



Warringah Council

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION

Development Application No: DA 2005/945

DEVELOPMENT APPLICATION DETAILS

Applicant Name: Tri Be Ca Advertising, Marketing & Design

Applicant Address: C\ - Clifton Cone Group Citigroup Centre Level 18, 2 Park Street Sydney NSW 2000

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

Proposed Development: Proposed fitout of existing retail outlet for use as a cafe retail

DETERMINATION

Made on (Date): 18th November 2005

Consent to operate from (Date): 18th November 2005

Consent to lapse on (Date): 18th November 2010

Details of Conditions – (including Section 94 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.



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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
None given	Shop floor plan	A	15.09.2005	Tri Be Ca Advertising Marketing Design
None given	Base floor plan	A	15.09.2005	Tri Be Ca Advertising Marketing Design
None given	Kitchen floor plan	A	15.09.2005	Tri Be Ca Advertising Marketing Design
None given	Equipment plan	A	15.09.2005	Tri Be Ca Advertising Marketing Design
None given	Electrical plan	A	15.09.2005	Tri Be Ca Advertising Marketing Design
None given	Equipment plan	A	15.09.2005	Tri Be Ca Advertising Marketing Design
None given	Shopfront elevation	A	15.09.2005	Tri Be Ca Advertising Marketing Design
None given	Elevation A	A	15.09.2005	Tri Be Ca Advertising Marketing Design
None given	Kitchen elevation B	A	15.09.2005	Tri Be Ca Advertising Marketing Design
None given	Kitchen elevation C	A	15.09.2005	Tri Be Ca Advertising Marketing Design
None given	Kitchen elevation C- wall finishes	A	15.09.2005	Tri Be Ca Advertising Marketing Design
None given	Elevation D	A	15.09.2005	Tri Be Ca Advertising Marketing Design

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]



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

3. Fire Safety Measures

Submission at the Construction Certificate stage of the anticipated schedule of current and proposed fire safety measures to be implemented in the building, and such fire safety schedule shall specify the minimum standard of performance for each fire safety measure.

Reason: Fire Safety [C1]

4. Design for Access & Mobility

Access/egress/services and facilities including external and interior access are required in accordance with the provisions of AS 1428.1 (2001) - Design for Access and Mobility.

The building being adequately adjusted where required complying with the provisions of the *Disability Discrimination Act (1992)*. Note that any approval granted by Council does not necessarily guarantee compliance or otherwise with the *Disability Discrimination Act (1992)* and the applicant should investigate their liability under the Act. You are directed to the following sources to achieve compliance with the DDA: -

- (a) AS 1428.1 (2001) - Design for Access and Mobility
- (b) Advisory Notes on Access to Premises - Human Rights and Equal Opportunity Commission (1998)
- (c) Disability Discrimination Act (1992)

Details being submitted and approved by Council / Accredited Certifier prior to the issue of a Construction Certificate.

Reason: To ensure equitable access to members of the community to all public facilities. [C5]

5. Cleanliness and Maintenance of Food Preparation Areas

To ensure that adequate provision is made for the cleanliness and maintenance of all food preparation areas, all building work in connection with the occupation or use of the premises for the preparation and storage of food shall be designed and carried out in accordance with the requirements of:

- (a) the Food Act (as amended)
- (b) the Food Regulation (as in force);
- (c) Council's Code for the Construction and Fitout of Food Premises;
- (d) Sydney Water Corporation - Trade Waste Section;



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- (e) the Clean Air (Plant and Equipment) Regulation, ;
- (f) AS 1668 Part 1;
- (g) AS 1668 Part 2;
- (h) the Protection of the Environment Operations Act; and
- (i) the Building Code of Australia;
- (j) The ANZ Foods Standards Code

The relevant matters to be taken into account under this approval relate to:

- (k) construction, materials and finishes;
- (l) installation of fixtures, fittings and equipment;
- (m) washing facilities, other facilities and special requirements;
- (n) mechanical ventilation and exhaust discharges; and
- (o) temperature control.

Details from an appropriately qualified person showing that these design requirements have been met shall be submitted to, and approved by, the Council / Accredited Certifier prior to the issue of a Construction Certificate.

***Reason:** To ensure compliance with acceptable standards for the construction of food premises established under environmental health and safety legislation. [C42]*

6. 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 with a tap in close proximity to facilitate cleaning;
- (b) Include provision for the separation and storage in appropriate categories of material suitable for recycling;
- (c) The storage area shall be adequately screened from the street, with the entrance to the enclosures no more than 2m from the street boundary of the property;
- (d) If a storage facility is to be provided at another suitable location within the building, a complementary garbage bin holding bay shall be provided no more than 2m from the street boundary of the property;
- (e) Garbage enclosures serving residential units are not to be located within areas designated for non-residential uses; and
- (f) Garbage enclosures serving non-residential uses are not to be located within areas designated for dining purposes.

Details of the storage area are to be provided to, and approved by the Council / Accredited Certifier prior to issuing of the Construction Certificate.

Note: The applicant may wish to discuss bin storage requirements and location with Council prior to finalisation of the required detail.



Reason: To ensure the provision of appropriate waste facilities for residents and protect community health, and to ensure efficient collection of waste by collection contractors. [C45]

CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

7. 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]

8. 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]

9. 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

10. 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]

11. 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]

12. Work site and on-going tenancy/building management

Trade materials, product and plant to be kept within confines of the building at all times.



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Reason: To ensure the safety of public land and maintain egress routes in emergencies.

13. Ventilation

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 the provisions of:

- A. The Building Code of Australia.
- B. Australian Standards 1668.1 and 1668.2 - 1991
- C. The Public Health Act, 1991.
- D. The Public Health Act 1991 - Regulation.
- E. WorkCover Authority.
- F. Australian Standards 3666.

Reason: To ensure that the surrounding health and amenity is maintained.

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

14. 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]

15. 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]

16. Site Sign

- (1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - (a) stating that unauthorised entry to the work site is prohibited;
 - (b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
 - (c) showing the name, address and telephone number of the Principal Certifying Authority for the work.



- (2) Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.
- (3) This condition does not apply to building works being carried out inside an existing building.

Reason: *Statutory requirement. [F9]*

17. Emergency Lighting

Provision of an emergency lighting system for the building to comply with the requirements of Part E4.2 of the Building Code of Australia (BCA).

Reason: *Prescribed Statutory.*

18. Food Safety Standards

Compliance with the “FSANZ Food Standards Code”, in particular Chapter 3; Food Safety Standards

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

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

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.

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

20. 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]*



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21. 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]*

22. 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:

No:	Service Currently Installed/Service Required:	Standard	BCA Clause(s)
1.	Automatic fire detection & alarm systems	AS 1670 – 1995; AS 1603	Spec E2.2a
2.	Automatic fire suppression systems	AS 2118.1 – 1999	Spec E1.5
3.	Emergency lighting	AS/NZS 2293.1 - 1998	E4.4
5.	Exit signs	AS/NZS 2293.1 - 1998	E4.8

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*



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23. Final Fire Safety Certificate

The submission to Council of a Final Fire Safety Certificate in respect to the design and installation of each essential fire safety measure listed in the fire safety schedule prior to the issue of the Occupation Certificate stating:-

- a) the fire measure has been assessed (inspected and operation tested) 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 fire safety schedule; and
- c) the date the fire safety measure was assessed. (C373)

Reason: Prescribed/Statutory

24. Essential services

No existing essential services installed in the main structure may be altered without the prior written consent of Council being obtained or the works being certified as being in conformity with the “alternate solution” for Warringah Mall by a suitably qualified Fire Engineer to Council’s satisfaction.

Reason: Fire safety

25. Sprinkler heads

Shelving and storage of materials is not permitted within 500mm of the sprinkler heads installed in the structure (measured as a horizontal line across the tenancy).

Reason: Fire safety.

26. Design, construction and fitout

Compliance with Australian Standard AS 4674 - 2004 - ‘Design, Construction and fit-out of food premises.

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

27. Notification

The proprietor of a food business must not conduct the food business unless the proprietor has given written notice, in the approved form, of the information specified in the Food Safety Standards that is to be notified to the appropriate enforcement agency before the business is conducted.

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 applies when lodging notification forms with Council.



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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.

28. 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 (LA90) at any time when measured at the nearest affected residence. For assessment purposes, the above LAeq sound levels are to be adjusted in accordance with EPA guidelines for tonality, frequency weighting, and impulsive characteristics where necessary, at any time the plant is in operation, at the boundary of the site.

Note: The method of measurement of sound shall be carried out in accordance with Australian Standard 1055.1 - 1989.

A report and certification prepared by an appropriately qualified or accredited person shall be submitted to the Principal Council / Accredited Certifier demonstrating compliance with this condition prior to the occupation of the completed works.

Reason: To ensure that noise generated from the development does not result in offensive noise to any other party. [G12]

29. Safety Glass

Safety Glass as defined in AS 2208-1978 being provided in all locations subject to human impact as required by AS1288-1994 "Glass in Buildings - Selection and Installation"

Reason: Prescribed Statutory.

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

30. Hours of Operation

The cafe may be open for business only between the following hours:
8am – 9.30pm

Upon expiration of the permitted hours, all restaurant service (and entertainment) 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]



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31. Illumination Intensity

The level of illumination and/or lighting intensity used to illuminate the signage is to be minimised to ensure that excessive light spill or nuisance is not caused to any nearby premises.

***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. [I20]*

32. No Entertainment

This approval is for a restaurant/cafe only and does not authorise musical or other forms of entertainment. A separate development consent and Place of Public Entertainment licence would be required for such activities/events.

***Reason:** Clarification of terms of this consent and ensure compliance with relevant legislation. [I25]*

33. 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]*

34. 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.*

35. Waste Collection

Waste and recyclable material, generated by this premises, must not be collected between the hours of 8pm to 7am from Monday to Friday and from 5pm to 8am on Saturdays with no waste collections on a Sunday or Public Holiday.

***Reason:** To ensure the acoustic amenity of surrounding properties.*



36. Delivery Hours

No deliveries, loading or unloading associated with the premises are to take place between the hours of 6pm to 7am from Monday to Friday and from 5pm to 8am on Saturdays with no deliveries on a Sunday or Public Holiday.

Reason: To ensure the acoustic amenity of surrounding properties.

37. Noise control

The use of the premises must not give rise to the transmission of offensive noise to any place of same or different occupancy.

Reason: To prevent loss of amenity to the area.

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
 Senior Team Leader

Date 18th November 2005