

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA13/1402.01
Description of development:	Modifications to Temporary Use of Site as Function Centre
Classification of development:	N/A

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 10 DP 615085 Lot 11 DP 615085 Lot 2 DP 541825
Property address:	1041 - 1117 Mulgoa Road, MULGOA NSW 2745

### DETAILS OF THE APPLICANT

Name & Address:	T Lawson 1147 Mulgoa Road MULGOA NSW 2745
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### DECISION OF CONSENT AUTHORITY

Penrith Council has determined to refuse to grant consent to the subject development application. In accordance with Section 81(1) (a) of the Environmental Planning and Assessment Act 1979, the reasons for refusal to grant consent are in Attachment 1.

Date of this decision	15 June 2016
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### POINT OF CONTACT

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

Assessing Officer:	Wendy Connell
Contact telephone number:	+612 4732 7908

## NOTES

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### Reasons

The reasons for refusal in the attached schedule have been imposed in accordance with Section 80A 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.

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.

## SIGNATURE

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Name:	Wendy Connell
Signature:	

For the Development Services Manager

## ATTACHMENT 1 : REASONS FOR REFUSAL

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1. The application is not satisfactory for the purpose of Section 96(1A) of the Environmental Planning and Assessment Act 1979 as the consent has lapsed and cannot be modified.

The application has not addressed the requirements of Section 96(1A) of the Environmental Planning and Assessment Act 1979 and whether the proposal is substantially the same development as originally approved rendering the proposal a prohibited land use.

2. The application is not satisfactory for the purpose of Section 79C(1)(a)(i) of the Environmental Planning and Assessment Act as the proposal is inconsistent with the following provisions of **Local Environmental Plan 2010**:
  - Clause 1.2 aims and objectives - protect the environmental values, rural qualities and social well-being of communities.
  - Objectives of the E3 Environmental Management zone - Development should not have an adverse effect on the aesthetic value of the area or conflict with other land uses.
  - Objectives of Clause 7.18 Mulgoa Valley - protect and enhance the rural landscape of the valley and ensure traffic generating development does not adversely affect the safety, efficiency and rural character of Mulgoa Road.
3. The application is not satisfactory for the purpose of Section 79C(1)(a)(iii) of the Environmental Planning and Assessment Act as the proposal is inconsistent with the following provisions of Penrith Development Control Plan 2014:
  - DCP Principles
  - D1 - Rural Land Uses
  - E9 - Mulgoa Valley
4. The application is not satisfactory for the purpose of Section 79C(1)(b) of the Environmental Planning and Assessment Act in terms of likely environmental and social impacts on the locality regarding traffic management measures.
5. The application is not satisfactory for the purpose of Section 79C(1)(c) of the Environmental Planning and Assessment Act as the site is not suitable for the proposed modified development due to its inconsistency with the existing and desired future character of the locality.
6. The application is not satisfactory for the purpose of Section 79C(1)(d) of the Environmental Planning and Assessment Act due to the matters raised in submissions which include:
  - traffic impacts - adversely affect the safe and efficient operation of Mulgoa Road
  - noise impacts - adjoining properties impacted by noise associated with previous events held on the site.