



Warringah Council

## NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION

**Development Application No:** DA 2005/1165

### DEVELOPMENT APPLICATION DETAILS

**Applicant Name:** Dough Espresso Pty Ltd

**Applicant Address:** 130 Pitt Street Redfern NSW 2016

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

**Proposed Development:** Construction and fitout of a retail shop

### DETERMINATION

**Made on (Date):** 28<sup>th</sup> February 2006

**Consent to operate from (Date):** 28<sup>th</sup> February 2006

**Consent to lapse on (Date):** 28<sup>th</sup> February 2011

### **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 Number	Dated
001	28.11.2005
002	28.11.2005
101	28.11.2005
103	28.11.2005
104	28.11.2005
201	28.11.2005
202	28.11.2005
203	28.11.2005
204	28.11.2005
301	28.11.2005
302	28.11.2005

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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### 3. Demolition of Extra Fabric

Alterations to, and demolition of the existing building shall be limited to that shown on the approved plans (by way of notation). No approval is given or implied for removal and/or rebuilding of any portion of the existing building which is shown to be retained.

*Reason: To ensure compliance with the approved development. [A3]*

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

### 4. 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]*

### 5. 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]*



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## 6. 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]*

## 7. Access for People with Disabilities

Ramps and access for people with disabilities are to be provided to and within each ground floor retail tenancy/the entire building [DELETE ONE]. 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 footpath 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]*

## 8. 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;
- (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.



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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]*

## CONDITIONS THAT MUST BE ADDRESSED PRIOR TO ANY COMMENCEMENT

### 9. 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]*

### 10. 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]*

### 11. 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]*

### 12. 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]*

### 13. 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.



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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**

### **14. Sign on Site**

A visually prominent sign to be erected and maintained on-site adjacent to the property's access point, for the duration of the landfill works. This condition must be complied with during demolition and building work.

*Reason: Proper identification of landfill works. [E2]*

### **15. 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) Prior to covering any stormwater drainage connections.
- (c) 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]*

## **16. 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]*

## **17. 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]*

## **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 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]*



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## 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. (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]*

## 20. Applicant's Cost of Work on Council Property

The applicant shall bear the cost of all works associated with the development that occurs on Council's property.

***Reason:** To ensure the proper management of public land and funds. [E38]*

## 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]*





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### 23. 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. [F9]*

## 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. Provision of wet chemical fire extinguisher and fire blanket

The provision of a wet chemical fire extinguisher and installation of a fire blanket to the kitchen.

*Reason: Fire Safety. [G2]*

### 26. 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



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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]*

## 27. 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]*

## 28. 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 the provisions of:

- (a) The Building Code of Australia,
- (b) AS 1668 Part 1 & 2,
- (c) The Public Health Act,
- (d) Public Health (Microbial Control) Regulation,
- (e) Work Cover Authority,
- (f) AS 3666 Air Handling and water system of building microbial control:
  - Part 1 - Design installation and commissioning
  - Part 2 - Operation and maintenance
  - Part 3 - Performance based maintenance of cooling water systems

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

**Reason:** *To ensure public health is maintained, statutory requirements for record keeping. [G24]*

## 29. Requirement for waste

That the applicant shall enter into a contract for the collection of wastes and recycling in accordance with the procedures in place for 'Warringah Mall'. A copy of the waste and recycling contract shall be lodged with Council and invoices be made available for inspection at any time.

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

## 30. Waste management -cafes and restaurants

The waste bin and recycling bin storage areas shall be contained in a ventilated roofed area. The floor of the waste and recycling area shall be drained to a central point for drainage to the Sydney Water system under a Trade Waste Agreement. A copy of the



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Trade Waste Licence is to be forwarded to Council. Where wastewater can escape to the stormwater system, a bund must be erected to contain wastewater on site.

**Reason:** *To prevent the contamination of stormwater.*

### **31. Design, construction and fitout**

The design, construction and fitout of the proposed food premise must comply with Australian Standard AS 4674 - 2004 - 'Design, Construction and fit-out of food premises'.

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

### **32. 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) <<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.

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.*

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

### **33. Shop Premises Registration**

The shop premises must be registered with Council and NSW Health prior to commencement of business. This will require the following:

- (a) a registration application has been submitted to Council's Health and Environmental Protection for the Food Shop, and
- (b) notification to the NSW Health Department under Standard 3.2.2 Division 2 Section 4 Notification. This requirement is to be met by notification through the following website: [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au).

**Reason:** *To ensure compliance with environmental health legislation. [I33]*



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**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. No Cooking**

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

**Reason:** *The application has provided no provision for mechanical ventilation.*

**36. 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.*

**37. 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.*

**38. Noise control**

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

**Reason:** *To prevent loss of amenity to the area.*

**39. Food Safety Standards**

The operation of the food premise must comply with the "FSANZ Food Standards Code", in particular Chapter 3; Food Safety Standards

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

**40. Location of hand washing facilities**

Hand washing facilities shall be located and installed 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



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effectively drying hands and arms, which prevents the transfer of pathogenic microorganisms to the hands or arms.

**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.*

**41. Designation of hand washing facilities**

Hand basins are to be clearly designated and used for the sole purpose of washing hands, arms and face.

**Reason:** *To prevent the facility being used for a purpose other than washing hands, arms and face and to prevent contamination of the hand basin.*

**42. Food Display**

A food business must, when displaying food provide protective barriers that minimise the likelihood of contamination by customers.

**Reason:** *To prevent contamination of food*



### **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                        28<sup>th</sup> February 2006