

NOTICE OF DETERMINATION – REFUSAL issued under Section 80(1)(b) of the Environmental Planning and Assessment Act 1979

Development Application No. D/2013/1816

Applicant RIVERDALE SQUARE PTY LTD
12-16 Challis Ave
POTTS POINT NSW 2011

Land to be developed 12-16 CHALLIS AVENUE, POTTS POINT
LOT 1 DP 103410, LOTS 1-8 SP 65264

Proposed development Use of the footway on Challis Avenue adjacent to 'Fratelli Paradiso' to place 14 chairs, 9 tables, 2 gas heaters and 2 barriers between the hours 7:00am and 11:00pm Monday to Saturday and 7:00am to 10:00pm Sunday.

Cost of development Nil.

Determination The application was determined under delegation of Council and was **refused** consent.

Date of refusal 18 February 2014

Reasons for refusal

1. The application is inconsistent with the aim 2(h) in Clause 1.2 of Sydney Local Environmental Plan 2012 as the proposal does not enhance the amenity and quality of life of local communities.
2. The application fails to satisfy the objectives and provisions within Sydney DCP 2012 3.15 Late Night Trading Management. The proposal does not comply with the extended outdoor area trading hours for local centre trading areas.
3. The application fails to satisfy Sydney DCP 2012 3.15.4(3) with regard to the management of the outdoor seating during the current trial period. A number of substantiated incidents investigated by Council during the last 12 months have demonstrated that the ongoing management of the footway by the restaurant has been unsatisfactory.
4. The proposed number of tables and chairs in the footway is inconsistent with the City of Sydney Café Policy 2001. The proposal would result in an over congested seating area and would be likely to adversely impact upon the safety and convenience of both patrons and pedestrians.
5. The proposal is not in the public interest.

Right of appeal

If you are dissatisfied with this decision, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within six (6) months after the date on which you receive this notice.

Section 82A of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination. The request must be made in writing (or on the review application form) together with payment of the appropriate fee. The review must be lodged and determined within six (6) months of the date in which you received this notice.

Note: To enable the section 82A review to be considered within the six (6) month time frame prescribed under the Environmental Planning and Assessment Act 1979, it is advisable to lodge the application for review under Section 82A as soon as possible (within 4 months) to facilitate the statutory timeframes.

Section 82A does not apply to complying development, designated development, integrated development or a determination made by Council under Division 4 in respect of Crown applications.

GRAHAM JAHN

Director - City Planning, Development & Transport