

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA18/0860
Description of development:	Demolition of Existing Structures & Construction of a Six (6) Storey Residential Flat Building including 17 Apartments & Two (2) Levels of Basement Car Parking
Classification of development:	Class 2 , Class 7a

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 2B DP 161921
Property address:	1 Station Lane, PENRITH NSW 2750

### DETAILS OF THE APPLICANT

Name & Address:	A Saouma PO Box 84 Merrylands Nsw 2160
-----------------	--

### 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	27 February 2019
-----------------------	------------------

### POINT OF CONTACT

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

Assessing Officer:	Lauren Van Etten
Contact telephone number:	+612 4732 8222

## 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.

### 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 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:	Lauren Van Etten
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 following provisions of Penrith Local Environmental Plan 2010 in that:
  1. The proposal is inconsistent with the aims of the plan (Clause 1.2) in particular, those relating to Council's commitment to the provision of healthy, safe communities, environmental protection and enhancement. The application fails to demonstrate how the design meets the current and emerging needs of Penrith's communities and safeguards residential amenity.
  2. The proposal is inconsistent with the zone objectives for the R4 High Density Residential zone, specifically:
    - (a) the proposal does not ensure that a high level of residential amenity is achieved and maintained; and
    - (b) the proposal does not represent or reflect the desire future character and dwelling densities of the area.
  3. Clause 4.1A Minimum Lot Size is not satisfied.
  4. Clause 4.3 Maximum Height of Buildings is not satisfied.
  5. Clause 4.6 Exceptions to Development Standards is not satisfied.
  6. Clause 7.2 Flood Planning is not satisfied.
  7. Clause 7.4 Sustainable Development is not satisfied.
  8. Clause 7.7 Servicing is not satisfied.
2. The application cannot be supported because the development standard for minimum lot size is not satisfied. The request to vary the Development standard under Clause 4.6 of the Penrith LEP does not demonstrate that compliance with the development standards is unreasonable or unnecessary, and the proposed development is not in the public interest.
3. The application cannot be supported because the development standard for maximum building height is not satisfied. The request to vary the development standard under Clause 4.6 of the Penrith LEP does not demonstrate that compliance with the development standard is unreasonable or unnecessary, and the proposed development is not in the public interest.
4. 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 following provisions of the State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development and the accompanying Apartment Design Guide in that:
  - (i) the proposal fails to demonstrate that the design is representative of the following Design Quality Principles listed under Schedule 1:
    - (a) Principle 1: Context and Neighbourhood Character
    - (b) Principle 2: Built Form and Scale
    - (c) Principle 3: Density
    - (d) Principle 5: Landscape
    - (e) Principle 6: Amenity
    - (f) Principle 7: Safety
  - (ii) the proposal does not comply with the applicable provisions of the Apartment Design Guide including the objectives and design guidance statements in particular those related to:

- (a) Communal open space provision
- (b) Public Domain Interface (as they relate to CPTED)
- (c) Deep soil zones
- (d) Visual Privacy- Separation Distances
- (e) Solar access
- (f) Landscape design
- (g) Facades
- (h) Waste management.

5. The 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:

(i) The proposal is not satisfactory having regard to the objectives and controls under Section D2 Residential Development - Residential Flat Buildings, specifically:

- (a) Part D2.5 - Residential Flat Buildings,
- (b) Part C1 Site Planning and Design Principles in particular context, amenity and streetscape character,
- (c) Part C3 Water Management,
- (d) Part C5 Waste Management,
- (e) Part C6 Landscape Design,
- (f) Part C8 Public Domain, and
- (g) Part C10 Transport, Access and Parking in particular, service vehicle parking provision.

6. The application is not satisfactory for the purpose of Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act as the proposed development was not accompanied by all of the information as required under Schedule 1 Forms of the Regulations including:

- Inadequate owner's consent has been provided relating to Lot 2B DP161921 and Lot 18 DP 1220719.

7. The application is not satisfactory for the purpose of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 due to the negative impacts likely to result from the proposed development related to:

- (i) streetscape and local character,
- (ii) limited landscaping and deep soil zones,
- (iii) traffic, access and car parking,
- (iv) bulk, scale and overbearing,
- (v) solar access and privacy,
- (vi) waste management ,
- (vii) amenity, safety and security, and
- (viii) communal open space.

8. The application is not satisfactory for the purpose of Section 4.15(c) of the Environmental Planning and Assessment Act 1979 as the site is not suitable for the scale of the proposed development and the site does not have adequate access.

9. The application is not satisfactory for the purpose of Section 4.15(1)(d) of the Environmental Planning and Assessment Act 1979 due to matters raised in received submissions which include traffic and access impacts, flooding, overdevelopment, character, overshadowing impacts, privacy loss and impacts during and post construction including damage to adjoining buildings.

10. 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.