

IN THE LAND AND ENVIRONMENT COURT
OF NEW SOUTH WALES

No. 10290 of 1993

P & E SOUTHCOMBE
HOLDINGS PTY LIMITED

Applicant

DRUMMOYNE MUNICIPAL
COUNCIL

Respondent

SHORT MINUTES OF ORDER

BERNE MURRAY & TOUT
Solicitors
Level 15, CML Building
14 Martin Place
SYDNEY NSW 2000

DX: 348 Sydney
Tel: 221-2588
Fax: 221-2223
Ref: PFF:5098

The Court orders that:

1. The Appeal be upheld.
2. Development consent be granted to P & E Southcombe Holdings Pty Limited for the construction of the works on land known as Howley Park (East), Victoria Place, Drummoyne and for the use of that land for the purpose of a road as shown in "Accessway Concept Plan" drawing No. RA 165-003-P1 Amendment A prepared by Sinclair Knight and Partners Pty Limited (being Appendix "A" to Exhibit "B") and the Plan and sketch of the pedestrian access to Howley Park (East) (being exhibit "D") and accompanying documentation subject to the conditions annexed hereto marked "A".
3. No order as to costs.
4. Liberty to each party to apply on seven days notice.

DATED: 3 December 1993



"A"

DEVELOPMENT APPLICATION 91/112

CONDITIONS OF CONSENT

- a) This consent is limited to the period during which the premises at 380 Victoria Place, Drummoyne are used for the purposes of a marina.
- b) The applicant entering into a licence with the Council for the area of the Victoria Place Road Reserve occupied by the retaining walls and other improvements on terms that the maintenance of the retaining walls and other improvements be the responsibility of the applicant and that no licence fee be payable by the Applicant.
- c) The provision of a separate pedestrian access to the passive area of Howley Park East to the satisfaction of Council and the Trustee of Howley Park East in the position indicated on the Plan prepared by Sinclair Knight and Partners Pty Limited, titled "Access Way Concept Plan" Drawing No. RA165-003-P1 Amendment A ("the Plan"); the applicant being responsible for the on-going maintenance of such pedestrian access.
- d) The provision of pedestrian access to the Marina in the position indicated on the Plan to the satisfaction of Council and the Trustee of Howley Park East; such pedestrian access being illuminated at night at the applicant's expense.
- e) The modifications to the original design as now indicated on the Plan and where not so indicated the submission of modifications to the design that address the following matters:-
 - (1) The Victoria Place driveway being reduced to 9 meters in width.
 - (2) The erection of chain linked removable steel bollards in the position indicated on the Plan around the outside radius of the U-Bend.
 - (3) Strong post/strong guardrail being installed as indicated on the Plan.
 - (4) The maximum crossfall on straights being 8%.
 - (5) Kerb grades and grade transitions being suitable for low clearance cars.
 - (6) A short length of kerb line grade above the U-Bend being up to 22% to provide positive super-elevation of a minimum of 8% on the U-Bend.

(7) Increasing the angle of entry at Victoria Place to closer to a rightangle, as now shown on the Plan.

- f) The accessway pavement being concrete, grooved transverse to normal vehicular flow.
- g) Signs of a type, size, wording, colouring and location being provided to indicate an absolute speed limit of 5 kph on the accessway, that the accessway is open to the public, that no parking is permitted on the accessway and that rigid vehicles of 7m or more in length are prohibited from using the accessway.
- h) Signposting being located in prominent positions at the top and bottom of the accessway facing drivers about to use the accessway, requesting drivers to STOP and GIVE WAY TO ONCOMING VEHICLES.
- i) Guardrails being suitably supported to withstand vehicular impact; retaining walls being loc-a-block retaining walls installed to manufacturer's specification in the positions indicated on the Plan.
- j) Parking not being permitted on the accessway.
- k) The engineering Plans submitted with the Building Application being certified by the designing traffic and structural engineer.
- l) The submission of an amended landscape Plan that has regard to existing site conditions, provides for Planting that does not obstruct sight distances and reduces the impact of retaining walls.
- m) The retaining wall adjacent to the foreshore being a loc-a-block retaining wall installed to manufacturer's specification in the position indicated on the Plan.
- n) The drainage outlet being relocated clear of the existing beach area and the discharge point being provided with an approved silt trap and being maintained by the licensee.
- o) No materials or machinery used in or resulting from the construction of the new work being stored or stacked on Council's footpath, nature strip, roadway nor Howley Park, excluding that area the subject of the Licence Agreement.
- p) Work on the project being limited to the following hours:-
7.30 a.m. to 5.00 p.m. Monday to Saturday.

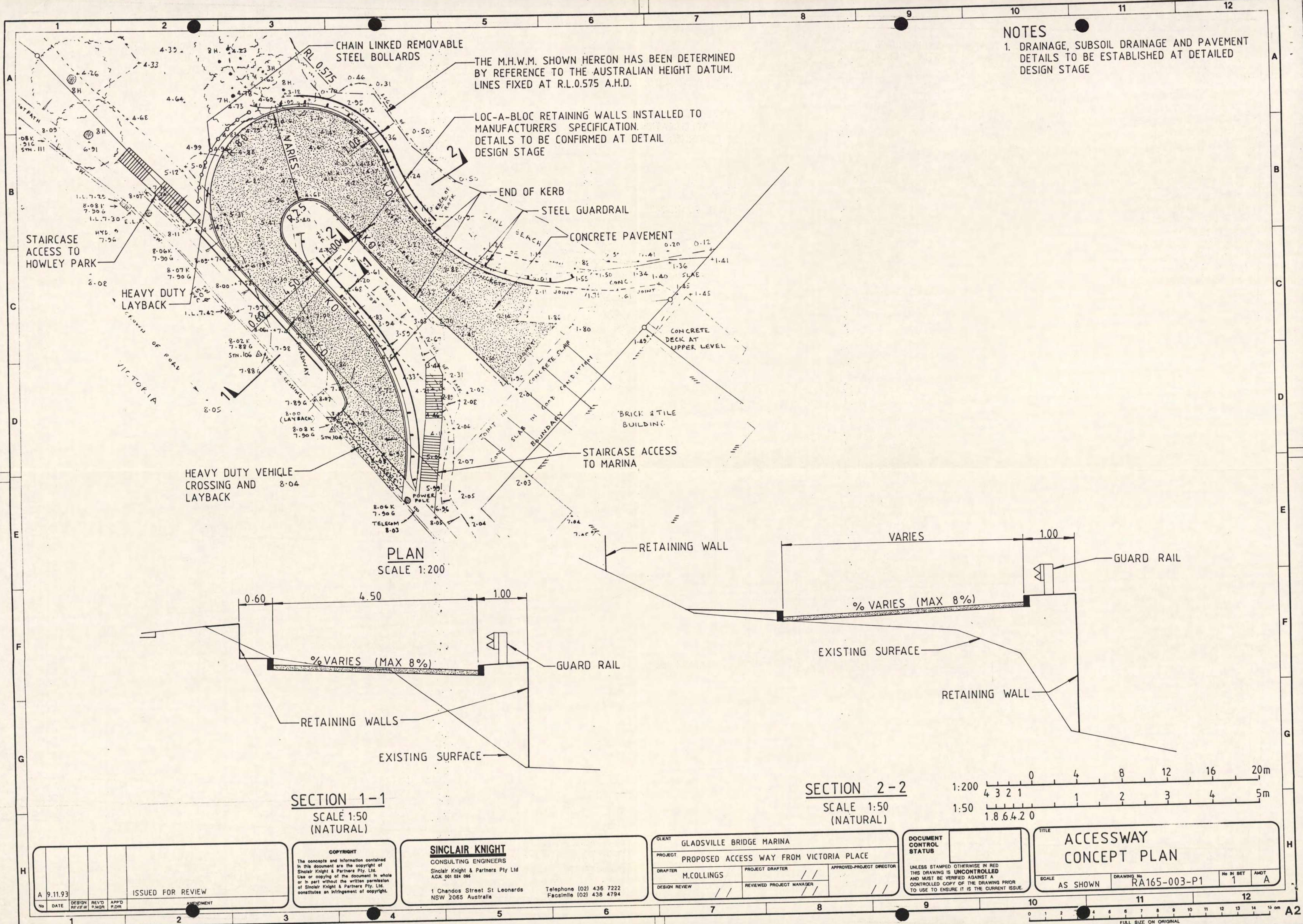
No work being carried out on Sunday or public holidays.

The builder is responsible to instruct and control his subcontractors regarding the hours of work. Council will exercise its powers under Section 289 (C) of the Local

Government Act, 1919, in the event that building operations cause noise to emanate from the land on Sundays, public holidays or other than between the abovementioned hours.

- q) Public access being available at all times to the accessway.
- r) The applicant being responsible for the construction and maintenance of the accessway, retaining walls, guard rails, landscaping, drainage and associated works.
- s) No advertising signs being erected on the accessway.





In the Land and Environment Court of New South Wales

No. 10832 of 1999

**P & E Southcombe
Holdings Pty Limited
ACN 002 062 428**

Applicant

Drummoyne Council

Respondent

Order

The Court orders by consent that:

1. The appeal be upheld.
2. Development Application No. 43/99 for the conversion of forty (40) swing moorings to forty (40) pontoon moorings at the Gladesville Bridge, Marina, No. 380 Victoria Place, Drummoyne is granted, subject to conditions Nos. 1 to 17 which are annexed hereto and marked with the letter "A".
3. The exhibits be retained.

Ordered: 21 December 1999

By the Court



Conditions of development consent

Annexure A

P & E Southcombe Holdings Pty Limited

v

Drummoyne Council

1. The Development shall take place generally in accordance with the statement of environmental effects prepared by Design Collaborative Pty Limited, (986043.3S February 1999) and the following drawings, stamped "approved" and held on the council's file, subject to compliance with any other conditions of this consent. Drawing Nos: 2003-01 dated 16 December 1998 and Gladesville-02 (Elevations) dated 30 July 1998.
2. Prior to construction commencing evidence shall be submitted to the council confirming that approval of all works has been granted by the Waterways Authority.
3. All conditions of this development consent must be complied with otherwise the applicant/developer may be liable to legal proceedings.
4. No goods, materials, or trade waste are to be stored at any time outside the existing marina building other than in approved garbage receptacles.
5. No goods or materials are to be stored, displayed for sale or manufactured at any time outside the existing marina building.
6. Details of all proposed lighting including light spill diagrams, shall be submitted to Council for separate approval prior to installation.

NOTE: Lighting requirements should be designed in consultation with the Waterways Authority.

7. Spillage of light, if any, shall be controlled so as not to cause nuisance to the amenity of adjoining land.
8. Emission of sound from all boats berthed at the pontoon shall be controlled at all times to the satisfaction of the council. The management shall be responsible for control of all noise from boats berthed at the Marina.
9. Compliance with the requirements, if any, of:
 - a) Sydney Water;
 - b) NSW Fire Brigades;
 - c) Sydney Electricity;
 - d) Telstra;



- e) NSW Workcover Authority;
- f) NSW Environment Protection Authority; and
- g) Waterways Authority including those requirements stipulated in a letter from Waterways to P & E Southcombe Holdings, Reference W93/0623 dated January 1999.

- 10. Access for the disabled within the development shall be provided in compliance with Part D3 of the *Building Code of Australia*.
- 11. The applicant or any contractors carrying out works in public or council controlled lands shall have public liability insurance cover to the value of \$10 million, and shall provide proof of such cover prior to carrying out the works.
- 12. The provision of toilet facilities at or in vicinity of the work site.
- 13. Work on the project being limited to the following hours: 7.00am to 5.00pm Monday to Friday and 7.00am to 1.00pm Saturday.

NO WORK BEING CARRIED OUT ON SUNDAYS OR PUBLIC HOLIDAYS.

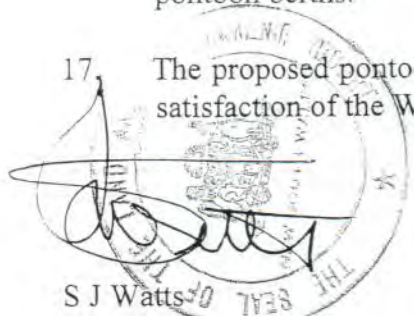
NOTE: A sign shall be prominently displayed on the site indicating these restrictions.

- 14. Where on-site works involve the use of machinery such as a pile driving rig, such works shall be restricted to the following hours:- 7.00am to 5.00pm Monday to Friday.

NO SUCH WORK BEING CARRIED OUT ON SATURDAYS, SUNDAYS OR PUBLIC HOLIDAYS.

NOTE: A sign shall be prominently displayed on the site indicating these restrictions.

- 15. There shall be no increase in the number of staff employed on the site.
- 16. Evidence shall be provided to the Council confirming that the 40 existing swing moorings have been surrendered prior to the occupation of the proposed new pontoon berths.
- 17. The proposed pontoon arms shall be transported to the marina by water, to the satisfaction of the Waterways Authority.



S J Watts
Commissioner of the Court
SW



City of
Canada Bay

Winner of the Keep Australia Beautiful National Association
Australian Sustainable Cities Awards

17 June 2010

SNJ PTY LTD
C/- SJB PLANNING (NSW)
LEVEL 2, 490 CROWN STREET
SURREY HILLS NSW 2010

Dear Sir/Madam

DEVELOPMENT APPLICATION NO: 749/2009
PREMISES: 380 Victoria Place DRUMMOYNE 2047
LOT: B DP: 401843

DATE	21 JUN 2010
	AM
	SB
	MN
JOBS No.	FILE No.
5668	3.1

Council is pleased to advise that the above Development Application has been approved subject to conditions (attached).

You are reminded that no work can commence until a Construction Certificate has been issued.

In order to obtain a Construction Certificate your attention is drawn to the need to comply with the conditions of Development Consent that accompany this letter. Stamped Construction Certificate plans can only be obtained once all conditions are complied with.

Please Note: Any breaches of your development consent conditions may result in enforcement action being commenced by Council. This can include fines and/or legal proceedings. Please ensure conditions are fully complied with at all times.

Any further enquiries should be directed to Ms E Sorensen on 9911-6555 between 8.30am - 10.00am, Monday to Friday.

Yours faithfully,

Mr Shannon Anderson
Co-Ordinator
Statutory Planning Services

Per:

ESOR:es

WITNESS.....

WITNESS.....

BUILDER.....

WITNESS.....

THIS IS THE DRAWING NUMBERED.....48.....
IN THE SET OF.....55.....REFERRED TO IN THE
CONDITIONS OF CONTRACT AND AGREEMENT
SIGNED BY US AND DATED THE.....
DAY OF.....04 AUG 2011.....2011.....

PROPRIETOR.....

NOTICE OF DEVELOPMENTAL
OF A DEVELOPMENT APPLICATION
UNDER THE ENVIRONMENTAL PLANNING
AND ASSESSMENT ACT, 1979 (SECTION 81(1)(a))

City of Canada Bay Council



APPLICANT: SNUJTY LTD C/- SJB PLANNING (NSW) LEVEL 2, 490 CROWN STREET SURREY HILLS NSW 2010	DEVELOPMENT APPLICATION NO: 749/2009 PAGE 1
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PROPERTY DESCRIPTION - 380 VICTORIA PLACE DRUMMOYNE 2047
LOT: B DP: 401843

DEVELOPMENT - Alterations and additions to existing marina building.

DETERMINATION

PURSUANT TO SECTION 81(1)(A) OF THE ACT, COUNCIL ADVISES THAT THE DEVELOPMENT APPLICATION HAS BEEN DETERMINED BY:

- GRANTING OF CONSENT SUBJECT TO THE CONDITIONS ATTACHED ON THE FOLLOWING PAGE(S)

DETERMINATION DATE: 1 JUNE 2010

DATE FROM WHICH CONSENT OPERATES: 1 JUNE 2010

DATE CONSENT LAPSES: 1 JUNE 2015

BY COUNCIL -

RIGHT OF APPEAL

SECTION 97 OF THE ACT CONFERS ON AN APPLICANT WHO IS DISSATISFIED WITH THE DETERMINATION OF A CONSENT AUTHORITY A RIGHT OF APPEAL TO THE LAND AND ENVIRONMENT COURT WITHIN 12 MONTHS OF THE DATE OF THIS NOTICE

NOTE: This Consent is generally valid

for a period of 5 years effective from the date of this notice, unless specified otherwise by Sections 95 of the Act, or by conditions.

MR SHANNON ANDERSON
CO-ORDINATOR
STATUTORY PLANNING SERVICES

per:

Olga Savchenko

In accordance with Section 101 of the Environmental Planning and Assessment Act, 1979, any person may question the validity of this consent in legal proceedings commenced in the Land and Environment Court within 3 months of the date of publication of the notice.

Civic Centre, Marborough Street, Drummoyne, 2047

Locked Bag 1470, Drummoyne 1470

Phone: (02) 9911 6555 Fax: (02) 9911 6550 DX 21021 Drummoyne

Council@canadabay.nsw.gov.au

CONDITIONS OF APPROVAL

General Conditions

1. GCP1 Approved Plans and Supporting Documents

The development is to be carried out and occupied in accordance with the approved stamped and signed plans and/or documentation listed below **except where modified by any following condition**. Where the plans relate to alteration or additions only those works shown in colour or highlighted are approved.

<i>Reference/Dw g No</i>	<i>Title/Description</i>	<i>Prepared By</i>	<i>Date/s</i>
DA-1050, DA-1051, DA-1101, DA-11-2, DA-1103, DA-1201, and DA1202	Architectural plan	Candalepas Associates	31.03.2010 Issue B

Note 1: Modifications to the approved plans will require the lodgement and consideration by Council of a modification pursuant to Section 96 of the Environmental Planning and Assessment Act.

Note 2: A warning to all Accredited Certifiers. You should always insist on sighting the original Council stamped approved plans/documentation and not rely solely upon the plan reference numbers in this condition. Should the applicant not be able to provide you with original copies, Council will provide you with access to its files so you that may review our original copies of approved documentation.

Note 3: The approved plans and supporting documentation may be subject to conditions imposed under section 80A(1)(g) of the Act modifying or amending the development (refer to conditions of consent which must be satisfied prior to the issue of any Construction Certificate).

(Reason: To confirm and clarify the terms of consent)

2. General Conditions

The applicant shall convene a meeting with local residents on a quarterly basis at the marina, commencing after the issue of Construction Certificate, but prior to the commencement of works, with a view to:

- advising residents of progress of development on the site pursuant to this Development Application Consent;
- hearing any complaints in respect of the operation of the marina;
- providing a response to residents and Councillors of actions taken and to be taken on any complaints received;
- the applicant to produce a newsletter to be circulated to residents regarding the above.

(Reason: To ensure that a means of communicating with local residents is created and maintained)

3. GCP4 Construction within Boundary

All approved construction including but not limited to footings, walls, roof barges and guttering are to be constructed wholly within the boundaries of the premises.

(Reason: To ensure compliance with approved plans)

4. GCG8 Materials & Finishes Schedule

The development shall be constructed and finished in materials and colours as listed below: -

- Recycled timber posts and beam
- Glazing - fixed and operable louvers
- Hardwood (iron bark) timber baton screens to the new facades
- Retractable canvas awning to the new second floor terrace
- New timber decking
- New concrete screen to part of the hardstand area; and
- New paint render of existing brickwork at ground and second floor levels in Dulux 'Jude' or equal finish

(Reason: Visual amenity)

5. NSW Maritime Requirement

Low reflectivity glass shall be installed and maintained to all new or amended glazed areas that form part of this development application.

(Reason: Safety and Amenity)

6. GCG10 Site Management

The following procedures apply:

- (a) Implement the site management plan and measures, and provide for erosion and sediment control according to the SSROC "Do It Right On Site" publication;
- (b) Prevent sediment and/or building materials being carried or washed onto the footway, gutter, road, or into Council's stormwater drainage system;
- (c) Ensure soil/excavated material is not transported on wheels or tracks of vehicles or plant and deposited on surrounding roadways;
- (d) Ensure safe access to and from the site including the road reserve and footpath area, crossings by heavy equipment, plant and materials delivery, or static loads from cranes, concrete pumps and the like;
- (e) Ensure safe loading and unloading of excavation machines, building materials, formwork and the erection of the structures within the site;
- (f) Ensure storage on site of all excavated material, construction materials and waste containers during the construction period (except where otherwise approved); and

- (g) Ensure support of any excavation beside any adjoining property or the road reserve is designed by a Chartered Civil Engineer.

(Reason: Environmental protection)

7. ANN10 Signage Approval

The existing external signage on the marina building shall not be re-fitted to the building.

A separate development application for any proposed signs which are either externally fitted or applied must be submitted for the approval of Council, prior to the erection or display of any such signs. This does not apply to signs which are classified as being 'Exempt Development'.

(Reason: Information - amenity and separate approvals)

Conditions which must be satisfied prior to the commencement of demolition of any building or structure

8. PCR1 Construction Certificate - Prior to the Commencement of any Demolition Works

Where demolition is associated with the erection of a new structure, or an altered portion of or an extension to an existing building, the demolition of any part of a building is "commencement of erection of building" pursuant of section 81A(2) of the Act. In such circumstance all conditions of this consent must be satisfied prior to any demolition work. This includes, but is not limited to, the issue of a Construction Certificate, appointment of a PCA and Notice of Commencement under the Act.

(Reason: Statutory Requirement)

9. PCR2 Demolition

- (a) That five (5) working days (i.e. Monday to Friday exclusive of public holidays) prior to the commencement of any demolition work, notice in writing is to be given to the Council. Such written notice is to include:

- The date when demolition will commence,
- Details of the name, address and business hours contact telephone number of the demolisher, contractor or developer.
- The licence number of the demolisher, and relevant WorkCover licenses, (see minimum licensing requirements in (d) below, and
- Copies of the demolisher's current public liability/risk insurance policy indicating a minimum cover of \$5,000,000.00.

- (b) Demolition of buildings and structures must comply with all current and relevant Australian Standards.

- (c) If the works require a Construction Certificate, work shall not commence until the Principal Certifying Authority (PCA) has inspected the site. Should the building to be demolished be found to be wholly or partly clad with or contain asbestos cement products, approval to commence demolition shall not be given until the PCA is satisfied that all measures are in place so as to comply WorkCover's Guide to Working with Asbestos.

Note: A copy of this publication can be obtained from WorkCover Authority's website www.workcover.nsw.gov.au

- (d) Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover 'Demolition License' AND a current WorkCover 'Class 2 (Restricted) Asbestos Licence'.
- (e) In addition to the above provisions, any work carried out on asbestos cement products must be in accordance with those provisions relating to asbestos cement within the NSW Construction Safety Act 1912 Regulations 84A-J *Construction Work Involving Asbestos or Asbestos Cement 1983, as amended 1984.*
- (f) Demolition works are restricted as follows:
 - Monday to Friday inclusive 7:00am - 5:00pm
 - Saturdays 8:00am - 1:00pm
 - Sundays and Public Holidays No work
- (g) At least five (5) working days (i.e. Monday to Friday exclusive of public holidays), the developer or demolition contractor must notify adjoining residents prior to demolition commencing advising the following:
 - The date when demolition will commence;
 - Details of the name, address and business hours contact telephone number of the demolisher, contractor or developer;
 - The telephone number of WorkCover's Hotline (02) 8260 5885.

(Reason: To ensure compliance with the relevant legislation and to ensure public and work safety)

10. **PCR3 Site Safety Fencing - Demolition only**

Erect site fencing to a minimum height of 1.8m complying with WorkCover Guidelines, to exclude public access to the site throughout the demolition. The fencing **must be erected before the commencement of any demolition work** and maintained.

The site shall be secured in accordance with Clause 146 of the Environmental Planning and Assessment Regulation 2000. The site shall be maintained in a clean and orderly condition during demolition works.

Hoardings

If applicable, a separate Hoarding Application for the erection of an A class (fence type) or B class (overhead type) hoarding along the street frontage(s) complying with WorkCover requirements must be obtained including:

- payment to Council of a footpath occupancy fee based on the area of footpath to be occupied and Council's Schedule of Fees and Charges before the commencement of work; and
- provision of a Public Risk Insurance Policy with a minimum cover of \$10 million in relation to the occupation of and works within Council's road reserve, for the full duration of the proposed works, must be obtained with a copy provided to Council.

(Reasons: Statutory Requirement and health and safety)

Conditions which must be satisfied prior to the issue of a Construction Certificate

11. **Lighting Plan of Management**

A Lighting Plan of Management is to be formulated and submitted to Council for approval **prior to the issue of the Construction Certificate**. The Lighting Plan of Management shall be displayed in a prominent location within the premises. The Manager of the premises shall be responsible for ensuring that the terms of the Plan are adhered to at all times.

The plan shall detail ongoing light management improvements and lighting levels to ensure the minimum illumination necessary is provided. Where necessary lighting may need to be redirected and time limited.

Any lighting on the site shall be designed so as not to cause a nuisance to other residences in the area or to motorists on nearby roads or vessels using the waterways and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with relevant standards AS4282 in this regard.

(Reason: Protect amenity of surrounding area)

12. **CCCC2 Damage Deposit for Council Infrastructure**

A Damage Deposit (calculated in accordance with Council's adopted Fees and Charges) of \$3000.00 shall be paid to Council **prior to the issue of the Construction Certificate**.

This Damage Deposit shall be refunded upon completion of all works, at the Occupation or Final Certificate stage following written request for refund by the Applicant.

Any costs associated with works necessary to be carried out to rectify any damages caused by the development, shall be deducted from the Damage Deposit.

Note: Full panel concrete footpath replacement in areas where connection to all services are required. This includes driveways and road concrete panels. This will stop deferential settlement and maintain the integrity of council infrastructure and asset.

(Reason: Protection of Council infrastructure)

13. **CCCC3 Fees to be paid to Council prior to issue of the Construction Certificate**

<u>Amount Due</u>	
Damage Deposit	\$3000.00
Sect. 94A Contributions	\$3377.00
+ Index amount	
TOTAL	\$6377.00

PLEASE NOTE that other fees and charges may be applicable to the proposal.

The applicant is advised to obtain a copy of Council's latest Fees and Charges schedule available at Council's Customer Services Section. Further information as to other fees and charges applicable to