



Warringah Council

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION

Development Application No: DA 2006/1256

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 in DP 1015283, No. 145 Old Pittwater Road, Brookvale (Warringah Mall Shopping Centre)

Proposed Development: Extension of an existing delicatessen with associated fit-out and signage within the Warringah Mall Shopping Centre.

DETERMINATION

Made on (Date): 31 January 2007

Consent to operate from (Date): 7 February 2007

Consent to lapse on (Date): 7 February 2010

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 Number	Dated
0626/01, 02, 03, 04, 05 and 06, prepared by Anthony Bruzzano	November 2006

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]*

3. Removal of Pole Signs

The existing pole / pylon signs displaying business identification information for "Quattro Formaggi Delicatessen", which have been erected without Council's consent in the open car parking area in front of the subject retail units (being Units X6, X7 and X8), are to be removed and the ground surface appropriately reinstated.

Reason: *To ensure compliance with Council's planning controls and elimination of unauthorised advertising.*



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CONDITIONS THAT REQUIRE SUBSIDIARY MATTERS TO BE COMPLETED PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

4. 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	Automatic fire detection & alarm systems	AS 1670; AS 1603	Spec E2.2a
002	Emergency lighting	AS/NZS 2293.1	E4.4
003	Exit signs	AS/NZS 2293.1	E4.8
004	Occupancy Limits	The maximum total number of seated patrons (indoor and outdoor) is limited to 20.	

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: *Fire Safety [C1]*

5. Damage to Public Infrastructure

The applicant shall bear the cost of all restoration works to Council's property damaged during the course of this development. The applicant shall advise Council, in writing, of any existing damage to Council property before commencement of the development.

Note: This documentation will be used to resolve any dispute over damage to infrastructure. It is in the applicant's interest for it to be as full and detailed as possible.

Reason: *To ensure the protection of existing built public infrastructure. [C6]*



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6. Kerb Security Bond

A bond of \$550.00 shall be deposited with Council and inspection fee of \$200.00 paid, prior to the issue of any construction certificate, against the potential for damage to Council's footpath and road reserve infrastructure during the construction process. (See Schedule)

Reason: *To ensure appropriate security is in place for the protection or repair of Public Infrastructure. [C16]*

7. Protection of Footpaths and Roadways

The public footways and roadways adjacent to the site shall be maintained at all times during the course of the work in a safe condition.

Reason: *Protection of footpath and roadways. [C22]*

8. Access for People with Disabilities

Ramps and access for people with disabilities are to be provided to and within the proposed premises. Consideration must be given to the means of dignified and equitable access from public places to adjacent buildings, to other areas within the building and to footpaths and roads. Compliant access provisions for people with disabilities shall be clearly shown on the plans submitted with the Construction Certificate. All details shall be prepared in consideration of, and construction completed to achieve compliance with the provisions of the Disability Discrimination Act, and the relevant provisions of AS1428.1 and AS1428.4.

Reason: *To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian Standards. [C36]*

9. Asbestos & Hazardous Material

A person taking down, demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Work Cover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal. The requirements and standards imposed by the Authority, its consultants or contractors shall be complied with.

Reason: *To ensure the long term health of workers on site and occupants of the building is not put at risk unnecessarily. [C53 (2)]*

10. Reflectivity Index of Glazing

The reflectivity index (expressed as a percentum of the reflected light falling upon any



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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 with the Construction Certificate.

(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. [C54]*

11. S94 Contributions

The payment of the following development contributions prior to the approval/release of the Construction Certificate.

\$1659.0

These amounts have been calculated using the Warringah Section 94A Contributions Plan. They are current at the time of issue of this Consent. They will be adjusted at the time of payment according to the quarterly CPI (Sydney - All Groups Index). An updated schedule of Council's contribution rate is issued each quarter and is available at Council's office. Please ensure that you provide details of this Consent when paying contributions so that they can be easily recalculated.

The basis for the contributions is as follows:

1% x total construction cost \$165,880 = **\$1659.0**

Reason: *To retain a level of service for the existing population and to provide the same level of service for the population resulting from new development. [C70]*

12. Security Bond Schedule

All fees and security bonds in accordance with the schedule below must be paid or in place prior to the issue of the required Construction Certificate:

SECURITY BOND & FEE SCHEDULE	
145 Old Pittwater Road, Brookvale (Warringah Mall Shopping Centre)	
DEVELOPMENT APPLICATION NUMBER 2006/1256	
SECURITY BONDS	AMOUNT (\$)
Builders Road/Kerb Security Bond	\$550.00
TOTAL BONDS	\$550.00
FEEES	
Kerb Security Inspection Fee	\$200.00
Section 94 contribution	\$1659.00
Long Service Levy (0.35% x \$165,880)	\$580.58
TOTAL FEES	\$2440.0



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Progress Inspections if Council is nominated as the PCA (2 x \$275)	\$550.00
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Reason: Compliance with the development consent. [C71]

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

13. 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]

14. 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]

15. 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]

CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

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

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

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

The appointed Principal Certifying Authority MUST do the first inspection at the



commencement of building work, and at completion of building work.

Notes:

- (1) The appointed Principal Certifying Authority has a discretion to determine additional inspections, or nominate other Accredited Certifiers to undertake inspections other than the first and last inspections, which are required to ensure compliance or otherwise with relevant codes and standards. In any event, the Principal Certifying Authority **MUST** be advised at all of the stages of construction identified above.
- (2) The PCA must advise the person with the benefit of the consent of the mandatory critical stage inspections referred to in the EP & A Regulations.
- (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]

17. Replacement of Principal Certifying Authority

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

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

Reason: Statutory requirement. [E11]

18. 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



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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]

19. 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.

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]

20. 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

21. 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]



22. 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]*

23. 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 \$25,000 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]*

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

24. Occupation Certificate Required

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

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

25. 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]*



26. Design, Construction and Fit-out

The design, construction and fit out of the kitchen / food preparation areas shall comply with Australian Standard AS 4674 – 2004 – “Design, Construction and Fit-out of Food Premises”. Details are to be provided to the satisfaction of the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: *To ensure compliance with the Australian Food Standards Code. [Special Condition]*

27. Hand Washing and Sink Facilities

The premises is to be provided with a double bowl sink or two separate sinks. One is to be clearly labelled “Hand washing only” and shall be located and installed so that it is: not obstructed, at bench height either permanently fixed to the wall, to a supporting frame (freestanding hand basins) or set in a bench top. The hand basin shall be provided with warm running water from a single outlet, with a towel dispenser that dispenses a single-use paper or cloth towel or other means of effectively drying hands and arms, which prevents the transfer of pathogenic microorganisms to the hands or arms. Such details are to be provided to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

Reason: *To ensure compliance with the Australian Standard AS 4674 – 2004 – ‘Design, Construction and fit-out of food premises and to ensure personal hygiene can be maintained. [Special Condition]*

28. Notification of the Food Premises

The proprietor of a food business must notify the NSW Food Authority of the details of the business prior to commencement of trading.

Notification may be done either online at www.foodnotify.nsw.gov.au or by lodging a completed NSW Food Authority notification form to the NSW Food Authority or Council.

Note: A fee of \$55 applies when lodging notification forms with Council.

The proprietor of a food business must also contact an Environmental Health Officer of Council to inform them of their notification number and business details prior to trading.

Reason: *To ensure compliance with the Australian Food Standards Code. [Special Condition]*

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

29. Hours of Operation

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

Monday to Sunday: 7:00am to 8:30pm

Upon expiration of the permitted hours, all services 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]*

30. Trade Waste

Where applicable, trade waste water shall be disposed of in accordance with the permit requirements of Sydney Water Corporation Ltd, Wastewater Source Control Branch.

***Reason:** To ensure compliance with Sydney Water's requirements and protect the environment. [I6]*

31. Noise Impact On Surrounding Area

Use of the premises shall not cause a sound level in excess of 5 dB(A) at any time above the background noise level at any point along the site boundaries.

***Reason:** To ensure compliance with acceptable levels of noise established under best practice guidelines. [I8]*

32. Loading Within Site

All loading and unloading operations shall be carried out wholly within the confines of the site, at all times.

***Reason:** To ensure that deliveries can occur safely within the site and does not adversely affect traffic or pedestrian amenity. [I13]*

33. No Illumination

No consent is given or implied for any form of illumination or floodlighting to any sign.

***Reason:** To ensure appropriate forms of signage that are consistent with Council's controls and those that are desired for the locality, and do not interfere with amenity of nearby properties. [I23]*



34. Daily Cleaning

The applicant is to ensure that at all times when the premises are open and at the end of each day after the premises have closed, all rubbish including loose papers, cigarette butts, bottles etc which may be left on the subject area or immediately adjacent is picked up and placed in the proprietor's rubbish bins.

Reason: *To ensure waste generated by the approved use or activity is properly managed by the person acting upon this consent, to prevent unsightly build up of waste material. [I29]*

35. 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. [I31]*

36. 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. [I32]*

37. Footpath Seating (Width of Footway)

A minimum clear footpath width of 2.0m shall be maintained at all times.

Reason: *To ensure adequate pedestrian space is provided for public safety and convenience. [I37]*

38. Seating Number

The maximum number of seating for the subject premises, indoor and outdoor, shall be restricted to less than 20 seats.

Reason: *There is no provision for patron toilets within the subject premises. [Special Condition]*

39. No Cooking on the Premises

No cooking of food requiring the use of a stove, oven, hot plate, grill, fryers or the like is permitted on the premises.



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Reason: *The application has provided no provision for mechanical ventilation.*
[Special Condition]

40. Amenity

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

Reason: *To ensure that the surrounding health and amenity is maintained.* [Special Condition]

41. 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]



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

Date 31 January 2007