

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA19/0314
Description of development:	Demolition of Existing Structure and Construction of a Three (3) Storey Boarding House containing 12 Boarding Rooms with At Grade Car Parking
Classification of development:	Class 3

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 15B DP 344265
Property address:	77 Lethbridge Street, PENRITH NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	NF Billyard Pty Ltd PO Box 32 OATLANDS NSW 2117
-----------------	---

DECISION OF CONSENT AUTHORITY

Penrith Council has determined to refuse consent to the subject development application. In accordance with Section 4.18(1) (a) of the Environmental Planning and Assessment Act 1979, the reasons for refusal are in Attachment 1.

Date of this decision	10 July 2019
-----------------------	--------------

POINT OF CONTACT

If you have any questions regarding this determination you should contact:

Assessing Officer:	Kathryn Saunders
Contact telephone number:	+612 4732 8567

NOTES

Reasons

The reasons for refusal in the attached schedule have been imposed in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 as amended.

Reasons for refusal

Your attention is drawn to the attached reasons for refusal in attachment 1.

Review of determination

The applicant may request Council to review its determination pursuant to Division 8.2 of the Environmental Planning and Assessment Act 1979 within six months of receiving this Notice of Determination.

These provisions do not apply to designated development, complying development or crown development pursuant to Section 8.2(2) of the Environmental Planning and Assessment Act 1979.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within six months of receiving this Notice of Determination.

There is no right of appeal to a decision of the Independent Planning Commission or matters relating to a complying development certificate pursuant to clause 8.6(3) of the Environmental Planning and Assessment Act 1979.

Designated development

If the application was for designated development and a written objection was made in respect to the application, the objector can appeal against this decision to the Land and Environment Court within 28 days after the date of this notice.

If the applicant appeals against this decision, objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 28 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

Sydney Western City Planning Panels

If the application was decided by the Sydney Western City Planning Panel, please refer to Section 2.16 of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

SIGNATURE

Name:	Kathryn Saunders
Signature:	

For the Development Services Manager

ATTACHMENT 1 : REASONS FOR REFUSAL

1. The application is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as the proposal is inconsistent with the provisions of Penrith Local Environmental Plan 2010 as follows:
 - (I) Clause 1.2 Aims of the Plan - The proposal is inconsistent with the aims of the plan in relation of promotion of development consistent with Council's vision for Penrith and the safeguarding of residential amenity.
 - (ii) Clause 2.3 Zone Objectives - The proposal is inconsistent with the objectives of the R4 High Density Residential zone, specifically:
 - the proposed boarding house is not considered to ensure that a high level of residential amenity is achieved and maintained;
 - the proposed boarding house does not ensure that the development will reflect the desired future character of the area; and
 - the proposal is not considered to enhance the essential character and identity of established residential areas.
 - (iii) Clause 7.4 Sustainable Development - The proposal is inconsistent with the principles of sustainable design, particularly in relation to (b), (c), (d), (e) and (g) of Clause 7.4 of the LEP.
2. The application is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as follows; The proposal is inconsistent with the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 as the development application does not comply with Part 2, Division 3, Clause 29 Standards that cannot be used to refuse consent (2)(b) Landscaped area, (c) Solar access and (f) Accommodation size and Clause 30A Character of Local Area.
3. The development application is not satisfactory for the purpose of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, as the proposal is inconsistent with the following provisions of Penrith Development Control Plan 2014 in that the application has not satisfied Council with respect to the requirements under:
 - Part B - 'DCP Principles',
 - Section C1 'Site Planning and Design Principles',
 - Section C2 'Vegetation Management',
 - Section C5 'Waste Management',
 - Section C6 'Landscape Management',
 - Section C12 'Noise and Vibration',
 - Section D2.4 'Residential - Multi Dwelling Housing', and
 - Section D5.11 'Boarding Houses'.
4. The development application is not satisfactory for the purpose of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* in terms of the likely impacts of that development including those related to:
 - (i) negative streetscape and local character impacts;
 - (ii) noise and privacy impacts;
 - (iii) waste management;
 - (iv) landscaping, setbacks and site coverage
 - (v) negative impacts on residential amenity;
 - (vi) energy efficiency and sustainability;

- (vii) negative social and economic impacts
- (viii) solar access and overshadowing;
- (ix) site isolation.

5. The application is not satisfactory for the purpose of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979* as the site is not suitable for the scale of the proposed development.
6. Based on the above deficiencies and submissions received, approval of the proposed development would not be in the public interest (pursuant to Section 4.15(1)(d) of the *Environmental Planning and Assessment Act 1979*).
7. The application is not satisfactory for the purpose of Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, as the proposal is not in the public interest.