

ORDER

COURT DETAILS

Court	LAND AND ENVIRONMENT COURT OF NEW SOUTH WALES
Division	Class 1
Registry	Level 4 225 Macquarie Street Sydney
Case number	10273 of 2012

TITLE OF PROCEEDINGS

Applicant	Dee Why Grand Shopping Centre Pty Ltd
Respondent	Warringah Council

DATE OF ORDER

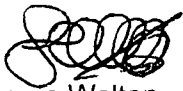
Date made or given	8 August 2012
Date entered	18 OCT 2012

TERMS OF ORDER

The Court notes that the parties or their representatives have reached agreement at or after a conciliation conference held pursuant to s 34 of the *Land and Environment Court Act 1979* presided over by Commissioner Dixon on 8 August 2012 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) as set out in the document annexed hereto

By consent the Court makes orders in accordance with the document annexed hereto

SEAL AND SIGNATURE

Court seal	
Signature	Leonie Walton
Capacity	Acting Registrar

Date 18 OCT 2012



[Include the following section if the document is to be provided to the Registrar for sealing under UCPR 36 12]

#PERSON PROVIDING DOCUMENT FOR SEALING UNDER UCPR 36 12

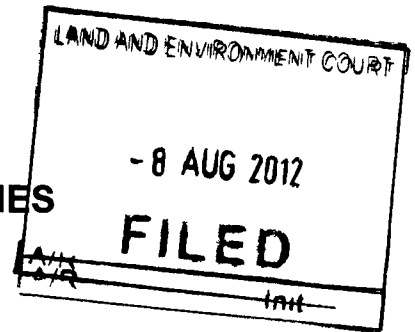
Name	Warringah Council Respondent
#Legal representative	Stephen Patterson WILSHIRE WEBB STAUNTON BEATTIE LAWYERS
#Legal representative reference	JAR BK 212254
Contact name and telephone	Jacinta Reid (02) 9299 3311



Doc No 212-10074

Form 43 (version 2)
UCPR 36 11

**AGREEMENT BETWEEN PARTIES
SECTION 34(3)(a) and (b)**



COURT DETAILS

Court Land and Environment Court of New South Wales
Class 1
Case number 10273 of 2012

TITLE OF PROCEEDINGS

Applicant **Dee Why Grand Shopping Centre Pty Ltd
(CAN 142 435 176)**

Respondent **Warringah Council**

FILING DETAILS

Filed for **Warringah Council** Respondent
Legal representative Wilshire Webb Staunton Beattie Lawyers
Legal representative reference SP KM L7603
Contact name and telephone Stephen Patterson (02) 9299 3311



TERMS OF AGREEMENT

- 1 The parties have reached agreement as to 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)
- 2 The terms of the decision are as follows
 - (a) The appeal in respect of the property at 1/184 Pittwater Road Dee Why (**Site**) is upheld in part
 - (b) Modification Application No MOD2012/0014 which seeks to modify conditions 1 and 2 of Development Consent No DA 2010/0917 for the use of the Site as a pay parking scheme is approved subject to the conditions contained in **Annexure A**" to this Agreement
- 3 Pursuant to Section 34(3)(a) and (b) the parties request the Commissioner to dispose of these proceedings in accordance with the terms of the decision set out in paragraph 2 above

SIGNATURES**Applicant**

Signature of legal representative

Capacity

Date of signature



Solicitor for the Applicant

6th August 2012

Respondent

Signature of legal representative

Capacity

Date of signature



Solicitor for the Respondent

7 August 2012



Annexure "A"

GENERAL CONDITIONS

CONDITIONS THAT IDENTIFY THE TERMS OF THE APPROVAL

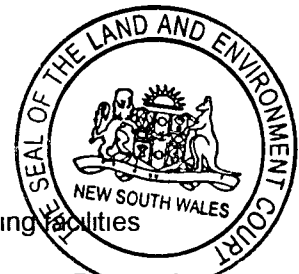
1 Carpark Operations

- a) Deleted
- b) The pay parking scheme is to provide for a 3 hour (minimum) free parking period (applying to the first 3 hours of any stay)
- c) The Parking Rates to be applied in the operation of the pay parking scheme are to be in accordance with the schedule submitted to Council by Murlan Consulting Pty Ltd on 13 August 2010 subject to the changes detailed in the following table

Length of Stay	Fee
Less than 3 hours	FREE
3 4 hours	\$2 00
4 5 hours	\$8 00
5 6 hours	\$16 00
More than 6 hours	\$22 00
Overnight/Lost Ticket	\$30 00
Evening Rate after 6pm	First 3 hours is FREE then flat fee of \$6 50 until midnight

The above rates can only be amended by the applicant making application and obtaining approval to do so under Section 96 of the EPA Act 1979

- d) A minimum of 53 of the retail/hotel spaces shall be maintained exclusively for staff carparking within the basement parking levels
- e) Deleted
- f) Deleted
- g) Deleted



Reason To ensure an orderly and efficient use and management of parking facilities

This condition was modified by the Land and Environment Court in Proceedings No 10273 of 2012

1A. 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) Modification Approved Plans

Architectural Plans		
Drawing No	Dated	Prepared By
SK 501 SK 502 SK 503 (Appendix A of Revised Operational Management Plan)	4 June 2012	Fitzgerald Bennetts Architects Pty Ltd

Reports / Documentation – All recommendations and requirements contained within

Report No / Page No / Section No	Dated	Prepared By
Revised Operational Management Plan for the Pay Parking Scheme at Dee Why Grand Shopping Centre	25 July 2012	Parking and Traffic Consultants

- b) Any plans and / or documentation submitted to satisfy the Conditions of this consent

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

This condition was added by the Land and Environment Court in Proceedings No 10273 of 2012

2 Revised Operational Management Plan for Pay Parking Scheme

The Revised Operational Management Plan for the Pay Parking Scheme can only be amended after consultation with and approval by Council

Reason To ensure an orderly and efficient use and management of parking facilities

This condition was modified by the Land and Environment Court in Proceedings No 10273 of 2012

3 Compliance with External Department Authority or Service Requirements

The development must be carried out in compliance with the following

External Department Authority or Service	E-Services Reference	Dated
Energy Australia	Response Energy Aust Referral	24 June 2010
Roads and Traffic Authority	Response Roads and Traffic Authority	19 July 2010

(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 External Department Authority or Bodies (DACPLB02)

4 Prescribed Conditions

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

Reason Legislative Requirement (DACPLB09)

5 General Requirements

- (a) Unless authorised by Council

Building construction and delivery of material hours are restricted to
7 00 am to 5 00 pm inclusive Monday to Friday
8 00 am to 1 00 pm inclusive on Saturday No work
on Sundays and Public Holidays



- (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) The applicant shall bear the cost of all works associated with the development that occurs on Council's property
- (d) No building demolition excavation or material of any nature shall be placed on Council's footpaths roadways parks or grass verges without Council Approval

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

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

6 Compliance with Standards

The development is required to be carried out in accordance with all 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

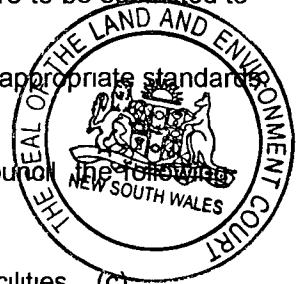
Reason To ensure the development is constructed in accordance with appropriate standards (DACPLC02)

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

- (a) AS/NZS 2890 1 2004 Parking facilities Off street car parking
- (b) AS 2890 2 2002 Parking facilities Off street commercial vehicle facilities (c)
AS 2890 5 1993 Parking facilities On street parking
- (d) AS/NZS 2890 6 2009 Parking facilities Off street parking for people with disabilities
- (e) AS 1742 Set 2010 Manual of uniform traffic control devices Set
- (f) AS 1428 1 2009 Design for access and mobility General requirements for access New building work
- (g) AS 1428 2 1992 Design for access and mobility Enhanced and additional requirements Buildings and facilities

***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



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

7 Carpark Capacity Signage

Suitable electronic signs are to be installed at the entry points to the carpark on Pacific Parade and Sturdee Parade that prominently display when the carpark is at full capacity

Reason To ensure motorists are given advance warning when the carpark is full and to avoid conflict on the public road and internally within the carpark