

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA15/0407
Description of development:	Demolition of Existing Structures & Construction of Six (6) Storey Residential Flat Building containing 45 Apartments & Basement Car Parking
Classification of development:	Class 2 , Class 7a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 31 DP 2296 Lot 30 DP 2296
Property address:	43 Barber Avenue, PENRITH NSW 2750 41 Barber Avenue, PENRITH NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	J S Architects Pty Ltd PO Box 6967 BAULKHAM HILLS NSW 2153
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DECISION OF CONSENT AUTHORITY

Penrith Council has determined to refuse to grant consent to the subject development application. In accordance with Section 81(1) (a) of the Environmental Planning and Assessment Act 1979, the reasons for refusal to grant consent are in Attachment 1.

Date of this decision	31 August 2016
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POINT OF CONTACT

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

Assessing Officer:	Kathryn Saunders
Contact telephone number:	+612 4732 8567

NOTES

Reasons

The reasons for refusal in the attached schedule have been imposed in accordance with Section 80A 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 Section 82A of the Environmental Planning and Assessment Act 1979 within 6 months of receiving this Notice of Determination.

You cannot make this request if the development is Designated Development, Integrated Development or State Significant development or if the application was decided by a Joint Regional Planning Panel.

Appeals in the Land and Environment Court

The applicant can appeal against this decision in the Land and Environment Court within six (6) months of receiving this Notice of Determination.

You cannot appeal if a Commission of Inquiry was held for the subject development application, or if the development is a State Significant Development.

An appeal to the Land and Environment Court is made by lodging an application to the Court in accordance with the Rules of the Court.

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. The objector cannot appeal if a Commission of Inquiry was held.

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.

Joint Regional Planning Panels

If the application was decided by a Joint Regional Planning Panel, please refer to Section 23H of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

SIGNATURE

Name:	Kathryn Saunders
Signature:	

For the Development Services Manager

ATTACHMENT 1 : REASONS FOR REFUSAL

1. The application is not satisfactory for the purpose of Section 79C(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 in that:
 - (i) The proposal is inconsistent with the aims of the plan relating to Council's commitment to the provision of healthy and safe communities and environmental protection and enhancement and the fails to demonstrate how the design meets the current and emerging needs of Penrith's communities and safeguards residential amenity.
 - (ii) The proposal is inconsistent with the zone objectives for the R4 High Density Residential zone, specifically:
 - (a) the proposal does not ensure that a high level of residential amenity is achieved and maintained; and
 - (b) the proposal does not represent or reflect the desire future character and dwelling densities of the area.
 - (iii) the proposal does not comply with the maximum permissible height applicable to the site under Clause 4.3 - Height of Buildings.
 - (iv) it has not been demonstrated that sufficient environmental planning grounds exist to justify contravening the development standard under Clause 4.6 - Exceptions to Development Standards.
2. The application is not satisfactory for the purpose of Section 79C(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 Residential Flat Design Code in that:
 - (i) the proposal fails to demonstrate that the design is representative of the nine Design Quality Principles listed under Schedule 1; and
 - (ii) the proposal does not comply with the applicable provisions of the Residential Flat Design Code including the Better Design Practice statements in particular;
 - (a) Communal open space provision
 - (b) Principles of Crime Prevention Through Environmental Design
 - (c) Unit sizes
 - (d) Depth of single aspect apartments
 - (e) Depth of apartments
 - (f) Apartment layout and internal circulation
 - (g) Storage requirements
 - (h) Building Depth
 - (i) Natural ventilation
 - (j) Kitchen ventilation
 - (k) Building separation
 - (l) Solar access
 - (m) Servicing and waste management provisions.
3. The application is not satisfactory for the purpose of Section 79C(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) The application has not satisfied Council with respect to the requirements under Section D2 Residential Development - Residential Flat Buildings, specifically:

- (a) Part D2.5 - Residential Flat Buildings;
 - (b) Part C1 Site Planning and Design Principles in particular context, amenity and streetscape character;
 - (c) Part C5 Waste Management;
 - (d) Part C6 Landscape Design; and
 - (e) Part C10 Transport, Access and Parking in particular, car parking provision.
4. The application is not satisfactory for the purpose of Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979* as the likely negative impacts of the proposed development related to:
 - (i) streetscape and landscaping;
 - (ii) traffic and car parking;
 - (iii) local character, bulk, scale and privacy;
 - (iv) waste management;
 - (v) internal layout and unit design; and
 - (vi) compliant adaptable unit design and circulation.
 5. The application is not satisfactory for the purpose of Section 79C(1)(c) of the *Environmental Planning and Assessment Act 1979* as the site is not suitable for the scale of the proposed development.
 6. The application is not satisfactory for the purpose of Section 79C(1)(d) of the *Environmental Planning and Assessment Act 1979* due to matters raised in received submissions which include: Non-compliance with applicable car parking rates and non-compliance with the applicable height development standard.
 7. The application is not satisfactory for the purpose of Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979* as the proposal is not in the public interest.