

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF DEVELOPMENT APPLICATION NO. 411-9-2003

(FILE NO. S03/02587/1)

**FITOUT AND USE OF UNIT 105-108, 'SANTORINI', 4 THE PIAZZA, HOMEBUSH
BAY AS A CAFÉ/DELICATESSEN**

I, Michael Brown, A/Team Leader Urban Assessments, as delegate of the Minister for Infrastructure and Planning, under Instrument of Delegation dated 4 August 2003, pursuant to Section 80 (1) (a) of the *Environmental Planning & Assessment Act, 1979*, and clause 10 (1) of Sydney Regional Environmental Plan No.24 – Homebush Bay Area, determine the development application referred to in the attached Schedule 1, by granting consent to the application subject to the conditions of consent in the attached Schedule 2.

The reasons for the imposition of conditions are:

- (1) To maintain the amenity of the local area.

Michael Brown
A/Team Leader
Urban Assessments

Sydney,

2003

SCHEDULE 1

PART A—TABLE

Application made by:	Payce Properties Pty Ltd 25 Bennelong Road Homebush Bay NSW 2127
Application made to:	Minister for Infrastructure and Planning
Development Application:	411-9-2003
On land comprising:	Lot 6, DP 270320 Unit 105-108, "Santorini" 4 The Piazza, Homebush Bay
For the carrying out of:	Development described in Condition A1, Part A, Schedule 2
Estimated Cost of Works	\$200 000.00
S.119 Public inquiry held:	No
BCA building class:	6
Approval Body / Bodies:	Not Integrated
Determination made on:	The date shown on the Notice of Determination.
Determination:	Consent is granted subject to the conditions in the attached Schedule 2.
Date of commencement of consent:	The date of the commencement of the consent is date on the Notice of Determination.
Date consent is liable to lapse	This consent will lapse 5 years from the date of commencement of consent, unless: ▪ a shorter period of time is specified by the Regulations or a condition in Schedule 2, or ▪ the development has substantially commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 411-9-2003

Responsibility for other approvals / agreements

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid:

- (1) for a development application, within 12 months after the date on which the applicant received this notice, or
- (2) for a modification to the consent, within 3 months after the date on which the application received this notice.

Appeals—Third Party

For designated development, a third party has the right to appeal to the Land and Environment Court on the merits of this decision under Section 98 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only available within 28 days of the date of commencement of this consent.

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

PART C—DEFINITIONS

In this consent,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Applicant means Payce Properties Pty Ltd or any party acting upon this consent.

Approval Body has the same meaning as within Division 5 of Part 4 of the Act,

BCA means the Building Code of Australia.

Certifying Authority has the same meaning as Part 4A of the Act.

Council means Auburn Council

DA No. 411-9-2003 means the development application and supporting documentation submitted by the applicant on 2 September 2003.

Department means the Department of Infrastructure, Planning and Natural Resources or its successors.

Director means the Director of the Urban Assessments (or its successors) within the Department.

Director-General means the Director-General of the Department.

Minister means the Minister for Infrastructure and Planning.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Regulations means the *Environmental Planning and Assessment Regulations, 2000* (as amended).

Subject Site has the same meaning as the land identified in Part A of this schedule.

SCHEDULE 2
CONDITIONS OF CONSENT
DEVELOPMENT APPLICATION NO.411-9-2003

PART A—ADMINISTRATIVE CONDITIONS

A1 *Development Description*

Development consent is granted only to carrying out the development described in detail below:

- (1) Fitout and use of Unit 105-108, 'Santorini', 4 The Piazza as a café/delcatessen and associated signage.

A2 *Development in Accordance with Plans*

The development shall be generally in accordance with development application number 411-9-2003 submitted by the applicant on 2 September 2003, and in accordance with the supporting documentation submitted with that application, including, but not limited to, the following:

Statement of Environmental Effects entitled Statement of Environmental Effects – La Scala Café Santorini – No.4 the Piazza, Homebush Bay, dated 2 September 2003			
Architectural Drawings prepared by Krikis Taylor Retail			
Drawing No.	Revision	Name of Plan	Date
RET AR DA DA-01	A	Café/Deli - Floor Plans	24.07.03
SPP1432/DA003	C	Retail Signage Santorini NW Elevation	08.07.03

A3 *Exclusion From Consent - Signage*

The vertical identification blade type signage panels at the street frontage of the development do not form any part of this consent and are excluded from this consent as they are considered to be excessive in size and restrict usage of the public domain.

A3 *Signage Strategy to be Submitted*

The Applicant is to submit a signage strategy for the development for the approval of the Director. Following approval of the signage strategy, the applicant is to submit revised signage that is consistent with the approved strategy for the approval of the Director.

A4 *Prescribed Conditions*

The Applicant shall comply with the prescribed conditions of development consent under clause 98 of the Regulation.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

B1 Specific BCA Requirements

In order to fully comply with the deemed to satisfy provisions of the Building Code of Australia, the following matters need to be addressed to the satisfaction of the Certifying Authority as outlined in the Blackett Maquire & Associates Pty Ltd report dated 12 August 2003 that accompanied the application:

- (1) Accessible WC is to be provided or made available for people with disabilities.
- (2) The main entry to the premises and circulation between the indoor and outdoor areas is to facilitate circulation for people with disabilities (FFLs to be provided).

B2 Outdoor Lighting

All outdoor lighting shall comply with, where relevant, AS/NZ1158.3: 1999 *Pedestrian Area (Category P) Lighting* and AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*. Details demonstrating compliance with these requirements are to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B3 Disabled Access

Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the BCA's Access Policy. Prior to the issue of a Construction Certificate, a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority.

B4 Number of Car Spaces

The maximum number of car spaces to be provided for the development shall comply with the table below. Details confirming the parking numbers shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate. The car spaces are to be marked for use by the subject tenancy.

Car parking allocation	Number
Retail Spaces	6

B5 Energy Star Ratings

All classes of appliances that are available with an energy label or a Minimum Energy Performance Standard to be installed within the premises are to have an energy star rating of 3 stars or more (excluding clothes dryers which are to have a rating of 2.5 stars or more). The applicant shall submit to the Certifying Authority a statement demonstrating compliance with the requirements of this condition.

B6 Water Ratings

All water fixtures installed within the premises are to have a AAA water rating or more. The applicant shall submit to the Certifying Authority a statement demonstrating compliance with the requirements of this condition.

Health**B7 *Mechanical Ventilation***

All mechanical ventilation systems shall be installed in accordance with Part F4.5 of the Building Code of Australia and shall comply with Australian Standards AS1668.2 and AS3666 *Microbial Control of Air Handling and Water Systems of Building*, to ensure adequate levels of health and amenity to the occupants of the building and to ensure environment protection. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B8 *Design of Food Premises*

The fitout of the food premises shall be carried out in accordance with *The National Code for the Construction and Fitout of Food Premises*. Details of compliance with the relevant provisions of the Code shall be prepared by a suitably qualified person and submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

Waste Management**B9 *Storage and Handling of Waste***

The design and management of facilities for the storage and handling of waste must comply with the requirements of Council's Policy. Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

Compliance**B10 *Compliance Report***

Prior to the issue of a Construction Certificate, the Applicant, or any party acting upon this consent, shall submit to the Department a report addressing compliance with all relevant conditions of this consent.

PART C—PRIOR TO COMMENCEMENT OF WORKS

Structural Works

C1 Structural Details

Prior to the commencement of construction, the Applicant shall submit to the satisfaction of the PCA structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

- (1) the relevant clauses of the Building Code of Australia,
- (2) the relevant development consent,
- (3) drawings and specifications comprising the Construction Certificate, and
- (4) the relevant Australian Standards listed in the BCA (Specification A1.3).

Compliance

C2 Compliance Report

Prior to the commencement of works, the Applicant, or any party acting upon this consent, shall submit to the Department a report addressing compliance with all relevant conditions of this consent.

PART D—DURING CONSTRUCTION

D1 *Site Notice*

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details. The notice(s) is to satisfy all but not be limited to, the following requirements:

- (1) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (2) The notice is to be durable and weatherproof and is to be displayed throughout the works period;
- (3) The approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
- (4) The notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted.

D2 *Contact Telephone Number*

The applicant shall ensure that the 24 hour contact telephone number is continually attended by a person with authority over the works for the duration of the development.

D3 *External Lighting*

External Lighting shall comply with AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*. Upon installation of lighting, but before it is finally commissioned, the applicant shall submit to the consent authority evidence from an independent qualified practitioner demonstrating compliance in accordance with this condition.

Noise and Vibration

D4 *Hours of Work*

The hours of construction, including the delivery of materials to and from the site, shall be restricted as follows:

- (1) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- (2) between 8:00 am and 1:00 pm, Saturdays;
- (3) no work on Sundays and public holidays.

Works may be undertaken outside these hours where:

- (1) the delivery of materials is required outside these hours by the Police or other authorities;
- (2) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
- (3) the work is approved through the Construction Noise and Vibration Management Plan; and

- (4) residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

Compliance

D5 Compliance Report

The Applicant, or any party acting upon this consent, shall, for the duration of construction period, submit to the Department a three monthly report addressing compliance with all relevant conditions of this consent.

PART F—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE***Engineering******F1 Fire Safety Certificate***

A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of an Occupation Certificate. A copy of the Fire Safety certificate must be submitted to the consent authority and Council by the PCA.

F2 Mechanical Ventilation

Following completion, installation and testing of all the mechanical ventilation systems, the applicant shall provide evidence to the satisfaction of the PCA, prior to the issue of the Occupation Certificate, that the installation and performance of the mechanical systems complies with:

- (1) The Building Code of Australia;
- (2) Australian Standard AS1668 and other relevant codes;
- (3) The development consent and any relevant modifications; and,
- (4) Any dispensation granted by the New South Wales Fire Brigade.

F3 Structural Inspection Certificate

A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the PCA prior to the issue of an Occupation Certificate and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact consent authority for specific electronic format) shall be submitted to the consent authority and the Council after:

- (1) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final Design Drawings; and,
- (2) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

PART G—POST OCCUPATION

Fire Safety

G1 Annual Fire Safety Certification

The owner of the building shall certify to Council every year that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. This purpose of this condition is to ensure that there is adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

Noise

G2 Hours of Operation

The hours of operation shall be restricted to between:

Day	Commencement time	Cessation time
Monday	7.00am	11.00pm
Tuesday	7.00am	11.00pm
Wednesday	7.00am	11.00pm
Thursday	7.00am	11.00pm
Friday	7.00am	11.00pm
Saturday	7.00am	11.00pm
Sunday	7.00am	11.00pm
Public Holidays	7.00am	11.00pm

G3 Operating Hours – Service Access

No trucks or heavy machinery are to enter or leave the development area outside the hours of 7.00am and 1.00pm on Saturdays. No truck or heavy machinery are to enter or leave on Sundays or Public Holidays.

Public Access

G4 Public Way to be Unobstructed

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances.

Compliance

G5 Compliance Report

The Applicant, or any party acting upon this consent, shall submit to the Department a three monthly report addressing compliance with all relevant conditions of this consent.

ADVISORY NOTES

AN1 *Sydney Water*

An application shall be made to Sydney Water for a Certificate under Part 6, Division 9, Section 73 of the *Water Board (Corporatisation) Act, 1994* (Compliance Certificate). Evidence that a Compliance Certificate has been applied for (i.e. Notice of Requirements) shall be produced to the satisfaction of the PCA prior to the issue of a Construction Certificate. The Section 73 Certificate shall be submitted to the PCA prior to the occupation of the development or release of the linen plan.

AN2 *Requirements of Public Authorities for Connection to Services*

The applicant shall comply with the requirements of any public authorities (e.g. Energy Australia, Sydney Water, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the applicant. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the PCA prior to the issue of the Construction Certificate.

AN3 *Compliance with Building Code of Australia*

The applicant is advised to consult with the PCA about any modifications needed to comply with the BCA prior to submitting the application for a Construction Certificate.

AN4 *Structural Capability for Existing Structures*

The structural capabilities of an existing structure will need to meet the requirements of the BCA and may require engaging a structural engineer.

AN5 *Application for Hoardings and Scaffolding*

A separate application shall be made to Council for approval under Section 68 of the *Local Government Act, 1993*, to erect a hoarding or scaffolding in a public place. Such an application shall include:

- (1) Architectural, construction and structural details of the design in accordance with Council's Policy.
- (2) Structural certification prepared and signed by an suitably qualified practising structural engineer.

The applicant shall provide evidence of the issue of a Structural Works Inspection Certificate and structural certification shall be submitted to the satisfaction of the PCA prior to the commencement of works.

AN6 *Movement of Trucks Transporting Waste Material*

The applicant shall notify the Roads and Traffic Authority's Traffic Management Centre (TMC) of the truck route(s) to be followed by trucks transporting waste material from the site, prior to the commencement of the removal of any waste material from the site.

AN7 *Construction Inspections*

Compliance certificate/s shall be issued by the Principal Certifying Authority and submitted to Council in accordance with the mandatory inspection requirements of the *Building Legislation Amendment—Quality of Construction Act, 2002* for each stage of construction, such as the following:

- (1) Foundations,
- (2) Footings,
- (3) Damp proof courses and waterproofing installation,
- (4) Structural concrete, including placing of reinforcement and formwork prior to pouring,
- (5) Structural beam and column framing,
- (6) Timber wall and roof framing, and
- (7) Stormwater disposal.

Any Compliance Certificate issued for the above stages of construction shall certify that all relevant ancillary or dependent work has been undertaken in accordance with the Building Code of Australia and any other conditions of consent.

AN8 Noise Generation

Any noise generated during the construction of the development shall not exceed the limits specified in the *Protection of the Environment Operations Act, 1997* or exceed approved noise limits for the site.

AN9 Compliance with Conditions

The applicant will be required to submit, documentary evidence that the property has been developed in accordance with plans approved by Development Application No.396-8-2003 and of compliance (or a Compliance Certificate) with the conditions of that consent, prior to the issuing of Strata Plan of Subdivision.

AN10 Street Numbering

Street numbers and the building name(s), if any, will need to be clearly displayed at either end of the ground level frontages in accordance with Council's Policy, prior to the occupation of the building(s) or commencement of the use.

If street numbers or a change to street numbers are required, a separate application shall be made to Council.