

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

|                                |   |
|--------------------------------|---|
| Application number:            | DA19/0705   |
| Description of development:    | Demolition of Existing Structures and Construction of a Two Storey Boarding House Containing 12 Boarding Rooms, a Manager's Room and Basement Car Parking |
| Classification of development: | Class 3 , Class 7a  |

### 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: | Liquid Gold 888 Pty Ltd<br>C/- Think Planners<br>PO Box 121<br>WAHROONGA NSW 2076 |
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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 | 28 November 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

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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 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

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|            |               |
|------------|---------------|
| Name:      | Gemma Bennett |
| Signature: |               |

For the Development Services Manager

## ATTACHMENT 1 : REASONS FOR REFUSAL

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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:
  - (i) Clause 1.2 Aims of the Plan - The proposal is inconsistent with the aims of the plan in relation to promotion of development consistent with Council's vision for Penrith, ensuring protection of the environment and the health and safety of the community, and ensuring that the development incorporates the principles of sustainable development.
  - (ii) Clause 2.3 - The proposal is inconsistent with the objectives of the R3 Medium Density Residential zone, particularly:
    - (a) the proposal is not considered to enhance the essential character and identity of established residential areas,
    - (b) the proposed boarding house does not ensure a high level of residential amenity is achieved and maintained, and
    - (c) the proposed boarding house does not ensure provision of development that reflects the desired future character and dwelling densities of the area.
  - (iii) Clause 7.4 Sustainable Development - The proposal does not demonstrate that the principles of sustainable development have been appropriately incorporated into the design.
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:
  - (i) Clause 29 (2)(b) Landscaped area, and
  - (ii) Clause 30A Character of local area.
3. 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:
  - (i) Part B - 'DCP Principles',
  - (ii) Section C1 'Site Planning and Design Principles',
  - (iii) Section C3 'Water Management',
  - (iv) Section C4 'Land Management',
  - (v) Section C5 'Waste Management',
  - (vi) Section C6 'Landscape Design',
  - (vii) Section C10 'Transport, Access and Parking',
  - (viii) Section C13 'Infrastructure and Services',

(ix) Section D2.4 'Residential - Multi Dwelling Housing', and

(x) Section D5.11 Boarding Houses'.

4. 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) Insufficient landscaping,

(iii) Amenity impacts for adjoining neighbours, in particular acoustic privacy and overshadowing,

(iv) Insufficient stormwater and waste servicing of the site, and

(v) Negative social and economic impacts.

5. 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, the design is not compatible with the character of the local area, the proposal does not adequately address acoustic amenity impacts resulting from the scale and use of the building on the site, or propose site contamination and remediation works required to make the site suitable for the proposed use.
6. Based on the above deficiencies and submissions received, approval of the proposed development would not be in the public interest pursuant to Section 4.15(1)(d) of the *Environmental Planning and Assessment Act 1979*.
7. 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*.
8. 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 Regional Environmental Plan No. 20 - Hawkesbury-Nepean River (No 2-1997)*.