

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA16/1289
Description of development:	Demolition of Existing Structures & Construction of Six (6) Storey Residential Flat Building containing 23 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 5 DP 215200
Property address:	31 Santley Crescent, KINGSWOOD NSW 2747

DETAILS OF THE APPLICANT

Name & Address:	John Christou Nifitsa Pty Ltd PO Box A102 SYDNEY SOUTH NSW 2000
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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	20 June 2017
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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 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.

Certification and advisory notes

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 Sydney West 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.

Sydney West Planning Panels

If the application was decided by the Sydney West Planning Panel, please refer to Section 18 of the Greater Sydney Commission Act 2015 and Section 23H 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 79C(1)(a)(i) of the Environmental Planning and Assessment Act as the proposal is inconsistent with Clause 28(2)(c) of the State Environmental Planning Policy No 65 Design Quality of Residential Apartment Development which requires that the consent authority take into account the provisions of the Apartment Design Guidelines.

The proposal does not comply with the following Principles of SEPP 65:

- 1. Context & Neighbourhood Character
- 2. Building Form & Scale
- 3. Density
- 4. Sustainability
- 5. Landscape
- 6. Amenity
- 7. Safety
- 9. Aesthetics

The proposal does not comply with the following provisions of the Apartment Design Guidelines:

- 3B - Orientation.
- 3F - Visual Privacy.
- 4A - Solar and Daylight Access.
- 4B - Natural Ventilation
- 4D - Apartment Size and Layout.
- 4F - Common Circulation and Spaces.
- 4M - Facades
- 4V - Water Management and Conservation
- 4W - Waste Management

2. 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:
 - Part C5 - Waste Management.
 - Part D2.5 - Residential Flat Buildings.
3. The application is not satisfactory for the purpose of Section 79C(1)(b) of the Environmental Planning and Assessment Act in terms of the following likely impacts of that development:
 - Built form, materials, aesthetic and neighbourhood character
 - Transition to adjoining properties;
 - Geotechnical Impacts;
 - Acoustic Impacts;
 - Access and Circulation; and
 - Amenity.
4. 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 development for the following reasons:
 - The design of the development is not consistent with the existing or desired future character of the area;
 - The building footprint and built form does not achieve orderly development outcomes with respect to the site area and resulting development scale; and
 - The development has not demonstrated a positive environmental outcome in terms of waste and water management.
5. The application is not satisfactory for the purpose of Section 79C(1)(d) of the Environmental Planning and Assessment Act due to matters raised in submissions.
6. The application is not satisfactory for the purpose of Section 79C(1)(e) of the Environmental Planning and Assessment Act as the proposal is not in the public interest.
7. 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 the Penrith Local Environmental Plan 2010:

- 4.3 - Height of Buildings.
- 4.6 - Exceptions to Development Standards.

Specifically it is not considered that the submitted written request with regard to Clause 4.6 of the LEP has justified that there are sufficient environmental planning grounds to justify contravening the development standard, particularly in relation to the likely amenity, built form and character impacts on adjoining allotments.

8. The application is not satisfactory for the purpose of Section 91 of the Environmental Planning and Assessment Act as it is not clear whether the proposed development is considered to be an Aquifer Interference Activity under Section 91(3) of the Water Management Act 2000 given the basement excavation work proposed and possible interference with the water table.