

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA18/0892
Description of development:	Demolition of Existing Structures & Construction of Two (2) Storey Specialist Disability Permanent Group Home
Classification of development:	Class 3

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 14 DP 237831
Property address:	12 Manning Street, KINGSWOOD NSW 2747

DETAILS OF THE APPLICANT

Name & Address:	H Bazouni Suite 5, 1-9 Palmer Street PARRAMATTA NSW 2150
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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	6 March 2019
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POINT OF CONTACT

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

Assessing Officer:	Gemma Bennett
Contact telephone number:	+612 4732 8285

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

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:	Gemma Bennett
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 as the application has not demonstrated compliance with clause 6 of the State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 in that a BASIX certificate has not accompanied the development application.
2. The application is not satisfactory for the purpose of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act as the proposal is inconsistent with the following provisions:

Penrith Local Environmental Plan 2010

Clause 1.2 Aims of the plan

Clause 2.3 Objectives of the zone

Clause 5.10 Heritage conservation

Clause 7.1 Earthworks

Clause 7.4 Sustainable development

3. The application is not satisfactory for the purpose of Section 4.15(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 B DCP Principles

Part C1 Site Planning and Design Principles

Part C3 Water Management

Part C4 Land Management

Part C5 Waste Management

Part C6 Landscape Design

Part C7 Culture and Heritage

Part D2 Residential Development

4. The application is not satisfactory for the purpose of Section 4.15(1)(b) of the Environmental Planning and Assessment Act in terms of:
 - The application is likely to result in unacceptable site disturbance.
 - The bulk and scale of the development is inconsistent with the existing and desired future character of the locality.
 - The impacts on the heritage item adjacent to the subject site has not been adequately addressed.
 - The application has not demonstrated that the development is suitable in respect to achieving acceptable noise levels.
 - The application has not demonstrated that the development provides adequate solar access to the subject property.
 - The application has not demonstrated that stormwater and waste will be sufficiently managed on the site.
5. The application is not satisfactory for the purpose of Section 4.15(1)(c) of the Environmental Planning and Assessment Act 1979 as it has not been sufficiently demonstrated that the site is suitable for the proposed development due to its size and proportions, excavation, front setback and potential adverse impacts on surrounding land.
6. The application is not satisfactory for the purpose of Section 4.15(1)(d) of the Environmental Planning and Assessment Act due to matters raised in submissions which include carparking, traffic, social impact, character and amenity concerns.
7. The application is not satisfactory for the purpose of Section 4.15(1)(e) of the Environmental Planning and Assessment Act as the proposal is not in the public interest.