

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA20/0650
Description of development:	Rural Supplies
Classification of development:	N/A

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 63 DP 1120465
Property address:	804 - 810 Richmond Road, BERKSHIRE PARK NSW 2765

DETAILS OF THE APPLICANT

Name & Address:	S S J Bliss 804-810 Richmond Road BERKSHIRE PARK NSW 2765
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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	11 November 2021
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POINT OF CONTACT

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

Assessing Officer:	James Heathcote
Contact telephone number:	+61247328378

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:	James Heathcote
Signature:	

For the Development Services Manager

ATTACHMENT 1 : REASONS FOR REFUSAL

1. The application does not satisfy the requirements of the Biodiversity Conservation Act 2016; the Biodiversity Assessment Report inadequately addresses the impacts of the development on the critically endangered ecological communities and endangered ecological communities on the site.
2. 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 provisions of the Penrith Local Environmental Plan 2010:

(a) Aims of the Plan: The development does not satisfy the aims of the plan. The development is not of a scale appropriate for a rural zone and does not safeguard the amenity of adjoining rural-residential sites.

(b) Clause 2.3 Zone Objectives: The proposal is inconsistent with the following objectives of the RU4 Primary Production Small Lots Zone;

- To minimise conflict between land uses within this zone and land uses within adjoining zones;
- To ensure land uses are of a scale and nature that is compatible with the environmental capabilities of the land; and
- To maintain the rural landscape character of the land.

(b) Clause 5.21 Flood Planning: The application has not demonstrated the following

- That the site and proposal is compatible with the flood function and behaviour on the land.
- That the site and proposal will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties.
- That the site and proposal will not adversely affect the safe occupation and efficient evacuation of people, or exceed the capacity of existing evacuation routes, for the surrounding area in the event of a flood.
- That the site and proposal incorporates appropriate measures to manage risk to life in the event of a flood, and
- That the site will not adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.

3. 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 Chapters and provisions contained within Penrith Development Control Plan 2014:

- B - DCP Principles,
- C1 Site Planning and Design Principles,
- C2 Vegetation Management,
- C3 Water Management,
- C10 Transport, Access and Parking,
- C12 Noise and Vibration,
- C13 Infrastructure and Services,
- D1.1 Rural Character,
- D1.5 Non-Agricultural Development.

4. 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:

- (a) Noise and privacy impacts,
- (b) Onsite sewage management impacts,
- (c) Flooding impacts,
- (d) Traffic, parking and access,
- (e) Vegetation impact,

(f) Amenity impacts on adjoining properties.

5. 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 proposed development for the following reasons:
 - The proposed use has not satisfactorily demonstrated that the proposal has achieved the objectives of the RU4 zone;
 - The design of the development and its presentation is not considered to be compatible with, nor complementary to, the character of the local area or the future desired character of the area;
 - The proposal does not adequately demonstrate that impacts related to local character, on-site drainage and effluent disposal, noise and amenity is appropriately mitigated against nor addressed through the design of the development;
 - The application has not demonstrated the appropriate preservation of vegetation on site with inadequate detail of services on site.
 - The application has not detailed sufficient on-site car parking areas, nor demonstrated through a traffic assessment that the site can accommodate customer flows accessing the site.
 - The proposal was unable to demonstrate that a compliant onsite waste water system could be achieved on the site.
 - The proposal includes unauthorised works that have impacted on local overland flow and flooding behaviour in the local area.
6. The application is not satisfactory for the purpose of Section 4.15(1)(d) & (e) of the Environmental Planning and Assessment Act as the proposal is not in the public interest due to issues and matters raised in submissions relevant to the proposal in relation to unauthorised works, inadequate storm water drainage and associated flood impacts.