



Warringah Council

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION

Development Application No: DA 2006/1111

DEVELOPMENT APPLICATION DETAILS

Applicant Name: *Amp Capital Investors Ltd.*

Applicant Address: *Po Box W1 Warringah Mall NSW 2100*

Land to be developed (Address): Lot 100, DP 1015283, 145 Old Pittwater Road
Brookvale (Tenancy 185)

Proposed Development: *Professional consulting room and retail of Chinese herbs and medicine*

DETERMINATION

Made on (Date): 12th December 2006

Consent to operate from (Date): 12th December 2006

Consent to lapse on (Date): 12th December 2009

Details of Conditions

The conditions, which have been applied to the consent, aim to ensure that the Environmental Impacts of Development are minimised and the Health and Safety of the community is maintained in accordance with the relevant standards and the Building Code of Australia.

NOTE:

If the works are to be certified by a Private Certifying Authority, then it is the certifier's responsibility to ensure all outstanding fees and bonds have been paid to Council prior to the issue of the Construction Certificate or as otherwise specified by Consent conditions.

Pursuant to Section 95(2) of the Environmental Planning and Assessment Act 1979, Council has varied the provisions of Section 95(1) and advise that the consent will lapse 3 years from the date upon which the consent operates.

Section 95A of the Environmental Planning and Assessment Act 1979, allows for an extension of 1 year to the period in which the consent will lapse, except for complying development. Such an application must be made in accordance with Clause 114 of the Environmental Planning and Assessment Regulation 2000.

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GENERAL CONDITIONS

CONDITIONS THAT IDENTIFY APPROVED PLANS

1. Approved Plans And Supporting Documentation

The development is to be carried out in compliance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of consent:

Drawing No.	Drawing Title	Revision No.	Revision Date	Prepared By
DA-EO1B	SHOP FRONT	B	06.10.06	EDGE DESIGN GROUP
DA+FP01B	FLOOR PLAN	A	06.09.06	EDGE DESIGN GROUP
DA-RCPO1B	REFLECTED CEILING PLAN	B	06.10.06	EDGE DESIGN GROUP
DA-ELECPO1B	ELECTRICAL PLAN	B	06.10.06	EDGE DESIGN GROUP

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

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

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

2. 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 Principal 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. [A2]

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

3. Silt & Sediment Control

Provision shall be made throughout the period of demolition / Excavation &



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Construction to prevent transmission of soil to the public road and drainage system by vehicles leaving the site.

Reason: *To avoid siltation to adjoining properties and waterways. [D1]*

4. Construction Certificate

A Construction Certificate is required to be approved and issued by either Council or an Accredited Certifier, prior to the commencement of any works on the site.

Reason: *Legislative requirements. [D3]*

5. Notice of Commencement

At least 2 days prior to work commencing on site Council must be informed, by the submission of a Notice of Commencement in Accordance with section 81A of EP & A Act 1979 of the name and details of the Principal Certifying Authority and the date construction work is proposed to commence.

Reason: *Legislative requirement for the naming of the PCA. [D4]*

6. WorkCover

Your attention is directed to the need to seek advice of your obligations from the WorkCover Authority prior to the commencement of any works on the site.

Reason: *Statutory requirement. [D5]*

7. 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. [D13]*

8. Inspection Fees

Where Council is acting as the Principal Certifying Authority and where an inspection of building, civil or landscape work is required by these conditions, inspection fees and component certification fees must be paid to Council before Council will undertake any inspections. These fees may be paid at the time of submission of the required Notice of Commencement of works. This condition applies regardless of whether a Certification fee is also payable.

Note: The submission of a Notice of Commencement of works form to Council at least two (2) days prior commencing works is a statutory requirement.

Reason: *Statutory requirement and information. [D14]*



CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

9. Progress Inspections- (Class 5, 6, 7, 8 and 9 Buildings)

The Principal Certifying Authority (PCA) SHALL BE given a minimum of two (2) working days notice for inspection of the following, where applicable:

- (a) After the building work has been completed and prior any Occupation Certificate being issued in relation to the building.

The appointed Principal Certifying Authority MUST do the first inspection at the commencement of building work, and at completion of building work.

Notes:

- (1) The appointed Principal Certifying Authority has a discretion to determine additional inspections, or nominate other Accredited Certifiers to undertake inspections other than the first and last inspections, which are required to ensure compliance or otherwise with relevant codes and standards. In any event, the Principal Certifying Authority MUST be advised at all of the stages of construction identified above.
- (2) The PCA must advise the person with the benefit of the consent of the mandatory critical stage inspections referred to in the EP & A Regulations.
- (3) Where Warringah Council is acting as the Principal Certifying Authority for the project, notice is to be given by telephoning Council on 9942 2111 and requesting the relevant inspection. Failure to advise Council at the stages of construction identified above may result in fines being imposed.
- (4) Failure to advise the Principal Certifying Authority of the need for MANDATORY INSPECTIONS at the critical stages of construction detailed above may result in fines being imposed, works being required to be demolished, or delays experienced in obtaining final certification and occupation of the development in order to resolve issues.

Reason: Prescribed mandatory inspections under legislation. [E9]

10. Replacement of Principal Certifying Authority

If the person exercising the benefits of a development consent changes or replaces the Principal Certifying Authority (PCA) during works on the site, the replacement PCA must notify Warringah Council within two (2) days of appointment. If the original PCA was Warringah Council, written approval from Council must be obtained for any change to the PCA role.



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(Note: Special legislative provisions in the Environmental Planning and Assessment Act 1979 apply to the procedure for replacing a PCA)

Reason: Statutory requirement. [E11]

11. Noise and Vibration

Noise emissions and vibration must be minimised where possible and work is to be carried out in accordance with 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. [E17]

12. Dust Emission and Air Quality

Materials must not be burnt on the 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 NSW Department of Housing's 1998 guidelines - Managing Urban Stormwater: Soils and Construction. Odour suppression measures must be carried out so as to prevent nuisance occurring at adjoining properties. This Condition must be complied with during demolition and building work.

Reason: To ensure residential amenity is maintained in the immediate vicinity. [E18]

13. 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).

The builder and excavator shall display, on-site, their twenty-four (24) hour contact telephone number, which is to be clearly visible and legible from any public place adjoining the site.

Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community. [E26]



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14. Out of Hours Work Permits

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. Any further variation shall require the lodgement and favourable determination of a modification application pursuant to Section 96 of the Environmental Planning and Assessment Act 1979.

(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. [E27]*

15. Health and Safety

The work undertaken must satisfy applicable occupational health and safety and construction safety regulations, including any WorkCover Authority requirements to prepare a health and safety plan. Site fencing must be installed sufficient to exclude the public from the site. Safety signs must be erected that; warn the public to keep out of the site, and provide a contact telephone number for enquiries. This Condition shall be complied with during demolition and building work.

Further information and details regarding occupational health and safety requirements for construction sites can be obtained from the Internet at www.WorkCover.nsw.gov.au.

Reason: *To ensure the health and safety of the community and workers on the site. [E30]*

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

16. Building Code of Australia

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

Reason: *Prescribed - Statutory. [F1]*

17. Demolition

Demolition work must be undertaken in accordance with the provisions of AS2601-



Demolition of Structures.

Reason: *To ensure that work is undertaken in a professional and responsible manner and protect adjoining property and persons from potential damage. [F6]*

18. 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 the 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. [F9]*

19. 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 approved by the Council, or
 - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.
- (3) The provision of toilet facilities in accordance with this clause must be completed



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before any other work is commenced.

(4) In this clause:

accredited sewage management facility means a sewage management facility to which Division 4 Sub-division 5 of the Local Government (General) Regulation 2005 applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in of the Regulation.

approved by the Council means the subject of an approval in force under the Local Government (General) Regulation 2005.

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) Regulation 2005.

Reason: To ensure adequate facilities are provided for workers on the site. [F10]

20. Long Service Levy

Payment of the Long Service Levy is required prior to the release of the Construction Certificate. This payment can be made at Council or to the Long Services Payments Corporation.

Advisory note: The rate of the Long Service Levy at the time of consent is 0.35% of the building construction works. At the time of consent, payment is not required where the value of the works is less than \$25,000. For works that are \$25000 or over, a fee is required at the prescribed rate. The levy rate and level in which it applies is subject to legislative change. The applicable fee at the time of payment of the Long Service Levy will apply and is based on the building construction works identified in the Construction Certificate.

Reason: Prescribed - Statutory. [F12]

21. Fire Safety Schedule

The following fire safety schedule must be designed, installed and maintained in accordance with the provisions of the Environmental Planning and Assessment Regulation 2000:

No:	Service Currently Installed/Service Required:	Standard	BCA Clause(s)
001	Portable fire extinguishers & fire blankets	AS 2444 - 1995, AS1851.2	E1.6



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002	Automatic fire detection & alarm systems	AS 1670 - 1995; AS 1603	Spec E2.2a
003	Emergency lighting requirements	AS2293, AS1851	E4.2
004	Exit signs	AS/NZS 2293.1 - 1998	E4.5
005	Design and operation of exit signs	AS/NZS 2293.1 - 1998	E4.8
006	Excavation plan	Project specific – Refer to protocols document for Warringah Mall	Alternate solution for Warringah Mall – refer to protocols document

Notes:

1. On completion of the building work the owner must furnish Council with a Fire Safety Certificate that states that each essential fire safety measure specified in the current fire safety schedule to which the Certificate relates:
 - (a) has been assessed by a properly qualified person, and
 - (b) was found, when it was assessed, to be capable of performing to a standard not less than that required by the current fire safety schedule for the building for which the certificate is issued.
2. The assessment must have been carried out within the period of three (3) months prior to the date on which the final fire safety certificate was issued.
3. The choice of person to carry out the assessment is up to the owner of the building.
4. The person who carried out the assessment:
 - (a) must inspect and verify the performance of each fire safety measure being assessed, and
 - (b) must test the operation of each new item of equipment installed in the building premises that is included in the current fire safety schedule for the building.
5. As soon as practicable after a final fire safety certificate is issued, the owner of the building to which it relates:
 - (a) must cause a copy of the certificate (together with a copy of the current fire safety schedule) to be given to the Commissioner of New South Wales Fire Brigades, and
 - (b) must cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.

Reason: *Prescribed/Statutory.*

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

22. Occupation Certificate Required

An Interim / Final Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the subject tenancy.

Reason: *To ensure compliance with the provisions of the Environmental Planning and Assessment Act. [G1]*



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23. Fire Safety Certificate

To ensure the safety of occupants of the building a “Fire Safety Certificate” which identifies the schedule of “Fire Safety Measures” that have been completed to satisfactory standard shall be provided to the Principal Certifying Authority prior to the issue of an “Occupation Certificate” as required in the “Environmental Planning and Assessment Act & Regulation.

Reason: *To ensure an adequate level of fire safety is provided within the premises for the life safety of building occupants. [G3]*

24. Annual Fire Safety Statement for the building

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

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

25. Hand Washing Facilities

Hand washing facilities – a hand basin supplied with hot and cold water through a common spout, together with an adequate supply of soap or other hand cleaning substance and single use towels. There shall be a hand basin in the acupuncture treatment room and another in a readily accessible location for use by staff using the other treatment rooms.

Reason: Comply with Public Health (Skin Penetration) Regulation 2000 and code of practice.

26. Equipment Cleaning Sink

Equipment cleaning sink – a sink of adequate size to enable equipment to be scrubbed under water and supplied with clean hot and cold running water capable of producing mixed water of at least 40°C. The equipment cleaning sink is to be positioned in a convenient location on the premises.

Reason: Comply with Public Health (Skin Penetration) Regulation 2000 and code of practice.

27. Staff Sinks

Staff sinks – A separate sink will need to be supplied for the convenience of staff to wash dishes for their personal use. This sink is not to be confused with a hand washbasin nor an equipment cleaning sink.

Reason: Comply with Public Health (Skin Penetration) Regulation 2000 and code of practice.



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28. Skin Penetration Procedures

Skin penetration procedures – all prescribed skin penetration procedures must be carried out in accordance with the requirements of the Public Health (Skin Penetration) Regulation 2000 and Skin Penetration Code of Best Practice.

Reason: Comply with Public Health (Skin Penetration) Regulation 2000 and code of practice.

29. Work Areas

Work areas are to be finished and maintained with materials that are rigid, smooth and impervious. Construction should be free from open joints, gaps, cracks, and crevices and kept in good repair. The work area must be maintained in a clean and hygienic state.

Reason: Comply with Public Health (Skin Penetration) Regulation 2000 and code of practice.

30. Flooring of Procedure Rooms

Floors of procedure rooms – must be constructed of a smooth, durable, impervious material that is non-slip and capable of being easily cleaned.

Reason: Comply with Public Health (Skin Penetration) Regulation 2000 and code of practice.

31. Walls of Procedure Rooms

Walls of skin penetration procedure rooms - must be constructed of a smooth, durable, impervious material that is capable of being easily cleaned.

Reason: Comply with Public Health (Skin Penetration) Regulation 2000 and code of practice.

32. Clinical waste

Clinical wastes – the occupier must enter into an agreement with a licensed waste transporter for the collection and disposal of clinical wastes generated on the premises, and a copy of the service contract must be provided to Council upon request.

Reason: Comply with Public Health (Skin Penetration) Regulation 2000 and code of practice.

33. Registration and Notification Requirements

Registration of premises – the operator of the business must register the premises with Council's Compliance Services Unit before trading commences.



Reason: Comply with Public Health (Skin Penetration) Regulation 2000 and code of practice.

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

34. Hours of Operation

The Tenancy No. 185 may be open for business only between the following hours:

9am to 5.30pm Monday, Tuesday, Wednesday and Friday

9am to 9pm Thursday

9am to 5pm Saturday

10am to 4pm Sunday

Upon expiration of the permitted hours, all service (shall immediately cease, no person shall be permitted entry and all customers on the premises shall be required to leave within the following half hour.

***Reason:** Information to ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality. [I2]*

Right to Review by the Council

You may request the Council to review the determination of the application under Section 82A of the Environmental Planning & Assessment Act 1979. Any request to review the application must be within 12 months after the date of determination shown on this notice.

NOTE: A fee will apply for any request to review the determination.

Right of Appeal

If you are dissatisfied with this decision Section 97 of the Environmental Planning & Assessment Act 1979 may give you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

Signed _____ on behalf of the consent authority

Signature _____
Name Philip Hoffman

Date 12th December 2006