

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

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| Application number: | DA21/0691 |
| Description of development: | Construction of Boarding House containing 69 Boarding Rooms & Manager's Room with Two Levels of Basement Parking & Associated Works |
| Classification of development: | Class 1b |

DETAILS OF THE LAND TO BE DEVELOPED

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| Legal description: | Lot 5 DP 1605 Lot 6 DP 1605 |
| Property address: | 10 Railway Street, WERRINGTON NSW 2747 11 Railway Street, WERRINGTON NSW 2747 |

DETAILS OF THE APPLICANT

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| Name & Address: | Level Architects 55 Grafton Street BONDI JUNCTION NSW 2022 |
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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.

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| Date of this decision | 24 November 2021 |
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POINT OF CONTACT

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

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| Assessing Officer: | Pukar Pradhan |
| Contact telephone number: | +61247327726 |

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.

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 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 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 56 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 56 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: | Pukar Pradhan |
| 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:
 - Clause 2.3 Zone objectives: The proposal is inconsistent with the following objectives of the R3 Medium Density Residential zone:
 - To provide the housing needs of the community within a medium density environment;
 - To enhance the essential character and identity of established residential areas;
 - To ensure that a high level of residential amenity is achieved and maintained; and
 - To ensure that development reflects the desired future character and dwelling densities of the area.
 - Clause 4.3 Height of Buildings: The proposal is non-compliant with the maximum height of the building allowed for the site.
 - Clause 4.6 Exceptions to development standards: The written request provided by the applicant to contravene the maximum height of the building standard in Clause 4.3 (2) of Penrith Local Environmental Plan 2010 under Clause 4.6 of that Plan, does not demonstrate that compliance with the development standard is unreasonable or necessary in the circumstances and that there are sufficient environmental planning grounds to justify contravening the development standard.
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 - The development is not in the public interest because it is not consistent with the objectives of the standard or the objectives of the zone.
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:

 - Part 2, Division 3, Clause 29 (2)(a) Building Height
 - Part 2 Division 3, Clause 29 (2)(c) Solar Access
 - Part 2, Division 3, Clause 29(2)(e) Parking
 - Part 2, Division 3, Clause 30A Character of local area
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 :

The provisions of State Environmental Planning Policy No. 55 - Remediation of Land as follows:

 - the application does not provide sufficient information to demonstrate the contamination status of the site.
4. 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:
 - Chapter C1 Planning and Design Principles
 - Chapter C3 Water Management
 - Chapter C5 Waste Management and accompanying Waste Management Guideline

- Chapter C10 Transport, Access and Parking
 - Chapter C12 Noise and Vibration
 - Chapter D2 Residential Development
 - Chapter D4 Other Land Uses
5. 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 likely impacts of the development, including:
- The design and scale of the proposed development is not compatible with the existing and desired future character of the immediate locality.
 - The proposal provides inadequate landscaped setbacks to provide quality planting along side boundaries, to assist in providing visual buffer and an appropriate landscape treatment of the site which suitably integrates the development into the existing local character, and that maintains surrounding residential amenity,
 - The proposal provides an inadequate design of the car parking areas/driveway, being insufficient for proper and safe manoeuvring within the development site.
 - The development is an over-development of the site.
 - The stormwater drainage design is unacceptable, as the site falls to the rear, requiring an easement along the rear adjoining property for drainage to be in accordance with Council requirements.
 - The accompanying Acoustic Assessment report provides insufficient information, as the report does not provide details of internal noise management of the patrons and mechanical ventilation's expected noise levels within the basement area of the development. As such, Council is unable to be satisfied that the noise levels associated with the use of these areas will comply with relevant noise criteria.
 - Poor amenity in relation to ceiling heights, manager's room and the quality and location of the common room.
6. 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 this proposed development.
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 would create an undesirable precedent and is therefore not considered to be in the public interest.