

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA20/0717
Description of development:	Demolition of Existing Structures & Construction of a Two (2) Storey Boarding House including Basement Car Parking
Classification of development:	Class 3 , Class 7a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 53 DP 241989
Property address:	6 Edna Street, KINGSWOOD NSW 2747

DETAILS OF THE APPLICANT

Name & Address:	Design Corp - Architects 16 Dunlop Street NORTH PARRAMATTA NSW 2151
-----------------	---

DECISION OF CONSENT AUTHORITY

Penrith Local Planning Panel 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	7 April 2021
-----------------------	--------------

POINT OF CONTACT

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

Assessing Officer:	Donna Clarke
Contact telephone number:	(02) 4732 7991

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:	Gavin Cherry Development Assessment Coordinator
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 provisions of Penrith Local Environmental Plan 2010 as follows:
 - (a) The proposal is inconsistent with Clause 1.2, Aims of Plan, and the objectives of the R3 Medium Density Residential zone, particularly those related to a variety of housing types, enhancement of the local character and identity of established residential areas, provision of development that reflects the desired future character of the area and achieves and maintains a high level of residential amenity.
 - (b) The proposal is unsatisfactory having regard to the principles of sustainable development under Clause 7.4 Sustainable development.
2. 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 has not satisfied the provisions of Clause 7 of the provisions of State Environmental Planning Policy No. 55 - Remediation of Land.
3. 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 provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 as follows:
 - The development application does not provide satisfactory provision of landscaped area and is not considered to suitably respond to the local character of the area.
4. The development 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:
 - C1 Site Planning and Design Principles;
 - C2 Vegetation Management;
 - C3 Water Management;
 - C4 Land Management;
 - C5 Waste Management;
 - C6 Landscape Design;
 - C10 Transport, Access and Parking;
 - Part D2 Residential Development; and
 - Part D5, Section 5.11 Boarding houses.
5. The development application is not satisfactory for the purpose of Section 4.15(1)(a)(i) and 4.15(1)(iv) of the Environmental Planning and Assessment Act 1979, State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 and Clause 50 of the Environmental Planning and Assessment Regulation 2000 in that the application was not accompanied by a BASIX Certificate relevant to the type of development proposed, as is required by Part 1 of Schedule 1 of the Regulations. The application was not accompanied by a BASIX Certificate applicable to the type of development proposed, is BASIX affected development, and therefore does not comply with the requirement under clause 3 Aims of Policy, and clause 6 Buildings to which Policy applies.
6. The development application is not satisfactory for the purpose of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 in terms of the likely impacts of that development including those related to:
 - (i) unsatisfactory streetscape and local character impacts;

- (ii) unsatisfactory noise and privacy impacts;
- (iii) unsatisfactory traffic, parking, access and maneuvering provision;
- (iv) unsatisfactory external and internal amenity stemming from room sizes and room layouts;
- (v) unsatisfactory sustainability considerations;
- (vi) inadequate landscaping provision and setbacks; and
- (viii) inadequate Operational Plan of Management.

7. The application is not satisfactory for the purpose of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 as the site is not suitable for the proposed development. The size of the site and dimensions of the site create limitations to the driveway gradient, turning area and resultant finished floor levels relative to existing ground levels. The proposed driveway location removes a significant tree and basement clearance requirements result in a basement protrusion above natural ground level necessitating accessible ramping in the setback to Evans Street which does not provide a suitable secondary street landscape design treatment.
8. The application is not satisfactory for the purpose of Section 4.15(1)(d) and 4.15(e) of the Environmental Planning and Assessment Act 1979 due to matters raised in submissions and the public interest with respect to impacts of the development on residential amenity, local character, changing nature of the area and privacy.