

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA19/0432
Description of development:	Demolition of Existing Structures and Construction of a Two Storey, Childcare Centre and Associated Carpark and Landscaping Works
Classification of development:	Class 9b

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 114 DP 1687
Property address:	49 Gibbes Street, REGENTVILLE NSW 2745

### DETAILS OF THE APPLICANT

Name & Address:	Envision Group Pty Ltd PO Box 3371 WETHERILL PARK NSW 2164
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### DECISION OF CONSENT AUTHORITY

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	23 October 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 following provisions:

### **State Environmental Planning Policy Educational Establishments and Child Care Centre) 2017**

Clause 23 *Centre based child care facility- matters for consideration by consent authorities.*

The application is not satisfactory in respect to the following provisions of the Child Care Planning Guideline dated August 2017:

- Part 3.1 Site Selection and Location
- Part 3.2 Local Character, streetscape and the public domain interface
- Part 3.3 Building orientation, envelope and design
- Part 3.4 Landscaping
- Part 3.5 Visual and acoustic privacy
- Part 3.8 Traffic, parking and pedestrian circulation
- Part 4.8 Emergency and evacuation procedures

### **Penrith Local Environmental Plan 2010**

- Clause 1.2 Aims of the plan
- Clause 2.3 Objectives of the zone
- Clause 7.4 Sustainable development

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 C1 Site Planning and Design Principles
- Part C5 Waste Management
- Part C6 Landscape Design
- Part C10 Traffic, Access and Parking
- Part C12 Noise and Vibration
- Part D2.6 Non Residential Development
- Part D5.2 Child Care Centres

3. The application is not satisfactory for the purpose of Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act as the proposal has not demonstrated that it meets the standards required by the Food Regulation 2015, Public Health Regulation 2012 and Protection of the Environment (General) Operations Regulation 2009 in relation to kitchen, bottle preparation areas and waste storage as prescribed.
4. The 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 environmental impacts on both the natural and built environments, and social and economic impacts on the locality, including:
  - The proposed built form and extensive carpark is inconsistent with the prevailing low density residential character of the setting.
  - The application has not demonstrated that the development is satisfactory in regards to achieving acceptable noise levels.
  - The proportion of the front setback area proposed for carpark use limits the provision of landscaping and replacement tree planting.
  - The number of car parking spaces provided does not cater for the number of staff to be employed at the centre.
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, setbacks and potential adverse impacts on surrounding land.

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*.