

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA18/1199
Description of development:	Demolition of Existing Structures & Construction of a Two (2) Storey Boarding House containing 13 Boarding Rooms, Manager's Room & Basement Car Parking
Classification of development:	Class 3

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 55 DP 241989
Property address:	6 Edith Street, KINGSWOOD NSW 2747

DETAILS OF THE APPLICANT

Name & Address:	Gen One Group P/L PO Box 3249 NORTH PARRAMATTA NSW 2151
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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	27 February 2019
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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

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.

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:	Wendy Connell
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:

The proposal is inconsistent with the objectives of the R3 Medium Density Residential zone, specifically

- the proposed boarding house is not considered to enhance the essential character and identity of an established residential area;
- the proposed boarding house does not ensure that a high level of residential amenity is achieved and maintained; and
- the proposed boarding house does not ensure that the development will reflect the desired future character of the area.:

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 is inconsistent with the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 as follows:

The development application does not meet the performance based criteria of the guidelines relating to landscaped area within Part 2, Division 3, Clause 29(2)(b).

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 satisfy the performance based criteria of the guidelines relating to character of the communal living room Part 2, Division 3, Clause 30(1)(a).

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 provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 as follows:

The development application does not satisfy the performance based criteria of the guidelines relating to character of the local area under Part 2, Division 3, Clause 30A Character of Local Area. .

5. 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 the *State Environmental Planning Policy No. 55 - Remediation of Land*.
6. 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 Plan of Management is inconsistent with the provisions of *Schedule 2 of the Local Government (General) Regulations 2005*.
7. 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:

Part C City-wide Controls;

- C1 Site Planning and Design Principles
- C3 Water Management
- C5 Waste Management
- C6 Landscape Design
- C10 Transport, Access and Parking

Part D2 Residential:

- 2.4 Multi Dwelling Housing

Part D5 Other Land Uses;

- 5.11 Boarding Houses

8. The development application is not satisfactory for the purpose of Section 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act 1979* and Clause 54 of the *Environmental Planning and Assessment Regulation 2000* in that the consent authority requested additional information that was not submitted, being an acoustic report.
9. 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) negative streetscape and local character impacts;
 - (ii) noise and privacy impacts;
 - (iii) traffic, access and manoeuvring;
 - (iv) solar access; and
 - (v) landscaping, setbacks and site coverage;
 - (vi) stormwater management.
10. 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 scale of the proposed development.
11. Based on the above deficiencies and submissions received, approval of the proposed development would not be in the public interest for the purpose of Section 4.15(1)(d) of the *Environmental Planning and Assessment Act*.
12. 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.