



Warringah Council

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION

Development Application No: DA 2007/674

DEVELOPMENT APPLICATION DETAILS

Applicant Name: Marlos Krainer

Applicant Address: 16 Hunter Street Sth Warriewood NSW 2103

Land to be developed (Address): Lot 1, DP 173956, 67 Howard Avenue Dee Why

Proposed Development: Change of use and fit out for a pizza shop and associated signage

DETERMINATION

Made on (Date): 28 November 2007

Consent to operate from (Date): 28 November 2007

Consent to lapse on (Date): 28 November 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.

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
CALL_6012c Sheet 1	Ground Floor / Site Plan	Issue 2	05/07/07	Calldart Pty Ltd
CALL_6012c Sheet 2	North Elevation / East Elevation	Issue 2	05/07/07	Calldart 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. **[A1 (1)]**

2. Plans on Site

A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) shall be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council, Public Information and to ensure ongoing compliance. **[A2]**

CONDITIONS THAT 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. 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.

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]

5. 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;



Warringah Council

- (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]*

6. 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)]*

7. Noise from Buildings Containing Housing Above Shops or Adjacent to Housing

A certificate from an Acoustic Engineer is to be submitted with the Construction Certificate certifying that the development and all sound producing plant, equipment, machinery or fittings will not exceed more than 5dB(A) above the background level during the day and evening and not exceeding the background level at night (10.00pm to 6.00 am) when measured at the boundary of the property, and will comply with the Environmental Protection Authority Industrial Noise Policy. Details being submitted with the Construction Certificate.

Reason: *To comply with best practice standards for residential acoustic amenity. [C59]*

8. Location of Plant

All plant and equipment (including but not limited to air conditioning equipment) is to be located within the basement or other areas of the building and is not to be located on the roof. Details demonstrating compliance are to be submitted with the Construction Certificate application.

Reason: *Minimise impact on surrounding properties, improved visual appearance*



and amenity for locality. [C64]

9. 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	
67 Howard Avenue, Dee Why (Property address)	
DEVELOPMENT APPLICATION NUMBER [2007/0674]	
SECURITY BONDS	AMOUNT (\$)
TOTAL BONDS	NIL
FEES	
TOTAL FEES	NIL
Progress inspections (if Council is the PCA)	\$275.00 per inspection

Reason: Compliance with the development consent. [C71]

10. 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 effectively drying hands and arms, which prevents the transfer of pathogenic micro-organisms 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 [Special Condition].

11. 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. All internal walls of the garbage 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..

Reason: To prevent pollution of the environment and to protect the amenity of the area. [Special Condition].

12. Mechanical Exhaust Ventilation

The mechanical exhaust systems shall be installed in accordance with AS1668. The exhaust discharge air of the system serving the wood/gas pizza oven is required to



Warringah Council

be treated to reduce the concentration of contaminants. A device adequate to retard all smoke particles and emissions of odour such as, but not limited to, a thermal oxidiser (after-burner) or filter is to be installed to the mechanical exhaust system.

Such details are to be Principal Certifying Authority prior to the issue of the Construction Certificate.

Reason: *To prevent pollution of the environment and to protect the amenity of the area [Special Condition].*

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 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. 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]

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. Out of Hours Work Permits

Where it is necessary for works to occur outside those hours allowed by these conditions, approval for such will be subject to issue of a permit on each occasion from Council's Customer Services Centre. Such permit must be obtained and the appropriate fee paid at least two (2) clear working days in advance of each relevant date. Such occurrence shall be limited to two occasions per calendar month and shall only be approved if public safety or convenience is at risk. Any further variation shall require the lodgement and favourable determination of a modification application pursuant to Section 96 of the Environmental Planning and Assessment Act 1979.

(Note: Failure to obtain a permit for work outside of the approved hours will result in on the spot fines being issued, or Council pursuing any action required (including legal proceedings) to have the out of hours work cease, without prior warning.)

Reason: *To ensure that works do not interfere with reasonable amenity expectations of residents and the community. [E27]*

21. Installation and Maintenance of Sediment Control

Techniques used for erosion and sediment control on building sites are to be adequately maintained at all times and must be installed in accordance with Warringah Council guidelines. All techniques shall remain in proper operation until all development activities have been completed and the site fully stabilised. This Condition must be complied with during demolition and building work.

Reason: *To protect the environment from the effects of sedimentation and erosion from development sites. [E28]*

22. Prohibition on Use of Pavements

Building materials shall not be placed on Council's footpaths, roadways, parks or grass verges and a suitable sign to this effect shall be erected adjacent to the street alignment.

Reason: To ensure public safety and amenity on public land. [E35]

23. Fire Safety Upgrade

The building is to be upgraded so as to comply with the requirements of Part E 'Services & Equipment' of the Building Code of Australia.

Such details are to be provided Principal Certifying Authority prior to the issue of any interim or final Occupation Certificate.

Reason: Fire safety [Special Condition].

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

24. 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]

25. 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

26. 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 in any octave band from 63.0 HZ centre frequencies inclusive, and not more than 5 dB(A) above the background level (LA90) during the day 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 Certifying Authority 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]

27. Mechanical Exhaust Ventilation

The mechanical exhaust system shall be installed in accordance with AS1668, and be operated in such a way so as to minimise/prevent the creation of odours, fumes and excessive noise which may adversely affect the amenity, or interfere unreasonably with the comfort or repose of occupants of the building and adjoining premises.

Certification, from an appropriately qualified and practising Mechanical Engineer, is to be submitted to the Principal Certifying Authority, detailing that the exhaust ventilation system has been installed in accordance with AS1668 and other conditions of consent, prior to completion and the issue of any Occupation Certificate.

Reason: To ensure compliance with acceptable standards for the construction and operation of mechanical plant. [G22 - Modified]

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

28. Hours of Operation

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

- 4.00pm to 9.30pm, Monday to Saturday; and

- 4.00pm to 9.00pm, Sunday

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

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

29. Trade Waste

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]**

30. Impact on Amenity of Surrounding Area - Non-Residential Areas

The implementation and intensity of this development shall not adversely affect the amenity of the neighbourhood by reason of excessive levels of illumination (internal or external) or solar glare arising from the building materials utilised in any construction processes or fit out.

Reason: To ensure that the amenity of the surrounding locality is not adversely affected by the nature of the approved activity. **[I7]**

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 of Fascia Sign

The fascia signs on the awning shall not be illuminated or floodlit.

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. **[I18]**

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. Commercial Waste and Recycling Storage

Commercial waste and recycling material/storage bins must be stored in a separate area to the residential waste and recycling material/storage bins.

Reason: *To ensure that commercial waste and residential waste is not mixed and is properly managed. [I30]*

36. 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]*

37. 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]*

38. Shop Premises Registration

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 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 environmental health legislation. [I33]*

39. Noise Generation

Noise from the combined operation of all mechanical plant and equipment shall not



Warringah Council

generate noise levels that exceed 5dB(A) above the ambient background noise level measured at the nearest residential property boundary when measured in accordance with the Environment Protection Authority's Industrial Noise Policy.

Reason: Health & amenity. [I50]

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 November 2007