Zealand (FSANZ) Food Standards Code”, in particular, Chapter 3 *Food Safety Standards*.

Reason: Statutory requirement.

38. Restriction of Retail Floor Space

The proposed retail sales are to be restricted to a maximum area of 30sqm as on the approved plan.

Reason: Information and clarification of terms of this consent.

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39. Hours of Operation

The proposed retail sales is to be opened for business only between the following hours:

Saturday 9am to 6pm, and 9am to 1pm Sunday;

Christmas Eve 9am to 6pm & Good Friday eve from 9am to 4pm.

No display or retail sales of goods are to be carried out within the premises other than approved by this consent.

The proposed retail sales is to not be opened for business on public holidays other than approved by this consent.

Reason: *Information to ensure that amenity of the surrounding locality is maintained. [I2]”*

40. Existing Dock

The existing loading dock within the subject premises shall be maintained for use as a loading dock with the exception of the approved retail hours in connection with the proposed development.

Reason: *To ensure that deliveries occur within the site and do not adversely affect traffic or pedestrian amenity. [I12]*

41. Allocation of Spaces

A minimum of seven (7) customer/visitor carparking spaces being permanently available during opening hours; not reallocated or used for storage and are to be clearly marked.

Reason: *To ensure that adequate carparking facilities to service the development are provided on site. [H6]*