

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA19/0888
Description of development:	Demolition of Existing Structures & Construction of Mixed Use Development including Part Five (5) Storey & Part Six (6) Storey Building, 24 Residential Apartments, Two (2) Medical Centre Suites, Two (2) Levels of Basement Car Parking & Ancillary Civil & Landscaping Works
Classification of development:	Class 2 , Class 5 , Class 7a

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 20 DP 31239 Lot 21 DP 31239
Property address:	3 Hope Street, PENRITH NSW 2750 1 Hope Street, PENRITH NSW 2750

### DETAILS OF THE APPLICANT

Name & Address:	Morson Group Pty Ltd PO Box 170 POTTS POINT NSW 1335
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### DECISION OF CONSENT AUTHORITY

The 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	24 February 2021
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## POINT OF CONTACT

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

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

## NOTES

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### 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 (12) 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 (12) 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 Section 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, the 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 Panel

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

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Name:	Robert Craig <b>Principal Planner</b>
Signature:	

For the Development Services Manager

## ATTACHMENT 1 : REASONS FOR REFUSAL

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1. The proposal 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:
  - (a) 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.
  - (b) The proposal is inconsistent with the zone objectives for the R4 High Density Residential zone, specifically:
    - the proposal does not ensure that a high level of residential amenity is achieved and maintained; and
    - the proposal does not represent or reflect the desire future character of the area.
  - (c) Clause 4.3 - Height of Buildings is not satisfied.
  - (d) Clause 4.6 - Exceptions to Development Standards is not satisfied.
  - (e) Clause 7.4 - Sustainable Development is not satisfied.
  - (f) Clause 7.7 - Servicing is not satisfied.
2. The proposal cannot be supported because the development standard for maximum building height is not satisfied and 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.
3. The proposal is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as the proposal does not satisfy the relevant criteria within State Environmental Planning Policy No. 55 - Remediation of Land.
4. The proposal 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:
  - (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 4: Sustainability
    - (e) Principle 5: Landscape
    - (f) Principle 6: Amenity
    - (g) Principle 7: Safety
    - (h) Principle 9: Aesthetics
  - (ii) The proposal does not satisfy the applicable provisions of the Apartment Design Guide including the objectives and design guidance statements related to:

- (a) 3D-1 Communal Open Space
  - (b) 3E-1 Deep Soil Zones
  - (c) 3F-1 Visual Privacy - Separation Distances
  - (d) 4A-1 Solar Access
  - (e) 4B-1 Natural Ventilation
  - (f) 3C-2 and 4W-1 Waste Management
  - (g) 4G-1 Storage
  - (h) 4M-1 Building Facades
  - (i) 4D-2 Room Depth
  - (j) 4V-2 Water Quality
5. The proposal 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:
- (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
  - (g) Part C10 Transport, Access and Parking
  - (h) Part C12 Noise and Vibration
6. The proposal is not satisfactory for the purpose of Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979 as the proposed development was not accompanied by all of the information as required under Schedule 1 Forms of the Regulations, including inadequate information with respect to stormwater, water quality, waste, acoustics, manoeuvring and building design, and due to inconsistencies between documentation and plans.
7. The proposal 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, local character and urban design
  - (ii) traffic, access and car parking
  - (iii) solar access and privacy
  - (iv) waste management
  - (v) amenity, safety and security
  - (vi) communal open space
  - (vii) landscaping
  - (viii) drainage and water quality
  - (ix) land contamination
  - (x) acoustics
8. The proposal 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 public submissions which include disruption to use of the helipad and for emergency vehicles at the nearby Nepean Hospital.
9. The proposal 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.