

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA14/1545
Description of development:	Recreation Facility - Flyboarders (Nepean River)
Classification of development:	N/A

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 2 DP 579647 Lot 4 DP 579648 Lot 31 DP 1074554
Property address:	32 a Bruce Neale Drive, PENRITH NSW 2750 32 Bruce Neale Drive, PENRITH NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	Sydney Flyboarders 1 Burns Close ROOTY HILL
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DECISION OF CONSENT AUTHORITY

In accordance with Section 81(1) (a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

Date from which consent operates	11 June 2015
Date the consent expires	11 June 2017
Date of this decision	5 June 2015

POINT OF CONTACT

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

Assessing Officer:	Belinda Borg
Contact telephone number:	(02) 4732 7505

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 80A of the Environmental Planning and Assessment Act 1979 as amended.

Conditions

Your attention is drawn to the attached conditions of consent in attachment 1.

Certification and advisory notes

You should also check if this type of development requires a construction certificate in addition to this development consent

It is recommended that you read any Advisory Note enclosed with this notice of determination.

Review of determination

The applicant may request Council to review its determination pursuant to Section 82A of the Environmental Planning and Assessment Act 1979 within 6 months of receiving this Notice of Determination.

You cannot make this request if the development is Designated Development, Integrated Development or State Significant development or if the application was decided by a Joint Regional Planning Panel.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within six (6) months of receiving this Notice of Determination.

You cannot appeal if a Commission of Inquiry was held for the subject development application, or if the development is a State Significant Development.

An appeal to the Land and Environment Court is made by lodging an application to the Court in accordance with the Rules of the Court.

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. The objector cannot appeal if a Commission of Inquiry was held.

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.

Joint Regional Planning Panels

If the application was decided by a Joint Regional Planning Panel, please refer to Section 23H of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

- 1 The development must be implemented substantially in accordance with the plans and details stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

- 2 The use subject of this consent must be commenced within two (2) years of the date of determination. Evidence is to be provided to Penrith Council indicating the date of commencement of the use.

The use subject of this consent is limited to a period of 18 months from commencement of operations. Prior to the expiry date of this consent, the applicant will be required to submit a new development application for any continuance of the use.

Council is to be notified in writing of the commencement of operations.

- 3 The operating hours are from 9am to 6:30pm, Saturday to Sunday and 7 days a week during school and public holidays.

- 4 Prior to the commencement of the use, a Plan of Management is to be prepared in consultation with the Nepean Rowing Club New South Wales Rowing and Sydney International Regatta Centre. The to ensure the operation of the Charter and Tourism Boating Facility does not conflict or interfere with rowing events to be held on the Nepean River. Priority is to be given to the rowers on the river at all times.

- 5 Prior to the commencement of the use, an operational plan is to be prepared and submitted to Council for approval, which includes, but is not limited to the following details:
 - Plans detailing the users of the fly boards are limited to an area adjacent to the existing landing and outside of the existing rowing lanes within the Nepean River. The area is to be marked through the use of buoys.
 - Details of the placement of the marker buoys within the Nepean River and their subsequent removal during a major rowing event.
 - Details relating to the operation of the Charter and Tourism Boating Facility without limiting access to the existing landing for other users of the Nepean River.
 - Details of sales and management of the Charter and Tourism Boating Facility within the pontoon area.
 - Procedures for the movement of the fly boards from the storage trailer to the existing landing.
 - Safety procedures to protect the users of the fly boards, including access to a safety boats to assist in the rescue/ return of the fly boards.

- 6 The operation of amplified music is not permitted in conjunction with the Charter and Tourism Boating Facility.

- 7 Life jackets are to be worn by hirers at all times when on the fly boards.

- 8 The fly boards, buoys and associated tent and tables and chairs are to be removed from the Nepean River at the end of each day.

No pontoon is to be erected and at no time are fly boards to be stored on the banks of the Nepean River or within the adjoining reserve.

- 9 The Charter and Tourism Facility is not to operate during times of flood or any significant rise in river height.

- 10 The operation of the Charter and Tourism Facility is limited to the indicated 50m x 50m zone, marked by temporary buoys when in use.
- 11 The operation of the Charter and Tourism Facility is not to result in the exclusive use of the existing landing at any time. The landing is to remain unobstructed to allow other users to gain access to the river.
- 12 The area of operation shall be maintained in a clean and tidy manner and is to be manned by an employee of the business at all times to ensure the security of the customer's valuables whilst using the fly boards.
- 13 An Aquatic Licence from the NSW Roads and Maritime Service is to be obtained prior to the commencement of operations. The fly boards are not permitted to operate in NSW navigable waters without an Aquatic Licence from RMS.

A copy is to be submitted to Penrith Council.

- 14 Prior to Operation an Acoustic Report addressing the noise impacts on the Nepean Rowing Club (including the outdoor terrace), recreational spaces (including those adjacent to Bruce Neale Drive and Weir Reserve) and the nearest residential receivers is required to be submitted to Council. This Acoustic Report is to be prepared by a suitably qualified Acoustic Consultant in accordance with the requirements of the NSW Industrial Noise Policy. Proposed Operational Hours and noise mitigation measures are to be included in a Noise Management Plan.

Environmental Matters

- 15 A plan detailing spill prevention, contingency and emergency clean-up procedures for the activity shall be submitted to Council prior to operation. The approved procedures plan shall be implemented in the event of a spill or emergency.
- 16 All waste generated onsite by the flyboarding activity, participants, spectators and instructors is to be removed off site and to be disposed of to a licensed waste management facility.
- 17 Refueling shall only take place in a secured, bunded area.

Operation of OSSM

- 18 A recreational water quality monitoring program and strategy is to be developed for the defined recreational waters in accordance with the NHMRC *Guidelines for Managing Risks in Recreational Water 2008*. The program shall be based on a risk assessment and include routine monitoring of the chemical, physical and bacteriological qualities of the water. The plan shall also include, but not be limited to, a quality assurance program, contingencies where sampling and analysis identifies non compliances with the guidelines, data analysis and recording, and reporting procedures.

The plan shall be completed by an appropriately qualified person and be submitted to Penrith City Council for approval prior to the activity commencing.

19 A risk based assessment shall be completed by an appropriately qualified person of the defined recreational water area, for the proposed use, in accordance with the NHMRC *Guidelines for Managing Risks in Recreational Water 2008*. The assessment shall be completed in accordance with appendix one to four of this guideline.

The assessment shall be submitted to Penrith City Council for approval prior to the activity commencing.

SIGNATURE

Name:	Belinda Borg
Signature:	

For the Development Services Manager