



Warringah Council

## NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION

**Development Application No:** DA2008/1149

### DEVELOPMENT APPLICATION DETAILS

**Applicant Name:** Edward Iacomini

**Applicant Address:** 68/100 William Street Five Dock NSW 2046

**Land to be developed (Address):** Tenancy 8, No.33 Oaks Avenue Dee Why  
(Lot 1, DP 588603, Lot A & B, DP 326907)

**Proposed Development:** Fitout and use for a shop (Deli)

### DETERMINATION

**Made on (Date):** 17 September 2008

**Consent to operate from (Date):** 17 September 2008

**Consent to lapse on (Date):** 17 September 2011

### 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	Prepared By
Floor Plan Rev No.C	23.07.08	Isabella Australasian Pty Ltd
Elevation A & Section B Rev No.C	23.07.08	Isabella Australasian Pty Ltd
Lighting Plan Rev No.C	23.07.08	Isabella Australasian Pty Ltd
Electrical Plan Rev No.C	23.07.08	Isabella Australasian Pty Ltd
Hydraulic Plan Rev No.C	23.07.08	Isabella Australasian Pty Ltd

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. **(DACGBapasd)**

#### 2. 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. **(DACGBbca)**

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

#### 3. Development/Construction Security Bond

A bond (determined from cost of works) of \$1000 must be deposited with Council and an inspection fee paid of \$200 prior to the issue of any Construction Certificate. 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)**

#### **4. 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.

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)*

#### **5. Design for Access & Mobility**

The development must be designed to comply with the requirements of the Disability Discrimination Act 1992 and Australian Standard AS1428.2-1992 Design for Access and Mobility - Enhanced and additional requirements - Buildings and facilities. Details demonstrating compliance are to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

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

#### **6. 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. 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 work.

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.

**Reason:** *Prescribed - Statutory. (DACGCIsI)*

#### **7. Design, Construction and Fit Out**

The design construction and fit out of the kitchen shall comply with Australian Standard AS 4674 – 2004 – 'Design, Construction and fit-out of food premises'. Such details are to be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate. Specific requirements include, but are not limited to:

- All walls and plinths with floors shall be coved.
- Walls within the store room & food preparation area and deli area must be finished with a smooth impervious surface from the floor to at least 2m in height.
- All walls must be solid construction.

**Reason:** *To ensure compliance with the Australian Food Standards Code.*

## 8. Location of Hand Washing Facilities

Hand washing facilities shall be located and installed in the preparation room and immediately adjacent to the toilet, so that they are; not obstructed, are at bench height either permanently fixed to the wall, to a supporting frame (freestanding hand basins) or set in a bench top and accessible and no further than 5m from any place where food handlers are handling open food. Hand basins shall be provided with a towel dispenser that dispenses a single-use paper or cloth towel or automatically dispenses a single-use portion of 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 Construction 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 is able to be maintained.*

## 9. Garbage and Recycling Facilities

An appropriate area shall be provided within the premises for the storage of garbage bins and recycling containers and all waste and recyclable material generated by this premises. The following requirements shall be met:

- (a) 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;
- (b) Include provision for the separation and storage of in appropriate categories of material suitable for recycling;

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

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

### 10. Building Works

No building works shall be carried out until a Construction Certificate has been issued.

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

### 11. 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)*

## 12. 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 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)

## CONDITIONS THAT MUST BE COMPLIED WITH DURING DEMOLITION AND BUILDING WORK

## 13. 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)

## 14. 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



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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)*

#### **15. 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)*

#### **16. 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)*

#### **17. 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)*

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

#### **18. Access for People with Disabilities**

Prior to the issue of an Interim/Final Occupation Certificate provision shall be made for access to and within the building on the site 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.

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

#### **19. 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.



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)*

## **20. Mechanical Exhaust Ventilation**

Certification from an appropriately qualified Mechanical Engineer, is to be submitted to the Principal Certifying Authority to demonstrate that the mechanical exhaust ventilation system has been installed in accordance with the relevant Australian Standards prior to completion and the issue of an Interim/Final Occupation Certificate.

Note: The following Australian Standard applied at the time of determination.

Australian/ New Zealand Standard AS/NZS 1668.2 - 2002 The use of ventilation and air conditioning in buildings - Ventilation design for indoor contaminant control

**Reason:** *To ensure compliance with acceptable standards for the construction and operation of mechanical plant. (DACHFmev)*

## **21. 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](http://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 in accordance with Warringah Council's Fees and Charges 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.*

## **22. Requirement for Commercial Waste Contract**

That the proprietor shall enter into a commercial contract for the collection of wastes and recycling. A copy of the commercial waste and recycling contract and invoices are to be made available for inspection at any time.

**Reason:** *To protect the local amenity of the neighbourhood.*

## **23. 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. **(DACGFsm)**

## **24. Regulated Systems- Air Handling**

To ensure that adequate provision is made for ventilation of the building all mechanical and/or natural ventilation systems shall be designed, constructed and installed in accordance with all relevant Acts, Regulations, Australian Standards and Codes and the Work Cover Authority requirements prior to the issue of an Interim/Final Occupation Certificate.

An application to register any regulated system installed must be made to Council prior to commissioning of the system and the issuing of an Interim / Final Occupation Certificate.

Note: The following Acts, Regulations, Australian Standards and Codes applied at the time of determination:

- Public Health Act 1991
- Public Health (Microbial Control) Regulation 2000
- Building Code of Australia,
- Australian/ New Zealand Standard AS/NZS 1668.1: 1998 The use of ventilation and air conditioning in buildings - Fire and smoke control in multi compartment buildings
- Australian/ New Zealand Standard AS/NZS 1668.2 - 2002 The use of ventilation and air conditioning in buildings - Ventilation design for indoor contaminant control
- Australian/ New Zealand Standard AS/NZS 3666.1:2002 Air handling and water systems of buildings - Microbial control - Design, installation and commissioning
- Australian/ New Zealand Standard AS/NZS 3666.2:2002 Air handling and water systems of buildings - Microbial control - Operation and maintenance
- Australian/ New Zealand Standard AS/NZS 3666.3:2000 Air handling and water systems of buildings - Microbial control - Performance based maintenance of cooling water systems

**Reason:** To ensure public health is maintained, statutory requirements for record keeping. **(DACHFrsh)**

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

## **25. 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)**





## **26. 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)*

## **27. Hours of Operation**

The hours of operation of the Deli are restricted to between 7am and 7pm Mondays to Sundays inclusive.

**Reason:** *Information to ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality. (DACGGho)*

## **28. 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)*

## **29. 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 the surrounding area and people within the neighbourhood are not affected adversely and to ensure compliance with the Protection of the Environment Operations Act 1997.*

## **30. 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.

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



### **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                      \_\_\_\_\_  
Rodney Piggott, Team Leader Development Assessment

Date                      17 September 2008