

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA19/0768
Description of development:	Colorbond Garage
Classification of development:	Class 10a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot B DP 399693
Property address:	426 - 430 Londonderry Road, LONDONDERRY NSW 2753

DETAILS OF THE APPLICANT

Name & Address:	M A Camilleri 25 Whites Road SHANES PARK NSW 2747
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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	30 November 2020
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POINT OF CONTACT

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

Assessing Officer:	Luke Caruana
Contact telephone number:	+612 4732 7553

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 twelve 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 twelve 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 56 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 56 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:	Luke Caruana
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 as the proposal is inconsistent with the following Environmental Planning Instruments:
 - State Environmental Planning Policy No. 55 Remediation of Land:
 - When determining a development application for any development of land, Clause 7 of SEPP 55 requires that Council consider 'if the land is contaminated' and 'if the land is contaminated, it is satisfied that the land is suitable in its contaminated state, (or will be suitable, after remediation) for the purpose for which the the development is proposed'.
2. The application is not satisfactory for the purpose of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act as the proposal is inconsistent with the following provisions of Penrith Development Control Plan (DCP) 2014:

The application has not satisfied Council with respect to the requirements under Parts C4 'Land Management' and C5 'Waste Management' of the DCP.
3. The application is not satisfactory for the purpose of Section 4.15(1)(b) of the Environmental Planning and Assessment Act in terms of the likely impacts of the development including those related to:
 - Negative impacts related to the occupants use of the site considering the unclear nature and potential contamination of unauthorised fill on site.
4. The application is not satisfactory for the purpose of Section 4.15(1)(c) of the Environmental Planning and Assessment Act as the site is not suitable for the following reasons:
 - The application failed to address the nature and potential contamination of the unauthorised fill.
5. 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.