COUNCIL

REPORT TO APPLICATION DETERMINATION PANEL

Meeting held on 04 June 2015

5 Lawrence Street Freshwater - Modification of Development Consent DA2007/0856 granted for Construction of a Mixed Use Development Comprising Basement Car Parking,3 Level Retail/ Commercial Building,10 Residential Apartments in Two Buildings and a Detached Dwelling

APPLICATION FOR MODIFICATION ASSESSMENT REPORT

Application Number:	Mod2015/0032

Responsible Officer:	Kevin Short
Land to be developed (Address):	Lot 2 DP 1181713 , 5 Lawrence Street FRESHWATER NSW 2096
Proposed Development:	Modification of Development Consent DA2007/0856 granted for Construction of a Mixed Use Development Comprising Basement Car Parking,3 Level Retail/ Commercial Building,10 Residential Apartments in Two Buildings and a Detached Dwelling
Zoning:	LEP - Land zoned B2 Local Centre
Development Permissible:	Yes - Zone R2 Low Density Residential No - Zone B2 Local Centre
Existing Use Rights:	Yes
Consent Authority:	Warringah Council Application Determination Panel
Land and Environment Court Action:	No
Owner:	Joshua Ross Pangallo Frank Minnici Vincenzina Lucia Minnici
Applicant:	Moorgate Property Pty Ltd

Application lodged:	25/02/2015
Application Type:	Local
State Reporting Category:	Other
Notified:	10/04/2015 to 27/04/2015
Advertised:	Not Advertised in accordance with A.7 of WDCP
Submissions:	5
Recommendation:	Approval

ASSESSMENT INTRODUCTION

The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared (the subject of this report) taking into account all relevant provisions of the Environmental Planning and Assessment Act 1979, and the associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (upto the time of determination) by the applicant, persons who have made submissions regarding the application and any advice provided by relevant Council / Government / Authority Officers on the proposal.

SUMMARY OF ASSESSMENT ISSUES

Environmental Planning and Assessment Act 1979 - Section 96AA - Environmental Planning and Assessment Act 1979 - Section 96AA
Warringah Local Environmental Plan 2011 - Zone B2 Local Centre
Warringah Development Control Plan - G5 Freshwater Village

SITE DESCRIPTION

Property Description:	Lot 2 DP 1181713 , 5 Lawrence Street FRESHWATER NSW 2096
Detailed Site Description:	Due to the subdivision Certificate SC2014/0010 (subdivision of three lots, being Lots A and B, DP 37558 (Nos. 5 and 5A Lawrence Street) and Lot 9, DP 103521 (No. 18 Marmora Street)), into two lots being issued on 5 June 2014, the site description has since legally changed from what was notified to Lot 1, DP 1181713, No. 18 Marmora Street and Lot 2, DP 1181713, No. 5 Lawrence Street. No. 5 Lawrence Street is rectangular in shape located on the northern side of Lawrence Street and is centrally positioned within the Freshwater Village Local Centre. No. 18 Marmora Street is irregular in shape and located adjacent to the northern boundary of 5 Lawrence Street and extends through to Marmora Street. No. 5 Lawrence Street and the western portion of No. 18 Marmora Street are zoned as B2 Local Centre under WLEP 2011 and identified as being within the Freshwater Village under WDCP2011. The eastern portion of No. 18 Marmora Street is zoned as R2 Low Density Residential under WLEP

	2011. Existing development at No. 5 Lawrence Street consists of a two storey mixed use retail and residential building fronting Lawrence Street. The rear portion of 18 Marmora Street is occupied by a two storey brick dwelling with driveway access to Lawrence Street and a single storey fibro and weatherboard dwelling with a driveway access to Marmora Street. There is an existing sewer line which dissects the mid portion of the combined sites. The site falls approximately 4.0m towards the north from the Lawrence Street frontage to the Marmora Street frontage. A minor cross slope from west to east of approximately 1.0m also characterises the site.

Map:

SITE HISTORY

Development Application - DA2007/0856

DA2007/0856 for Construction of a 3 Storey Retail/ Commercial Building, 10 Residential Apartments in 2 Buildings, a Detached Dwelling and Stratum Subdivision at 5 - 5A Lawrence Street and 18 Marmora Street, Freshwater was issued development consent by the Land and Environment Court on 3 April 2009.

Specifically, approval was granted for the following works:

- Demolition of all existing structures and removal of all trees on the site
- Construction of a three storey retail and commercial office building fronting Lawrence Street with three levels of basement car parking accommodating of 46 commercial car parking spaces
- Construction of 2 x three storey residential flat buildings which contain 5 dwellings each
- Construction of a two storey detached dwelling
- Construction of a basement car park for the two residential flat buildings and detached dwelling which accommodates 22 resident car parking spaces and 2 visitor car parking spaces
- Stratum subdivision

Previous to the court approval, the development application was refused by the Independent Hearing and Assessment Panel on 10 June 2008.

The current application was accompanied with advice from Trenton Jones (Accredited Certifier) that works, being for stormwater infrastructure, for the original approved development have lawfully commenced. On this basis, the consent is considered to be operative.

Subdivision Certificate SC2014/0010

Subdivision Certificate SC2014/0010 was issued on 5 June 2014 for subdivision of three lots, being Lots A and B, DP 37558 (5 and 5A Lawrence Street) and Lot 9, DP 103521 (18 Marmora Street), into two lots, being Lot 2, DP 1181713 (18 Marmora Street) and Lot 2, DP 1181713 (5 Lawrence Street).

Modification Application MOD2013/0112

MOD2013/0112 was approved on 6 September 2013 and included the following modifications to the original application;

- Enable the staging of the construction and occupation of the proposed mixed use development (via amendments to conditions of consent);
- Remove reference to the underground pedestrian access between the commercial building and residential basement carpark level (via the addition of Condition No.1.B - Deletion of Path and Stairs Between the Commercial Building and the Residential Basement Carpark Level);
- Remove reference to the consolidation of allotments (via the amendment to the Description of the Development and an additional Plan of Subdivision included in Condition of Consent No.1 - Approved Plans and Supporting Information);
- Remove provision for a right of carriageway over the subject property to provide pedestrian access to the adjoining Church property in Marmora Street (via the deletion of Condition of Consent No.115 - Right of Carriageway);
- Remove reference to Torrens title subdivision in the description of the development given the removal of the pedestrian tunnel; and
- Change to Description of Development to suit the modification changes proposed.

Modification Application MOD2014/0117

MOD2015/0117 was approved on 10 October 2014 and included the following modifications to the original application;

- Modifications to the residential component of the approved mixed use development

(comprising Buildings B, C and D), including an increase in the number of units from 10 to 16;
- Change to the description of the development to reflect proposed modification works;
- Revised BASIX Certificate to suit proposed modifications; and
- Revised Section 94A Contributions to suit amended cost of works for the proposed development

PROPOSED DEVELOPMENT IN DETAIL

Description of the development

Modification of Development Consent DA2007/0856 granted for the demolition of existing buildings and construction of a mixed use development comprising of basement car parking, three storey retail/commercial building, 16 dwellings in 2 residential flat buildings and a detached dwelling and subdivision into 2 lots and the staged construction and occupation of the development.

The applicant seeks to modify Development Consent No.2007/0856 in accordance with the provisions of Section 96 (AA) of the Environmental Planning and Assessment Act 1979 in the following way:
- Deletion and modification to conditions of consent to suit the approved development;
- Consolidation of all conditions of consent to reflect the approved development; and
- Change the description of the development to suit.

Currently, several conditions of consent relate to the previous development as originally approved and have been superseded and/or subsequently modified (refer to Site History section of the report for further details). The modification application requires such conditions to either be deleted or modified as follows:

Deleted Conditions

2. Approved Stormwater Plan (superseded);
3. and 3A. Approved Landscaping Plan (superseded);
7. Changes to Windows - Building D; (superceded)
17. Waterproofing/Tanking of Basement Level (not required by Office of Water); and
114. Lawrence St Medium Strip (duplicate).

Conditions to be Amended

4. Vehicle Crossings (to reflect staged development);
7. Layback Construction (to reflect staged development);
32. Design for Access and Mobility (to reflect current standard);
42. Home Building Act (to reflect current legislation) ; and
89. Design for Access and Mobility (to reflect current legislation).

Changes to other Conditions of Consent

As a result of the previous modifications to the development consent, other conditions of consent are recommended to be either deleted or modified as follows:

27. Section 94A Contribution: modified to reflect cost of approved development as per previous modification application (Mod2014/0117);
99A. Lawrence St Medium Strip: modified to reflect staged development;
115. Right of Carriageway: deleted to reflect approved development as per Mod2014/0117;
116. Tree Protection: duplicate condition therefore deleted; and
117. Acoustic Fencing: duplicate condition therefore deleted.

In consideration of the application a review of (but not limited) documents as provided by the applicant in support of the application was taken into account detail provided within Attachment A.

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979 (EPAA)

The relevant matters for consideration under the Environmental Planning and Assessment Act, 1979, are:
The application has been assessed in accordance with the requirements of the Environmental Planning and Assessment Act 1979 and the associated Regulations. In this regard:

- An assessment report and recommendation has been prepared and is attached taking into all relevant provisions of the Environmental Planning and Assessment Act 1979 and associated regulations;
- A site inspection was conducted and consideration has been given to the impacts of the development upon all lands whether nearby, adjoining or at a distance;
- Consideration was given to all documentation provided (up to the time of determination) by the applicant, persons who have made submissions regarding the application and any advice given by relevant Council / Government / Authority Officers on the proposal;

In this regard, the consideration of the application adopts the previous assessment detailed in the Assessment Report for DA2007/0856, in full, with amendments detailed and assessed as follows:

The relevant matters for consideration under Section 96(AA) of the Environmental Planning and Assessment Act, 1979, are:

Section 96(AA) - Modification of a Consent granted by Court	**Comments**
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and	**Yes** The modified development, is assessed as being substantially the same as the original development approved under DA2007/0856. In summary, there are no changes to the approved development or built form with the exception of the permanent dewatering of the basement level not being required as per Office of Water advice. The modification seeks to change the description of the development to suit the currently approved development and consolidate all conditions of consent to suit the approved development.
(b) it has notified the application in accordance with: (i) the regulations, if the regulations so require, and (ii) a development control plan, if the consent	**Yes** The application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and

Section 96(AA) - Modification of a Consent granted by Court	Comments
authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and	Assessment Regulation 2000, Warringah Local Environment Plan 2011 and Warringah Development Control Plan.
(c) it has notified, or made reasonable attempts to notify, each person who made a submission in respect of the relevant development application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and	**Yes**
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	**Yes** See discussion on “Public Exhibition” in this report.

Section 79C Assessment

In accordance with Section 96(3) of the Environmental Planning and Assessment Act 1979, in determining an modification application made under Section 96 the consent authority must take into consideration such of the matters referred to in section 79C(1) as are of relevance to the development the subject of the application.

The relevant matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979, are:

Section 79C 'Matters for Consideration'	Comments
Section 79C (1) (a)(i) – Provisions of any environmental planning instrument	See discussion on “Environmental Planning Instruments” in this report.
Section 79C (1) (a)(ii) – Provisions of any draft environmental planning instrument	None applicable.
Section 79C (1) (a)(iii) – Provisions of any development control plan	Warringah Development Control Plan applies to this proposal.
Section 79C (1) (a)(iiia) – Provisions of any planning agreement	None applicable.
Section 79C (1) (a)(iv) – Provisions of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation 2000)	Division 8A of the EP&A Regulation 2000 requires the consent authority to consider Prescribed conditions of development consent. These matters have been addressed via a condition in the original consent.

Section 79C 'Matters for Consideration'	Comments
	Clause 50(1A) of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer at lodgement of the development application. This documentation has been submitted with the application. Clauses 54 and 109 of the EP&A Regulation 2000. If additional information is requested the number of days taken in this assessment may be considered in light of this clause within the Regulations. No Additional information was requested. Clause 92 of the EP&A Regulation 2000 requires the consent authority to consider AS 2601 - 1991: The Demolition of Structures. This matter has been addressed via a condition in the original consent. Clauses 93 and/or 94 of the EP&A Regulation 2000 requires the consent authority to consider the upgrading of a building (including fire safety upgrade of development). This clause is not relevant to this application. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider insurance requirements under the Home Building Act 1989. This matter has been addressed via a condition in the original consent. Clause 98 of the EP&A Regulation 2000 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). This matter has been addressed via a condition in the original consent. Clause 143A of the EP&A Regulation 2000 requires the submission of a design verification certificate from the building designer prior to the issue of a Construction Certificate. This matter has been addressed via a condition in the original consent.
Section 79C (1) (b) – the likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality	(i) The environmental impacts of the proposed development on the natural and built environment are addressed under the Warringah Development Control Plan section in this report. The proposed modifications will not cause are not considered to result in any unreasonable environmental impacts in the area. (ii) The proposed development will not have a detrimental social impact in the locality considering the character of the proposal. No changes are proposed by the modification to the design and materials and therefore the development will remain consistent with the character of the area.

Section 79C 'Matters for Consideration'	Comments
	(iii) The proposed development will not have a detrimental economic impact on the locality considering the nature of the existing approval and proposed modifications. No changes are proposed by the modification and therefore a mixture of apartment types will remain and will not cause any detrimental economic impacts.
Section 79C (1) (c) – the suitability of the site for the development	The development has become a prohibited use in relation to the residential flat building components as a result of the introduction of WLEP 2011. However, as discussed in this report, the existing approval was given under WLEP 2000, and that approval remains legally valid. The site is therefore considered suitable for the proposed modifications to the existing approved development.
Section 79C (1) (d) – any submissions made in accordance with the EPA Act or EPA Regs	See discussion on “Public Exhibition” in this report.
Section 79C (1) (e) – the public interest	No matters have arisen in this assessment that would justify the refusal of the application in the public interest.

EXISTING USE RIGHTS

- **Does the existing use satisfy the definition of "existing use" under the Environmental planning and Assessment Act, 1979 (the ‘Act”)?**

Section 106 of the Act defines an existing use as meaning:

> *"(a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part, have the effect of prohibiting that use, and*
>
> *(b) the use of a building, work or land:*
>
> > *(i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and*
> > *(ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse."*

This necessarily requires the following questions to be answered.

1. **Was the use of the building, work or land a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for Division 4A of Part 3 or Division 4 of this Part 4 of the Act, have the effect of prohibiting that use?**

<u>Comment:</u>

The use of the land was a permissible use under WLEP 2000, and was approved under that planning instrument. The implementation of WLEP 2011 caused the residential flat building components of the

development to become a prohibited use in the B2 zoned area of the site.

2. **Was the use of the building / work / land granted development consent before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use?**

Comment:

The use of the land was lawfully approved by the Land and Environment Court of NSW on 3 April 2009 prior to the coming into force of Warringah Local Environmental Plan 2011 on 9 December 2011.

3. **Has the use of the building / work / land been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse?**

Comment:

The approval included subdivision of the site into two allotments. The applicant has carried out the subdivision part of the consent, which had the effect of activating the consent. Additionally, the application was accompanied with advice from Trenton Jones (Accredited Certifier) that works, being for stormwater infrastructure, for the original approved development have lawfully commenced. The previous and current modification applications demonstrate that the applicant is actively working towards constructing the approved works, and the approved consent for the use of the land therefore remains valid.

Conclusion

The use has been approved under a previous EPI (WLEP2000) and therefore, is a lawful use. Subsequently, the use can be retained under the current EPI (WLEP 2011).

NOTIFICATION & SUBMISSIONS RECEIVED

The subject development application has been publicly exhibited in accordance with the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2000 and Warringah Development Control Plan.
As a result of the public exhibition process council is in receipt of 5 submission/s from:

Name:	Address:
Mr Micheal Keith Jander	20 Marmora Street FRESHWATER NSW 2096
Anne Elizabeth Sharp	77 Brighton Street CURL CURL NSW 2096
Mrs Alison Mary Murray Mr Raymond Murray	9 Marmora Street FRESHWATER NSW 2096
Harbord Financial Services Ltd	20 Albert Street FRESHWATER NSW 2096
Friends Of Freshwater Inc	4 Marmora Street FRESHWATER NSW 2096

The following issues were raised in the submissions and each have been addressed below:

- Difficulty following the proposal (ie. too many modifications);
- Drainage, flooding and ground water impacts;
- Reiteration of previous objections to the approved development;
- Preference for access via Lawrence Street rather than Marmora Street

The matters raised within the submissions are addressed as follows:

- **Difficulty following the development**

The matter has been raised that the proposed modification seeks to amend and delete several conditions which is '*quite difficult to follow*'.

Comment:
No changes to the approved development are proposed by the modification application with exception of basement level not being required to be permanently dewatered. In summary, the modification application seeks a complete consolidated set of conditions for the latest approved development. In this regard, conditions of the consent which do not relate to the approved development or have been superseded by new legislation or Australian standards are required to be amended and/or deleted.

Therefore, this matter does not warrant refusal of the application.

- **Drainage, flooding, geotechnical, stormwater runoff and ground water impacts**

The submissions raise concern that the development may result in adverse drainage, flooding and groundwater seepage impacts, particularly given recent severe storm events.

Comment:
No changes are proposed by this modification application to the development as currently approved with exception of waterproofing of the basement level not being permanently required (discussed below).

The development as currently approved provides for a 3m wide overland flow path for stormwater in the northern setback and a new stormwater system which will adequately manage and contain flood, overland flows and stormwater without spillage into the surrounding properties.

Previous approved applications were accompanied by Flood and Geotechnical Investigation reports which examined in detail potential flooding and stormwater issues and concluded that the development will not adversely affect transient groundwater flows to the extent that there will be any significant impact on surrounding buildings and structures subject to recommendations of these reports being adopted. Suitable conditions have been imposed on the consent to ensure the recommendations of these reports are adhered to.

This modification application was accompanied by a Geotechnical Assessment of Inflow Rate report to investigate the rate of groundwater flows. The report concludes that the calculated inflow rates are extremely low and therefore a "*temporary dewatering licence should not be required and a drained basement will be feasible*". The application was also referred to the Office of Water who concurred with the report and did not require General Terms of Approval to be issued and did not raise concern in relation to the developments impact on groundwater flows.

Also, Council's Development Engineer has assessed the proposal, and have not raised any concerns with the

development with the exception of retaining Condition 2. Approved Stormwater plans. Council's Development Engineers recommended the condition to be retained as it contains plans which relate to the commercial component of the site.

Development Engineers The condition is not being (and not for reasons related to adverse "flooding impacts".

Therefore, these issues do not warrant refusal of the application.

- **Reiteration of previous objections to the approved development.**

The submission raises concerns in relation to the following aspects of the development;

- Excavation for the proposed basement;
- Impacts on groundwater and seepage;
- Setbacks to the development;
- Removal of right of carriageway to access the church;
- Conflict between different zones; and
- Provision of a '*timeline that allows for future development of the adjoining lot*'.

Comment:
With exception of changes to dewatering requirements (considered previously), no changes are proposed by the proposed modification to the approved development. The concerns raised above have been addressed and considered in the assessment of previous modifications to the approved development.

On this basis, these issues do not warrant refusal of the application.

- **Preference for access from Lawrence Street rather than Marmora Street**

A submission prefers access to the site from Lawrence Street rather than Marmora Street.

Comment:
This modification application does not propose any changes to the approved vehicle 'access' which is from Marmosa Street.

Therefore, this issue does not warrant refusal or redesign of the application.

MEDIATION

No requests for mediation have been made in relation to this application.

REFERRALS

Internal Referral Body	Comments
Development Engineers	The proposed modification to consent DA2007/0856 has been assessed and the following comments apply. The applicant seeks to delete conditions 2, 3, 7 and 17 along with amending conditions 4, 7, 32, 42, 89 and 114 of the above consent. Development Engineers have assessed the relevant conditions from the

Internal Referral Body	Comments
	above list and provide the following comments. Condition 2 - Approved Stormwater Plan The previous modification application for the site, MOD2014/0117 included a revised drainage design for the portion of the development site fronting 18 Marmora Street. This design was approved and the plans were reflected in Condition 1 of the consent. The original plans that were approved included the drainage design for both the portion of the site fronting Lawrence St and the portion fronting Marmora St. As the above mentioned modification did not include the drainage design for the portion of the site fronting Lawrence St, the original drainage plans approved in DA2007/0856 in condition 2 are still valid for the portion of the site fronting Lawrence St. Development Engineers cannot support the request to delete condition 2. In this regard the applicant may need to provide revised drainage plans for the portion of the site fronting Lawrence St in order to delete condition 2. This would then also require the modification of condition 1 to reflect the revised plans. Conditions 4 and 7 - Vehicle Crossings and Layback Construction. No objection is raised to the modification of these conditions. Condition 17 - Waterproofing/Tanking of Basement Level The submitted information by the applicant including the geotechnical assessment, inflow report and letter from the NSW Office of Water have been reviewed and it is considered that as a result condition 17 may be deleted. The other conditions must be assessed by the relevant officers from Council as they are not conditions provided by Development Engineering. **Planner Comments** Condition No.2 Approved Stormwater Plan is recommended to be retained as a condition of consent. Stormwater plans which relate to the original approved development will be superseded by plans which do relate to the modified development. All other conditions have been assessed.

External Referral Body	Comments
Ausgrid: (SEPP Infra.)	The proposal was referred to Ausgrid. No response has been received within the 21 day statutory period and therefore, it is assumed that no

External Referral Body	Comments
	objections are raised and no conditions are recommended.
Integrated Development – NSW OFFICE OF WATER (Site Dewatering)	The modification application was referred the report to the Office of Water (OW) as the construction dewatering proposed for the project is deemed to be an aquifer interference activity in accordance with the definition in the Water Management Act 2000. A Geotechnical Assessment of Inflow Rate report was submitted with the modification application which investigated the rate of groundwater flows and concluded that the calculated inflow rates are extremely low and therefore "a temporary dewatering licence should not be required and a drained basement will be feasible". The OW concurred with the findings of the report and deemed that General Terms of Approval are not required. In this regard, the development does not constitute integrated development and it is considered that the Office of Water raises no concern in relation to the developments impact on groundwater flows. As per the OW referral response, a condition will be included in the Recommendation for the construction dewatering to be carried out having regard to the principles of the Aquifer Interference Policy (available on-line at http://www.water.nsw.gov.au/Water-management/Law-and-policy/Key-policies/Aquiferinterference). Conversely, *Condition 17. Waterproofing/Tanking of Basement* is recommended to be deleted.

ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)*

All, Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the merit assessment of this application.

In this regard, whilst all provisions of each Environmental Planning Instruments (SEPPs, REPs and LEPs), Development Controls Plans and Council Policies have been considered in the assessment, many provisions contained within the document are not relevant or are enacting, definitions and operational provisions which the proposal is considered to be acceptable against.

As such, an assessment is provided against the controls relevant to the merit consideration of the application hereunder.

State Environmental Planning Policies (SEPPs) and State Regional Environmental Plans (SREPs)

Nil

Warringah Local Environment Plan 2011

Is the development permissible?	Zone R2 : Yes Zone B2 : No
After consideration of the merits of the proposal, is the development consistent with:	
aims of the LEP?	Yes

zone objectives of the LEP?	Yes

Principal Development Standards

Development Standard	Requirement	Approved (WLEP 2000)	Proposed (WLEP 2011)	% Variation	Complies
Height of Buildings:					
Building A	11m	3 Storeys 12.2m (lift over run and service area balustrade) 11.1m (max height of building)	No change	N/A	Yes (no change to approved)
Building B	11m	3 storeys 10.8m	No change	N/A	Yes
Building C	11m	3 storeys 11.0m	No change	N/A	Yes
Building D	8.5m	8.4m	No change	N/A	Yes

Compliance Assessment

Clause	Compliance with Requirements
Part 1 Preliminary	Yes
4.3 Height of buildings	Yes
6.3 Flood planning	Yes

Detailed Assessment

Zone B2 Local Centre

Permissible under the existing use right provisions (Section 106) of the Environmental Planning and Assessment Act, 1979 (the 'Act").

Warringah Development Control Plan

Built Form Controls
R2 Low Density Residential Zone of WLEP 2011

The north western portion of the site containing Building D (dwelling house) is identified as being within the R2 Low Density Residential Zone of WLEP 2011.

Therefore, the Built Form Controls under the R2 Low Density Residential Zone are applicable to this portion of the site and apply to Building D.

An assessment of Building D is provided in the Table below.

G5 Freshwater Village of WDCP

The eastern portion of the site is identified as being within the G5 Freshwater Village under the WDCP.

Buildings A (retail/commercial building), B (residential flat building) and C (residential flat building) are located within Freshwater Village under WDCP.

Therefore the G5 Freshwater Village Built Form Controls of WDCP are applicable to these components of the development.

Building A is not proposed to be altered as part of the modifications. An assessment of Buildings B, C and D is provided in the Table below.

Applicable Built Form Controls within the B2 Local Centre (Buildings B and C), and R2 Low Density Residential Zone (Building D)				
Control	**Requirement**	**Approved (WLEP 2000)**	**Proposed**	**Complies**
Wall Height				
Building B and C	N/A	N/A	N/A	N/A
Building D	7.2m	5.2m to 8.2m	no change	No (as approved)
Side Boundary Envelope				
Building B and C West	N/A	N/A	N/A	N/A
Building D East	5m projecting from 45 degrees	East elevation projects outside of envelope	No change	No (as approved)
Side Boundary Setback				
Building B West	Merit assessment	Nil	Nil	Yes
Building C West & north	Merit assessment	West: Nil North 3m	No change	Yes Yes
Building D East	0.9m	> 0.9m	No Change	Yes
Front Boundary Setbacks				
Building B & C	N/A	N/A	N/A	N/A
Building D	6.0m	22.1m	No change	Yes
Rear Boundary Setbacks				
Building B	Merit Assessment	3.5m	No change	Yes
Building D	6.0m	2.0m	No change	No (as approved)
Landscaped Open Space and Bushland Setting				

Buildings B & C	N/A	N/A	N/A	N/A
Building D	40%	37.7%	No change	No (as approved)

Applicable Built Form Controls within the G5 Freshwater Village Area (Buildings A, B and C)		
Requirements	**Comment**	**Complies**
1. Built Form in Freshwater **R2** Buildings, including balconies and carpark entry points, fronting any public place must not contain any utility service pipe or conduit that is visible from the public place. Utility services including service structures, plant and equipment are to be located below ground or be designed to be an integral part of the development and suitably screened from public places including streets. **R3.** Locate residential uses so that noise, odour and any other adverse impacts are minimised from loading bays, garbage disposal and other service areas.	No change is proposed to existing retail/commercial building and associated carpark entry point. Utility services of apartment buildings cannot be seen from public places. Impacts from loading bays, garbage disposal and other service areas will remain acceptable on the apartment buildings.	Yes
2. Number of storeys **R1** Buildings on land shown coloured on the DCP Map Number of Storeys must comply with the maximum height measured in storeys identified on the map.	All buildings are three storeys in height.	Yes
3. Street Activation **R6** Buildings are designed to overlook the street.	No change is proposed to the street activation. No change is proposed to the vehicle entrance from Lawrence Street	Yes

R7 Minimise the extent and visual impact of vehicle entrances and other building entries not associated with active uses.		
4. Street Facades and Shopfront Design **R4** No blank walls are to be presented to any public domain area. **R5** Building fronts and entries are to be clearly visible from the street. **R6** Air conditioning units, exhaust vents, aerials, clothes lines, water heaters etc are not to be visible from streets or public areas.	No change is proposed to the approved three storey retail/commercial building (Building A) with frontage to Lawrence Street. The apartment buildings, as modified, are of a high architectural quality and well articulated to avoid large areas of continuous wall planes and provide visual relief. Air conditioning units, exhaust vents, aerials, clothes lines, water heaters and the like are located so that they will not be visible from streets or public areas.	Yes
7. Safety and Security **R1** Proposed development must incorporate the principles of Crime Prevention Through Environmental Design (CPTED). **R2** Development is to maximise casual observation of open space areas, access ways, car parks, entries, driveways and the like.	The proposal, as modified, is assessed as being satisfactory against the Crime Prevention Through Environmental Design (CPTED) principles. Open space areas, access ways car parks, entries, driveways and the like will continue to be overlooked by numerous units and living areas.	Yes
10. Front Setback **R1** Ground Floor (Nil) and Level 1 (Second Storey - Nil) **R2** Level 2 (Third Storey - Minimum	No change is proposed to the approved three storey retail/commercial building (Building A) with frontage to Lawrence Street.	Yes

5.0m from front boundary)		
11. Side and Rear Setbacks **R1** 2.0m adjoining residential development	Building C: 3m setback to northern boundary. Building B and C: Nil setback to western boundary. The original application was approved with nil setbacks to the western side boundary. The modification to the development will result in the areas of nil setback to be varied from the original proposal. However, the apartment buildings are of a high architectural quality and have been well articulated to avoid large areas of continuous wall planes. Further, the neighbouring site to the west is also zoned B2 Local Centre which means residential development is prohibited on that site. The exception to this is shop top housing, which is likely to be situated at the southern end of the site adjacent to Lawrence Street. Building's B and C are therefore unlikely to have any significant or unreasonable impact on any future residential development on the adjoining site, despite the non-compliance with the 2m setback control. On this basis, the built form will provide a satisfactory transition to the adjacent residential development.	Yes No (no change to approved)
12. Other Side and Rear Setbacks **R1** Merit Basis to adjoining commercial development **R2** Setback areas to be landscaped	Building B & C: Nil setback to western boundary. Building C: Nil setback to eastern boundary. Although Buildings B and C will continue to have nil setbacks to the western side boundary, the proposed units do not generally have windows or living areas orientated in that direction. The proposed modifications are unlikely to cause any significant conflict with future commercial development of the neighbouring site. Landscaping provided within side and rear setbacks, including Building B (Residential) and Building A (commercial/retail)	Yes
13. Roofs and Building Form	The modified roof design of Building B and C will change from a pitch roof form to a flat pitch roof	Yes

R1 Roof forms are to be an integral response to the building design. **R2** Step building and roof forms with the topography. **R4** Light roof colours are preferred.	form which will complement the built form. The building and roof form, as modified, are sufficiently stepped to provide a satisfactory response to the topography. A dark metal roof is proposed which will sufficiently reflect heat.	
14. Building massing **R1** Ensure that the scale, massing and proportions respond to the narrow lot pattern of Freshwater. **R2** Buildings are not to exceed a maximum building length of 20m without the provision of separate cores and entry points	The site is not considered narrow, particularly the northern portion of the site. No building elements exceed 20.0m in length which promotes modulation of the built form and responds to the narrow lot pattern of Freshwater.	Yes
15. Building sustainability **R2** The principles and properties of thermal mass, glazing, insulation and solar energy are to be incorporated into the design of the development	A BASIX certificate has been submitted with the application (see Certificate No.539768M) and is supported by an ABSA Assessor Certificate (see Certificate No.1006210221).	Yes
16. Materials and colours **R1** Use textures, tones and different natural materials **R2** Materials and colours should relate to the context of the proposed development. **R3** Heavier materials such as stone should be mainly located at the base of buildings	No changes are proposed to Building A (commercial/retail building). The Schedule of Colours and Finishes for Buildings B and C which accompanied the application detail the variety of colours and materials that the external facade will be finished in. These are considered to be of natural to neutral tones for the external facade walls, including sandstone, stone facing and weatherboard cladded external walls and rendered masonry walls. The natural to neutral tones are broken up by the use of darker tones used for the roof, wall openings and other areas of weatherboard and masonry rendered external walls.	Yes

R4 Painted surfaces must be mid-tone or darker	Buildings B and C are not readily view-able from the street and as such the proposed materials and colours are considered to be consistent with the requirements of the control.	

Compliance Assessment

Clause	Compliance with Requirements	Consistency Aims/Objectives
C4 Stormwater	Yes	Yes
G5 Freshwater Village	Yes	Yes

Detailed Assessment

G5 Freshwater Village

The current approved development was deemed to be satisfactory against all of the relevant planning controls under WDCP G5 Freshwater Village. No changes are proposed by this modification application to the approved development with exception of dewatering requirements (as detailed in the Submissions section of the report). Therefore, this modification application is also deemed satisfactory against all of the relevant planning controls under WDCP G5 Freshwater Village.

THREATENED SPECIES, POPULATIONS OR ECOLOGICAL COMMUNITIES

The proposal will not significantly effect threatened species, populations or ecological communities, or their habitats.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

The proposal is consistent with the principles of Crime Prevention Through Environmental Design.

POLICY CONTROLS

Warringah Section 94A Development Contribution Plan

Section 94 contributions were levied on the Development Application.

CONCLUSION

The site has been inspected and the application assessed having regard to all documentation submitted by the applicant and the provisions of:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- All relevant and draft Environmental Planning Instruments;

- Warringah Local Environment Plan;
- Warringah Development Control Plan; and
- Codes and Policies of Council.

This assessment has taken into consideration the submitted plans, Statement of Environmental Effects, all other documentation supporting the application and public submissions, and does not result in any unreasonable impacts on surrounding, adjoining, adjacent and nearby properties subject to the conditions contained within the recommendation.

In consideration of the proposal and the merit consideration of the development, the proposal is considered to be:

- Consistent with the objectives of the DCP
- Consistent with the zone objectives of the LEP
- Consistent with the aims of the LEP
- Consistent with the objectives of the relevant EPIs
- Consistent with the objects of the Environmental Planning and Assessment Act 1979

It is considered that the proposed development satisfies the appropriate controls and that all processes and assessments have been satisfactorily addressed.

RECOMMENDATION

THAT Council as the consent authority grant approval Modification Application No. Mod2015/0032 for Modification of Development Consent DA2007/0856 granted for Construction of a Mixed Use Development Comprising Basement Car Parking,3 Level Retail/ Commercial Building,10 Residential Apartments in Two Buildings and a Detached Dwelling on land at Lot 2 DP 1181713,5 Lawrence Street, FRESHWATER, subject to the conditions printed below:

A. Modification to the Description of Approved Development to read as follows:

Modification of Development Consent DA 2007/0856 granted for the demolition of existing buildings and construction of a mixed use development comprising of basement car parking, three storey retail/commercial building, 16 dwellings in 2 residential flat buildings and a detached dwelling and subdivision into 2 lots and the staged construction and occupation of the development.

B. Modification to Condition No.1 - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

1. Modification of Consent - Approved Plans and supporting Documentation

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

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp (Note: These approved plans will be modified the plans detailed under Condition 1B. Approved Stormwater Plan - Modification of Consent - Approved Plans and supporting Documentation)		
Drawing No.	**Dated**	**Prepared By**

DP 1181713 – Plan of Subdivision of Lots A & B in DP 375558 and Lot 9 Sec. 2 in SP 10321	7 December 2012	Rob Kiprovich Surveyor
Issue A Plans: DA02, DA03, DA04, DA05, DA06, DA10, DA15, DA16 and DA17	5 September 2007	Blackmore Design Group
Issue B Plans: DA01, DA14, DA18, DA19	19 March 2008	Blackmore Design Group
Issue C Plans: DA08, DA09, DA11, DA12, DA13	27 February 2009	Blackmore Design Group
Issue: D Plans: DA07, DA20	27 February 2009	Blackmore Design Group

b) No construction works (including excavation) shall be undertaken prior to the release of a Construction Certificate for each stage of the development.

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 (DACGBapasd)

C. Add Condition No.1B - Modification of Consent - Approved Plans and supporting Documentation to read as follows:

1B - Modification of Consent - Approved Plans and supporting Documentation
The development must be carried out in compliance with the following:

a) Modification Approved Plans

Architectural Plans - Endorsed with Council's stamp

Drawing No.	**Dated**	**Prepared By**
A-0010 Issue B	Jun 14	Benson McCormack
A-0050 Issue B	Jun 14	Benson McCormack
A-0100 Issue B	Jun 14	Benson McCormack
A-0101 Issue B to A-0116 Issue B (inclusive)	Jun 14	Benson McCormack
A-0200 Issue B to A-0214 Issue B (inclusive)	Jun 14	Benson McCormack
A-0221 Issue B	Jun 14	Benson McCormack
A-0222 Issue B	Jun 14	Benson McCormack
A-1600 Issue B	Jun 14	Benson McCormack
A-1612 Issue B	Jun 14	Benson McCormack

Engineering Plans (Note: These Engineering plans are to supersede relevant stormwater plans detailed by Condition 2. Approved Stormwater Plan.)

Drawing No.	**Dated**	**Prepared By**

111927-00-MIE000 Rev 00	10.04.14	Meinhardt Infrastructure & Environment
111927-00-MIE100 Rev 01	10.04.14	Meinhardt Infrastructure & Environment
111927-00-MIE150 Rev 00	10.04.14	Meinhardt Infrastructure & Environment
111927-00-MIE151 Rev 00	10.04.14	Meinhardt Infrastructure & Environment
111927-00-MIE010 Rev 00	30.04.10	Meinhardt Infrastructure & Environment
Reports / Documentation – All recommendations and requirements contained within:		
Report No. / Page No. / Section No.	**Dated**	**Prepared By**
Geotechnical Assessment Report Ref: 27296ZHrpt	21 March 2014	JK Geotechnics
b) Any plans and / or documentation submitted to satisfy the Conditions of this consent. c) The development is to be undertaken generally in accordance with the following:		
Landscape Plans		
Drawings No.	**Dated**	**Prepared By**
LP01 Revision E	4/4/14	Spirit Level Designs
Waste Management Plan		
Drawing No.	**Dated**	**Drawn By**
Waste Management Plan	Not dated	Moorgate Finance
Other Department, Authority or Service	**eServices Reference**	**Dated**
Ausgrid	Response Energy Aust Referral	25 June 2014
Office of Water	Response (Letter) Office of Water	25 July 2014

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

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 (DACGBapasd)

D. Provision of Consolidated Conditions of Consent

1C - Deletion of Underground Pedestrian

The underground pedestrian access involving a path and stairs between the Commercial Building and the Basement Car Park level of Residential Buildings B and C as shown on the approved plans is to be deleted.

Reason: Interference with Sydney Water Infrastructure

2. Approved Stormwater Plan

The stormwater drainage works are to be generally in accordance with the drainage plan submitted by Thomsonkane, drawing number 6134-1h DAH-00 P6, DAH-01 P5, DAH-02 P6, DAH-03 P6, DAH-05 P6, DAH-06 P5, DAH-07 P5 and DAH-08 P1 dated 19.02.08 and 15.11.07 and DAH-04 P6 dated 28.04.08.

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

3. and 3.A. Deleted

4. 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 (DACGbca)

5. Front Fence
Prior to issue of the Construction Certificate, plans of the front fence are to be submitted tothe Certtifying Authority. The front fence, which is to have a maximum height of 1.65m is to xtend along the marmora Street frontage of the site and the length of the 6.5m front setback of No.16 Marmora Street, Freshwater.

To minimise the visual impact of the security gates and front fence.

6. Deleted

7. Deleted

8. Acceptable form of Security Bonds
Council will accept a bank guarantee in lieu of cash for the purpose of any security bond imposed by these conditions of consent. Such bank guarantee shall be in a form acceptable to Council and shall not have an expiry date. The bank guarantee shall be in place prior to the issuing of Construction Certificate for the staged construction for Lot 1 DP 1181713 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173 and shall remain in place until the submission of the Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 1181713 or termination of any maintenance period.

Reason: Information, Protection of infrastructure and the environment. (DACECasb)

9. Bond for Construction, Excavation and Associated Works
A bond of $10,000 shall be deposited with Council prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173 as security against damage to Council's road(s) fronting the site caused by the transport and disposal of materials and equipment to and from the site.

Reason: To ensure adequate protection to Council infrastructure. (DACECbceaw)

10. Provision of Electricity
Prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173, evidence is to be submitted to the Certifying Authority that notification has been received from Energy Australia of electricity supply requirements for the development.

Reason: To ensure that services have been provided as required by this Consent. (DACECpe)

11. Pump-Out System Design for Stormwater Disposal
The design of the pump-out system for stormwater disposal will be permitted for drainage of basement areas only, and must be designed in accordance with all relevant Australian Standards and Codes by a suitably qualified professional.

Engineering details demonstrating compliance with this requirement and certified by an appropriately qualified and practicing hydraulic engineer shall be provided to the Certifying Authority prior the issue of the Construction Certificate for the staged construction and occupation of the development on Lot 1 DP 118173.

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

- Australian/New Zealand Standard AS/NZS 3500.3:2003 – Plumbing and drainage – Stormwater drainage
- Australian/New Zealand Standard AS/NZS 3500.3:2003/Amdt 1:2006 – Plumbing and drainage – Stormwater drainage
- National Plumbing and Drainage Code
-

Reason: To ensure adequate provision is made for the discharge of stormwater from the excavated parts of the site. (DACECpsdsd)

12. Shoring of Adjoining Property
If it is proposed to provide shoring to support an adjoining property or Council land, owner's consent for the encroachment from the affected property owner shall be provided with the engineering drawings that are to be submitted prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173. Council approval is required if temporary rock anchors are to be used within Council land.

Reason: Council owners consent for ancillary works, and to ensure the protection of adjoining properties and Council land. (DACECsap)

13. Bond for Engineering Construction Works – Stormwater
A Bond of $5,000 shall be deposited with Council prior to the issue of any Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173 against any damage or failure to complete the construction of stormwater drainage works as part of this consent.

Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure. (DACECbecs)

14. Structures Located Adjacent to Council Pipeline or Council Easement
All structures are to be located clear of any Warringah Council pipeline or easement. Footings of any structure adjacent to an easement or pipeline are to be designed in accordance with Council's Policy Building Over or Adjacent to Constructed Council Drainage Systems and Easements. Structural details prepared by a suitably qualified Civil Engineer

are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Reason: Protection of Council's Infrastructure. (DACECslajp)

15. Sub-Soil Seepage
All sub-soil seepage drainage shall be discharged via a suitable silt arrester pit, directly to Council's nearest stormwater drainage line being [INSERT]. Details of all plans compliant with the provisions of Australian/New Zealand Standard AS/NZS 3500.3.2003 Plumbing and drainage – Stormwater drainage and Australian/New Zealand Standard AS/NZS 3500.3.2003 / Amdt 1:2006 Plumbing and drainage – Stormwater drainage are to be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Reason: To ensure appropriate drainage and stormwater management on site to protect amenity of residents. (DACECsss)

16. 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 prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

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

17. Deleted

18. Bond for Engineering Construction Works – Kerb and Gutter, Footpath and Vehicular Crossings
A Bond of $10 000 shall be deposited with Council prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173 against any damage or failure to complete the construction of any vehicular crossings, kerb and gutter and any footpath works required as part of this consent.

Reason: To ensure appropriate security for works on public land and an appropriate quality for new public infrastructure. (DACECbekgf)

19. Bond for Silt and Sediment Control
The payment of $10 000 shall be deposited with Council prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173 as security to ensure that there is no transmission of material, soil etc off the site and onto the public road and/or drainage systems.

Reason: To ensure appropriate security against environmental damage. (DACECbssc)

20. Car parking Details
Vehicular access and the internal layout of the car parks is to comply with Australian/New Zealand Standard AS/NZS 2890.1:2004 Parking facilities – Off-street car parking and Australian Standard AS2890.2.:2002 Parking facilities – Off-street commercial vehicular facilities where relevant. Plans demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Reason: To ensure the adequate provision of car parking. (DACECcpd)

21. Development/Construction Security Bond
A bond (determined from cost of works) of $5 000 must be deposited with Council and an inspection fee paid of $200 prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173. This bond is 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.

Reason: To ensure adequate protection to Council infrastructure. (DACECdcsb)

22. 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. 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 issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.
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. (DACECdpi)

23. BASIX Certificate
The development shall fully comply with the schedule of BASIX Commitments specified within BASIX Certificate No. 539768M. Plans and specifications that reflect those commitments identified on the BASIX Certificate to be satisfied prior to the issue of the Construction Certificate for the staged construction for Lot 1 in DP 118173, shall be submitted to the Certifying Authority prior to the release of the Construction Certificate.

Reason: To ensure the development complies with the requirements of the SEPP (Building Sustainability Index: BASIX 2004).

24. Parking for People with Disabilities
Of the required number of car parking spaces at least one car-parking space must be provided for use by persons with a disability in both the retail/commercial component of the development and the residential component of the development.

The car parking spaces and access from the car parking spaces to other areas within the building are to comply with the Disability Discrimination Act 1992 and Australian/New Zealand Standard AS/NSZS 2890.1:2004 Parking facilities Part 1: Off-street car parking and the relevant provisions of Australian Standard AS 1428.2-1992 Design for Access and Mobility – Enhanced and additional requirements – Buildings and facilities. Details demonstrating compliance with these requirements are to be submitted prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Reason: To ensure equity of access and appropriate facilities are available for people with disabilities in accordance with Federal legislation. (DACGCppd)

25. Reflectivity Index of Glazing
The reflectivity index (expressed as a percentum of the reflected light falling upon any surface) of external glazing for windows, walls or roof finishes of the proposed development is to be no greater than 20%. Written confirmation of the reflectivity index of materials is to be submitted to the Certifying Authority prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.
Note: The reflectivity index of glazing elements can be obtained from glazing manufacturers. Glass with mirrored or reflective foil finishes is unlikely to achieve compliance with this requirement.

Reason: To ensure that excessive glare or reflectivity nuisance from glazing does not occur as a result of the development. (DACGCrig)

26. Roofing Materials – Reflectivity
The external finish to the roof shall have a medium to dark range in order to minimize solar reflections to neighbouring properties. The metal roof shall not be of light colours such as off white, cream, silver or light grey colours. Details are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Reason: To ensure that excessive glare or reflectivity nuisance from roofing materials does not occur as a result of the development. (DACGCrmr)

27. Section 94A Contribution

The proposal is subject to the application of Council's Section 94A Development Contributions Plan. $102,500 is to be paid to Warringah Council as a Section 94A levy prior to the issue of the Construction Certificate for the staged construction for Lot 1 in DP 1181713.

$87,730 is to be paid to Warringah Council as a Section 94A levy prior to the issue of the Construction Certificate for Lot 2 DP in 1181713.

These amounts have been calculated using the Warringah Section 94A Development Contributions Plan. The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney -0 All Groups Index).

The basis for the contributions is as follows:

Warringah Section 94A Development Contributions Plan
Stage 2 contribution based on total residential development cost of $10,250,000

Contribution – all parts Warringah	Levy Rate	Contribution Payable	Council Code
Total S94A Levy	0.95%	$ 97,375.00	6923
S94A Planning and Administration	0.05%	$ 5,125.00	6924
Total	1.0%	**$ 102,500.00**	

Warringah Section 94A Development Contributions Plan
Stage 1 contribution based on total Commercial development cost of $8,773,000

Contribution – all parts Warringah	Levy Rate	Contribution Payable	Council Code
Total S94A Levy	0.95%	$ 83, 343. 50	6923
S94A Planning and Administration	0.05%	$ 4, 386.50	6924
Total	1.0%	**$ 87, 730.00**	

The amount will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

Reason: To provide for contributions in accordance with the Warringah Section 94A Development Contributions Plan 2014.

28. Structural Adequacy of Adjoining Buildings A certificate from an appropriately qualified and practicing Structural Engineer, certifying the structural adequacy of the adjoining properties numbers 16 and 20 Marmora Street, 22-26 Albert Street and 9 Lawrence Street and their ability to withstand the proposed excavation works, shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate for the staged construction and occupation of the development on Lot 1 in DP in 1181713. The certificate shall detail any measures required to be incorporated into the work to ensure that no damage will occur to adjoining premises during the course of the works, and that the completed works will be structurally adequate.

Reason: To ensure the protection and structural integrity of adjoining properties, and that common law property rights are recognized. (DACGCsaab)

29. Structural Design Certificate
Structural drawings and certificate from a qualified structural engineer, certifying that the design is in accordance with all relevant Australian Standards and design codes shall be submitted to the Certifying Authority prior to issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Reason: To ensure the safety and structural adequacy of the approved development and compliance with the appropriate Australian Standards. (DACGCsdc)

30. Construction Management Program
A Construction Management Program shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173. The program shall detail:
(a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimizing traffic congestion and noise in the area, with no access across public parks or reserves being allowed;
(b) Arrangement's for truck access and anticipated number of truck movements;
(c) The proposed phases of construction works on the site, and the expected duration of each construction phase;
(d) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken;
(e) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process.
(f) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site;
(g) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period;
(h) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site;
(i) The proposed method of support to any excavation adjacent to adjoin properties, or the road reserve. The proposed method of support is to be designed and certificate by an appropriately qualified and practicing Structural Engineer, or equivalent;
(j) Proposed protection for Council and adjoining properties;
(k) The location and operation of any on site crane.

Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and protects amenity in the locality, without unreasonable inconvenience to the community. (DACGCcmp)

31. Design for Access & Mobility – Retail and Commercial Component
The development must be designed to comply with the requirements of Australian Standard AS1428.2-

1992 Design for Access and Mobility – Enhanced and additional requirements – Buildings and facilities and the access requirements of the Building Code of Australia. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Reason: To ensure equitable access to members of the community to all public facilities (DACGCdam)

32. Design for Access & Mobility – Residential Component
Building C must be designed to comply with the requirements of the Australian Standard AS1428.12009 Design for Access and Mobility – Enhanced and additional requirements – Buildings and facilities and C03 and C06 must be designed to comply with the requirements of AS4299 – Adaptable Housing. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Reason: To ensure equitable access to members of the community to all public facilities (DACGCdam)

33. Dilapidation Survey
A dilapidation survey of adjacent buildings must be conducted prior to any site work. The lateral extent of the survey must cover the likely “zone of influence” of any excavation or construction induced vibration. The survey must be property documented. The dilapidation report must be submitted to Council and the Certifying Authority prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.

Reason: Proper management of records (DACGCds)

34. Long Service Levy
Payment of the Long Service Levy is required prior to the release of the Construction Certificate for the staged construction of the development of Lot 1 or Lot 2 in DP 118173. 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 works.

Reason: Prescribed – Statutory. (DACGClsl)

35. Exhaust Fumes from Car Park
Any exhaust ventilation from the car park is to be ventilated away from the property boundaries of the adjoining dwellings in accordance with the provisions of the relevant Australian Standards. Details demonstrating compliance are to be submitted prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.
Note: The following Australian Standard applied at the time of determination:

- Australian Standard AS1668.1:1998 – The use of ventilation and air-conditioning in buildings – Fire and smoke control in multi-compartment buildings.

Reason: To preserve community health and ensure compliance with acceptable standards. (DACHCefcp)

36. High Quality Lighting
External lighting is to be provided for security that complies with the relevant Australian Standard. Details are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173.
Note: The following Australian Standard at the time of determination:

- Australian Standard AS4282-1997 Control of the obtrusive effects of outdoor lighting.

Reason: To ensure lighting provides security and amenity. (DACHChql)

37. Noise from Plant
A certificate from an appropriately qualified Acoustic Engineer is to be submitted to the Certifying Authority prior the issue of the Construction Certificate for the staged construction for Lot 1 DP 118173 and prior to the issue of the separate Construction Certificate for the staged construction for Lot 2 DP 118173 certifying that the development and all sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level during the day and evening and not exceeding the background level at night (10.00pm-6.00am) when measured at the boundary of the property, and will comply with the Environment Protection Authority's NSW Industrial Noise Policy.

Reason: To comply with best practice standards for residential acoustic amenity. (DACHCnp)

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

38. 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)

39. Road Opening Permit
The developer/applicant is to obtain a "Road Opening Permit" from Council and pay all appropriate charges prior to commencement of any work on Council property. The developer/applicant shall be responsible for all public utilities and services in the area of the work, and as such shall notify all relevant Authorities, and bear all costs associated with any repairs and/or adjustments as those Authorities may deem necessary.

Reason: Statutory requirement (Roads Act 1993). (DACEDrop)

40. Special Permits
Unless otherwise specifically approved in writing by Council, all works, processes, storage of materials, loading and unloading associated with the development are to occur entirely on the property. The applicant, owner or builder must apply for specific permits available from Council's Customer Service Centre for the undermentioned activities on Council's property pursuant to Section 138 of the Roads Act 1993. A minimum of forty-eight (48) hours notice is required for all permits except work zones, which may require additional assessment time. (See below)

- Permit for on-street mobile plant

Restrictions apply to the hours of operation and the area of operation for on street mobile plant equipment (for example cranes, concrete pumps, cherry pickers). Separate permits are required for each occasion and each piece of equipment. It is the responsibility of the applicant, owner and builder to take whatever steps are necessary to ensure that the use of any equipment does not violate adjoining property owner's rights.

- Hoarding Permit

Permits are required to erect Class A, Class B and Class C hoardings. If an 'A' Class hoarding is to alienate a section of Council's property, that section will require a permit for the occupation of Council's property.

- Storage of building materials and building waste containers (skips) on Council's property

Permits to utilise Council property for the storage of building materials and building waste containers (skips) are required for each location. Failure to obtain the relevant permits will result in the building materials or building waste containers (skips) being impounded by Council with no additional notice being given.

- Kerbside restrictions, work zones

Existing kerbside restrictions apply. An application must be made to Council for the alteration of existing kerbside restrictions or the provision of a construction zone.

Reason: Proper management of public land. (DACEDsp)

41. Excavation/Building Works
No excavation or building works shall be carried out until a Construction Certificate has been issued.

Reason: To ensure compliance with statutory provisions. (DACGDebw)

42. Home Building Act
(1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:

(a) in the case of work to be done by a licensee under that Act:
(i) has been informed in writing of the licensee's name and contractor licence number, and
(ii) is satisfied that the licensee has complied with the requirements of the Home Building Act, or

(b) in the case of work to be done by any other person:
(i) has been informed in writing of the person's name and owner-builder permit number, or
(ii) has been given a declaration, signed by the owner of the land, that states that the reasonable r

Note: The amount referred to in paragraph (b)(ii) is prescribed by regulations under the Home Building Act 1989. As at the date on which this Regulation was gazetted, that amount was $3,000. As those regulations

are amended from time to time, that amount may vary.

(2) A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

(3) If arrangements for doing residential building work are changed while the work is in progress so that the information submitted to Council is 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.

Reason: Prescribed - Statutory. (DACGDhba)

43. 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 the Environmental Planning and Assessment 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. (DACGDnc)

44. Site Sign
(1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

(a) stating that unauthorised entry to the work site is prohibited;

(b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and

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

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

(3) This condition does not apply to building works being carried out inside an existing building.

Reason: Statutory requirement. (DACGDss)

45. Toilets
(1) Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

(2) Each toilet provided:

(a) must be a standard flushing toilet, and

(b) must be connected:

(i) to a public sewer; or

(ii) if connection to a public sewer is not practicable, to an accredited sewage management facility

(iii) if connection to a public sewer or an accredited sewage management facility is not practicable

(3) The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced.

(4) In this clause:

accredited sewage management facility means a sewage management facility to which Division 4

approved by the Council means the subject of an approval in force under the Local Government (

public sewer has the same meaning as it has in the Local Government (General) Regulation 2005

sewage management facility has the same meaning as it has in the Local Government (General) I

Reason: To ensure adequate facilities are provided for workers on the site. (DACGDt)

46. Waste Collection Contract

Prior to the commencement of work, written evidence is to be submitted to the Certifying Authority that there is a contract with a licensed contractor for the removal of demolition waste.

Reason: To maintain the property in a safe and hygienic state. (DACHDwcc)

47. Protection of Trees During Works

All trees that are to be specifically nominated to be retained by notation or condition as a requirement of development consent shall be maintained and protected during demolition, excavation and construction on the site. Details of required protection methods shall be provided to the Certifying Authority by an appropriately qualified person prior to commencement of any works on the site.

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

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

48. Applicant's Cost of Work on Council Property

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

Reason: To ensure the proper management of public land. (DACEEacwcp)

49. Prohibition on Use of Pavements

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

Reason: To ensure public safety and amenity on public land. (DACEEpup)

50. 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. (DACEEtcdrw)

51. Vehicle Crossings
The provision of 2 vehicle crossings, 6 metres wide to Lawrence Street and 3 metres wide to Marmora Street, in accordance with Warringah Council Drawing No A4-3330/1 Normal and specifications. 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 footpath/grass. Prior to the pouring of concrete, the vehicle crossing is to be inspected by Council and a satisfactory "Vehicle Crossing Inspection" card issued.

For details see Warringah Council's website <http://www.warringah.nsw.gov.au> or phone (02) 9942 2111.

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

52. Footpath Restoration
The applicant shall reinstate the concrete paving to the Lawrence Street frontage of the site. The works shall be in accordance with the following:

(a) All footpath works are to be constructed in accordance with Council's Minor Works Specification.
(b) Council is to inspect the formwork prior to pouring of concrete to ensure the works are in accordance with Council's specification for footpath.
(c) The preferred crossfall of the footpath is to be 3% (1 in 33.3) rising from the top of the existing kerb. The maximum allowable crossfall of the footpath is to be 5% (1 in 20).
(d) All costs associated with the works are to be borne by the applicant.

Reason: To ensure compliance of footpath works with Council's specification for engineering works. (DACEEfc)

53. Installation and Maintenance of Sediment Control
Techniques used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Soils and Construction Manual Volume 1 - Managing Urban Stormwater. All techniques shall remain in proper operation until all development activities have been completed and the site fully stabilised.

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

54. Layback Construction
A layback, 6 metres wide to Lawrence Street and 3 metres wide to Marmora Street (excluding the wings), is to be constructed in accordance with Warringah Council Drawing No A4-2276 and specifications.

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

55. 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. (DACEEmrr)

56. Notification of Inspections
Council's Development Engineer is to be given 48 hours notice when the works reach the following stages:

(a) Prior to connection into Council's existing stormwater pit

NOTE: Any inspections carried out by Council do not imply Council approval or acceptance of the work, and do not relieve the developer/applicant from the requirement to provide an engineer's certification. Council approval or acceptance of any stage of the work must be obtained in writing, and will only be issued after completion of the work to the satisfaction of Council and receipt of the required certification.

Reason: To ensure new Council infrastructure is constructed to Council's requirements. (DACEEni)

57. Structural Adequacy and Excavation Work
Excavation work is to ensure the stability of the soil material of adjoining properties, the protection of adjoining buildings, services, structures and / or public infrastructure from damage using underpinning, shoring, retaining walls and support where required.

All retaining walls are to be structurally adequate for the intended purpose, designed and certified by a Structural Engineer, except where site conditions permit the following:

(a) maximum height of 900mm above or below ground level and at least 900mm from any property boundary, and
(b) comply with AS3700, AS3600 and AS1170 and timber walls with AS1720 and AS1170.

Before excavation, the responsible person must notify their intention to the adjoining owner/s and shall at the same time furnish to such owner/s particulars of the work proposed to be carried out.

Reason: Safety. (DACEEsaew)

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

Reason: To ensure public safety and amenity on public land. (DACGEpekws)

59. Plans on Site
A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Certifying Authority.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance. (DACGEpos)

60. Protection of Public Places
(1) If the work involved in the erection or demolition of a building:

(a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or

(b) building involves the enclosure of a public place,

a hoarding and site fencing must be erected between the work site and the public place.

(2) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

(3) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

(4) Any such hoarding, fence or awning is to be removed when the work has been completed.

(5) No access across public reserves or parks is permitted.

Note: Prior to the erection of any temporary fence or hoarding over property owned or managed by Council, written approval must be obtained.

Reason: To ensure public safety and the proper management of public land. (DACGEppp)

61. 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 site.

Reason: To ensure bushland management. (DACGErtsmc)

62. Construction Hours
Building construction shall be restricted to within the hours of 7.00 am to 5.00 pm Monday to Friday and on Saturday to within the hours of 8.00 am to 1.00 pm inclusive, with no work on Sundays and Public Holidays.

Demolition and excavation works shall be restricted to within the hours of 8.00 am to 5.00 pm Monday to Friday only. (Excavation work includes the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders and the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site).

Where it is necessary for works to occur outside those hours allowed by these conditions, approval for such will be subject to issue of a permit on each occasion from Council's Customer Services Centre. Such permit must be obtained and the appropriate fee paid at least two (2) clear working days in advance of each relevant date. Such occurrence shall be limited to two occasions per calendar month and shall only be approved if public safety or convenience is at risk.

Note: Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued, or Council pursuing any action required (including legal proceedings) to have the out of hours work cease, without prior warning.

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

63. Demolition Works
All Demolition Work shall be carried out in a safe manner by trained personnel under the management of a licensed demolisher who is registered with the WorkCover Authority, in accordance with all relevant Acts, Regulations and Australian Standards.
Note: The following Australian Standard applied at the time of determination

- Australian Standard AS2601.2001 - Demolition of Structures

Reason: To ensure a satisfactory standard of demolition works. (DACGEdw)

64. Excavation / Backfilling
All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

Reason: To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage. (DACGEeb)

65. Support for Neighbouring Buildings

(1) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

(a) must preserve and protect the building from damage;

(b) if necessary, must underpin and support the adjoining building in an approved manner Subject to adjoining owner's consent; and

(c) 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.

(2) 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.

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

Reason: To ensure adjoining owner's property rights are protected and protect adjoining properties from potential damage. (DACGEg)

66. Health and Safety
The work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements.

Reason: To ensure the health and safety of the community and workers on the site. (DACGEhs)

67. Sediment and Erosion Control Signage
A durable sign, which is available from Council, shall be erected during building works in a prominent location on site, warning of penalties should appropriate erosion and sedimentation control devices not be maintained.

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

68. Dust emission and air quality
Materials must not be burnt on site.

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

Dust suppression measures must be carried out to minimise wind-borne emissions in accordance with the Landcom's Managing Urban Stormwater: Soils and Construction (The 'Blue Book'). Odour suppression measures must be carried out so as to prevent nuisance occurring at neighbouring properties.

Reason: To ensure residential amenity is maintained in the immediate vicinity. (DACHEdeaq)

69. Site Stabilisation
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 re-turfed and the site must be maintained in a safe and clean state until such time as new construction works commence.

Reason: To retain topsoil and minimise dust pollution. (DACHEss)

70. Waste Management Plan
Material to be removed from the site must be source separated on site to maximise recycling, and the material disposed of to an appropriate disposal and recycling facility in accordance with the approved Waste Management Plan.

Reason: To maximise reuse and recycling of material and protect the environment from illegal dumping. (DACHEwmp)

71. Noise and Vibration
Noise emissions and vibration must be minimised where possible and work is to be carried out in accordance with Department of Environment and Climate Change (formerly) Environment Protection Authority guidelines for noise emissions from construction/demolition works and must also comply with the provisions of the Protection of the Environment Operations Act 1997. This Condition must be complied with

during demolition and building work.

Reason: To ensure residential amenity is maintained in the immediate vicinity. (DACHEnv)

72. Removing, Handling and Disposing of Asbestos
Any works involving asbestos based products in relation to removal, handling and disposing of material must be undertaken in accordance with all relevant Acts, Regulations, Guides and Codes.

Note: The following standards applied at the time of determination:

• Code of Practice for the Safe Removal of Asbestos [NOHSC:2002 (1998)] and
• Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)]

Reason: To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily. (DACHErhda)

73. Protection of Trees
All trees which are not listed as exempt or noxious in Warringah that are not indicated for removal on Landscape Concept Plan Drawing Number LC01C prepared by Selena Hannan Landscape Design Dated 27.2.2009 are to be protected. Tree Nos. 1, 2 and 3, as identified on the Landscape Concept Plan, are on an adjoining property. As concurrence of the property owners has been obtained, these trees may be removed, however permission to access the property is to be sought from the owners prior to works being undertaken.

Reason: Protection of existing environmental infrastructure and community assets. (DACLEpt)

74. Trees
(1) Tree roots of 50mm or greater in diameter encountered during excavation, shall only be cut following consultation with a qualified Arborist. Tree roots between 10mm and 50mm in diameter, severed during excavation, shall be cut cleanly by hand.

Reason: Protection of trees.

(2) Underground services should use common trenches as far away from tree roots as possible. If the services need to be run within the protection zone, all utility pipes are to be laid using appropriate directional boring techniques. Directional Boring shall be carried out at least 600mm beneath natural ground to avoid damage to tree/trees root system. Entry and exit points are to be located outside the protected area. No tree roots are to be severed, or damaged during this work. Should problems arise, work is to cease until those problems are resolved and confirmed in writing by Council's Tree Management Officer.

Reason: Protection of trees.

(3) All overhead utility services are to be located outside the canopies of existing trees.

Reason: Protection of trees.

(4) The following guidelines are to be complied with at all times:

Reason: Protection of trees.

(a) The applicant shall ensure that at all times during the development period no activities, storage or disposal of materials shall take place beneath the canopy of any tree covered under Council's Tree Preservation Order unless specifically approved by Council.
(b) Trees marked for retention are not to be damaged or used to display signage, or as fence or cable supports for any reason.
(c) Siting of sheds, stockpiles and vehicle parking should be sited so that they are remote from trees.
(d) Site personnel are to be made aware of tree requirements and protective measures. Paving materials placed within the dripline of any tree should be of a porous material.

Reason: Protection of trees.

(5) 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.

The presence of any of these symptoms or signs may be considered by Council as a breach of the Conditions of Development Approval.

Reason: Protection of trees.

(6) All trees on neighbouring properties (other than those which have been approved to be removed) are to be protected from adverse impacts caused by the works. Any excavations or changes of level occurring within the canopy of trees on neighbouring properties shall only be undertaken following consultation by a suitably qualified Arborist.

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. (DACLEt)

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

75. Easement for Drainage
An easement for drainage (under the provisions of Section 88B of the Conveyancing Act) is to be created

on the title to ensure all Council drainage infrastructure is located within the appropriate easement(s), prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 DP 1181713. Dimensions and location of the easement for drainage shall be in accordance with Council's "Building Over or Adjacent to Constructed Council Drainage system and Easements" Policy, PAS-PL 130. The terms of such easement, (available from Warringah Council), are to be prepared by a registered surveyor to Warringah Council's standard requirements at the applicant's expense. Warringah Council shall be nominated as a party to release, vary or modify such restriction.

Reason: To comply with Council's standards and Statutory requirements of the Conveyancing Act 1919.

76. Easement to Drain Water – Overland flow path
An easement to drain water shall be created in favour of Council over the overland flow path to encompass the 1 in 100 year recurrence frequency predicted water surface level. The easement is to be created on the title, prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 DP 1181713. The terms of such easement, (available from Warringah Council), are to be prepared by a registered surveyor to Warringah Council's standard requirements at the applicant's expense. Warringah Council shall be nominated as a party to release, vary or modify such restriction.

Reason: To identify flood affected areas on the property title

77. Restriction as to User (Overland flow path)
A restriction as to user shall be created on the title over the overland flow path, restricting any alteration to the levels and/or any construction on the land, prior to issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 DP 118173. The terms of such restriction, (available from Warringah Council), are to be prepared by a registered surveyor to Warringah Council's standard requirements at the applicant's expense. Warringah Council shall be nominated as a party to release, vary or modify such restriction.

Reason: To ensure no modification of the overland flow path without Council's approval.

78. 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 for authorisation prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173. A copy of the work-as-executed plan (details overdrawn on a copy of the approved drainage plan) and hydraulic engineer's certification must be included with the above submission. Where required by Council or the Certifying Authority, a Compliance Certificate shall also be provided in the submission to Council. If Council is to issue the Compliance Certificate for these works, the fee is to be in accordance with Council's Fees and Charges.

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

79. Creation of Positive Covenant and Restriction as to User
Where any conditions of this Consent require the creation of a positive covenant and/or restriction as to user, the original completed request forms (Department of Lands standard forms 13PC and/or 13RPA), shall to 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" prior to issue of the Interim/Final Occupation Certificate for the staged construction and occupation

of the development on Lot 1 or Lot 2 DP 118173.

Reason: To identify encumbrances on land. (DACEFcpcru)

80. 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 to Council prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173.

Reason: To identify encumbrances on land. (DACEFreosd)

81. Reinstatement of Kerb
Prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173 all redundant laybacks and vehicular crossings on Lot 1 or Lot 2 shall be reinstated to conventional kerb and gutter, footpath or grassed verge as appropriate with all costs borne by the applicant.

Reason: To facilitate the preservation of on street parking spaces. (DACEFrk)

82. 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 prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173. 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 lodgment with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such restriction.

Reason: To ensure no modification to the on-site stormwater detention structure without Council's approval. (DACEFrusd)

83. Stormwater Disposal Certification
The stormwater drainage works shall be certified as compliant with all relevant Australian Standards and Codes by a suitably qualified professional. The certification is to be submitted to the Principal Certifying Authority prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173. Note: The following Standards and Codes applied at the time of determination:

- Australian/New Zealand Standard AS/NZS 3500.3:2003 - Plumbing and drainage - Stormwater drainage
- Australian/New Zealand Standard AS/NZS 3500.3:2003/Amdt 1:2006 - Plumbing and drainage - Stormwater drainage
- National Plumbing and Drainage Code.

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

84. Undergrounding of Telecommunications Services
All telecommunications services to the development must be provided underground prior to the issue of the

Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173.

Reason: Provision of telecommunication facilities in a manner that facilitates the future underground provision of cable services. (DACEFuts)

85. 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. The Compliance Certificate is to be submitted to the Principal Certifying Authority prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173.

Reason: To ensure stormwater disposal is constructed to Council’s satisfaction. (DACEFosdcc)

86. Positive Covenant for the Maintenance of Stormwater Pump-out Facilities
A Positive Covenant (under the provisions of Section 88B of the Conveyancing Act 1919) is to be created on the property title to ensure the on-going maintenance of the stormwater pump-out facilities on the property being developed. Warringah Council shall be nominated in the instrument as the only party authorised to release, vary or modify the instrument. Warringah Council’s Authorised Officer shall sign these documents prior to the submission to the Land & Property Information Department. Evidence of the registration of the instrument referred to in this condition is to be provided to Council prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173.

Reason: To ensure adequate provision is made for the stormwater pump out system to be maintained to an appropriate operational standard. (DACEFpcmsp)

87. 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 prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173. 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 Council prior to lodgment with the Department of Lands. Warringah Council shall be nominated as the party to release, vary or modify such covenant.

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

88. Access for People with Disabilities– Retail and Commercial Component
Prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 2 in DP 118173 provision shall be made for access to and within the retail/commercial building on the site (Building A) for persons with a disability in accordance with the provisions of Australian Standard AS 1428.2-1992 Design for Access and Mobility - Enhanced and additional requirements - Buildings and facilities and the Access requirements of the Building Code of Australia.

Reason: Equitable access for people with a disability. (DACGFapd)

89. Design for Access & Mobility – Residential Component
Prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 in DP 118173 provision shall be made for access to and within Building C for persons with a disability in accordance with the provisions of Australian Standard AS 1428.1 2009 Design for Access and Mobility - Enhanced and additional requirements - Buildings and facilities. Units C03 and C06 shall comply with the requirements of AS4299 – Adaptable Housing.

Reason: To ensure equitable access to members of the community to all public facilities. (DACGCdam)

90. Garbage and Recycling Facilities
Prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 in DP 118173, garbage facilities are to be constructed in accordance with Warringah Council's Code for Waste Handling in Residential Buildings. All internal walls of the storage area shall be rendered to a smooth surface, coved at the floor/wall intersection, graded and appropriately drained to the sewer with a tap in close proximity to facilitate cleaning.

Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste by collection contractors. (DACGFgrf)

91. House / Building Number
Prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173, the house/building number is to be affixed to the buildings.

Reason: Proper identification of buildings. DACGFhbn)

92. Occupation Certificate Required
An Interim / Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 in DP 118173 shall be obtained in relation to the approved works prior to any use or occupation of those parts of the building. Note: In issuing an Interim / Final Occupation Certificate the Principal Certifying Authority must be satisfied that the requirements of Section 109H of the Environmental Planning and Assessment Act 1979 have been satisfied.

Reason: To ensure compliance with the provisions of the Environmental Planning and Assessment Act. (DACGFocr)

93. Sydney Water
A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au <http://www.sydneywater.com.au> then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built

and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Interim / Final Occupation Certificate.

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

94. BASIX Compliance Certification
Prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 in DP 118173, all the selected BASIX commitments as detailed in the BASIX Certificate No. 539768M, lodged with the Section 96AA Application, must be completed.

Reason: To ensure the development complies with the requirements of the SEPP (Building sustainability index: BASIX 2004).

95. Deleted

96. Access and Egress from Lawrence Street
Vehicles are not permitted to turn right into, or out of, the driveway on Lawrence Street. Signs shall be erected in this regard prior to the issue of the Interim/Final Occupation Certificate for the staged construction and occupation of the development on Lot 2 in DP 118173.

Reason: To ensure safe vehicular access and egress.

97. Car parking Layout
All car spaces are to be line marked in accordance with the car parking layout on the approved plans prior to the issue of an Interim/Final Occupation Certificate.

Reason: To clearly identify car parking spaces in accordance with the approved plans. (DACGFcpl)

98. Fire Safety Matters
At the completion of all works, a Fire Safety Certificate will need to be compiled 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.

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. (DACGFfsm)

99. Noise Impact of Plant
All sound producing plant, equipment, machinery or fittings associated with or forming part of the mechanical ventilation system and/or the refrigeration system, shall be sound insulated and/or isolated so that the noise emitted does not exceed 5 dB(A) above the background level (LA90) during the day when

measured at the nearest affected residence. For assessment purposes, the above LAeq sound levels are to be adjusted in accordance with Environment Protection Authority's NSW Industrial Noise Policy guidelines for tonality, frequency weighting, and impulsive characteristics where necessary, at any time the plant is in operation, at the boundary of the site.

A report and certification prepared by an appropriately qualified or accredited person shall be submitted to the Principal Certifying Authority demonstrating compliance with this condition prior to the issue of the Interim / Final Occupation Certificate for the staged construction and occupation of the development on Lot 1 or Lot 2 DP 118173. Note: The method of measurement of sound shall be carried out in accordance with Australian Standard AS1055.1 - 1997 Acoustics - Description and measurement of environmental noise - General procedures.

Reason: To ensure that noise generated from the development does not result in offensive noise to any other party. (DACHFnip)

99A. Lawrence St Median Strip
The extension to the median strip in Lawrence Street and shown on plan DA07D, shall be constructed (in stage 2 of the development) by the Applicant at its cost, but only if approval is granted by the local traffic committee.

Reason: Traffic safety

99B. Tree Protection
The brush box tree on the road reserve in Marmora Street adjacent to the proposed access driveway and depicted as tree 13 in the Tree Report dated 9 July 2007 by S Hannan Landscape Design ("tree report") shall be retained and the driveway construction works are not to cause injury or damage to the tree. To this end the driveway works shall be undertaken in accordance with the recommendations as set out in the tree report.

Reason: Tree protection

99C. Acoustic Fencing
An acoustic barrier, being a lapped and capped timber fence (the fence), shall be erected at the applicant's expense on the boundary between numbers 18 and 20 Marmora Street. The fence shall be 1.8 metres in height from the southern most point of the boundary to 9 metres from the northern most point of the boundary. For the remaining 9m of the boundary, the fence shall taper down to be 1 metre in height for the majority of the 9 metre length.

Reason: To preserve neighbour amenity

100. Allocation of Spaces
44 car parking spaces shall be provided and maintained at all times for the commercial /retail component of the development and 19 car parking spaces shall be provided and maintained at all times for the residential component of the development. Of the required number of car parking spaces at least 2 car-parking spaces must be provided for use by persons with a disability (one space in the commercial/retail component of the development and one space in the residential component of the development). The spaces shall be allocated in the following proportions:

17 - Residential (excluding visitor spaces)

2 - Residential - Visitiors
44 - Building A

The dwelling in Building D is to be allocated two carparking spaces.

The 44 spaces available for the commercial/retail component of the development are to be allocated to each shop/office or business premises generally in accordance with the minimum car parking requirements of Schedule 17 of Warringah Local Environmental Plan 2000 unless a communal carparking area is provided for the visitors or customers of Building A. If a communal area of carparking is provided for visitors to the commercial/retail component of the development, all retail/commercial tenancies must be allocated at least 2 spaces for staff parking.

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

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

101. 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 amenity. (DACGGlws)

102. Separate Development Application for Signs
A separate Development Application for any proposed signs (other than exempt and complying signs under Council's exempt and complying controls) must be submitted for the approval of Council prior to the erection or display of any such signs.

Reason: Control of signage. (DACGGsdas)

103. Separate Development Application for other uses
A separate development application is to be submitted for uses of Building A other than 'shops', 'offices' and 'business premises' as defined in Warringah Local Environmental Plan 2000. A separate development application is to be submitted for any uses which prepare and handle food for consumption on site or takeaway.

The shops may be open for business only between the following hours:

7am to 7pm Monday to Sunday

Reason: To ensure the uses within the development are in accordance with the consent.

104. Space Enclosure
No parking spaces, or access thereto shall be constrained or enclosed by any form of structure such as fencing, or the like, without prior consent from Council.

Reason: To ensure that minimum dimensions for parking spaces are not reduced or that vehicle manoeuvring is compliant with relevant standards. (DACGGse)

105. Visitor Carparking
Visitor carparking must be permanently available and clearly marked. The visitor car parking spaces area not to be reallocated.

Reason: To ensure visitor carparking is available at all times and is clearly identified. (DACGGvc)

106. 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.

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

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

Reason: To ensure the acoustic amenity of surrounding properties. (DACGGcwc)

108. Commercial Waste and Recycling Storage
Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins as shown on the approved plans.

Reason: To ensure that commercial waste and residential waste is not mixed and is properly managed. (DACGGcwrs)

109. Delivery Hours
No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 6am on any day.

Reason: To ensure the acoustic amenity of surrounding properties. (DACGGdh)

110. Noise Generation
Noise from the combined operation of all mechanical plant and equipment shall not generate noise levels that exceed 5dB(A) above the ambient background noise level measured at the nearest residential property boundary when measured in accordance with the Environment Protection Authority's NSW Industrial Noise Policy.

Reason: Health & amenity. (DACHGng)

CONDITIONS THAT MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY STRATA SUBDIVISION OR SUBDIVISION CERTIFICATE

111. Allocation of Parking and Visitor Parking
Carparking provided shall only be used in conjunction with the units and tenancies contained within the development in the case of Strata subdivision, and shall be individually allocated to residential units as part

of their unit entitlement.

Visitor parking facilities required by this consent are to be designated as common property on the strata plan, and under no circumstances shall Strata By-Laws be created to grant exclusive use of nominated Visitors Parking spaces to occupants/owners of units or tenancies within the building.

Reason: Provision of adequate on site parking facilities to service the development. (DACGHapvp)

112. Deleted

113. Subdivision Certificate Application
Prior to the issue of the Subdivision Certificate, a completed Subdivision Certificate form, a final plan of subdivision prepared in accordance with the requirements of the Conveyancing Act 1919 are to be submitted to Council. Nine copies of the final plan of subdivision are to be submitted. All plans of survey are to show connections to at least two Survey Co-ordination Permanent Marks. The fee payable is to be in accordance with Council's fees and charges.

Reason: Statutory requirement of the Conveyancing Act 1919. (DACGHsca)

114. Deleted

115. Deleted

116. Deleted

117. Deleted