

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA16/0621.03
Description of development:	Addition of Fifth Storey including One (1) Apartment to Approved Four (4) Storey Residential Flat Building
Classification of development:	Class 2 , Class 7a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 3 DP 508698
Property address:	1 Garner Street, ST MARYS NSW 2760

DETAILS OF THE APPLICANT

Name & Address:	Baini Design Office 2, Level 4 25-33 Old Northern Road 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	18 September 2018
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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.

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 Sydney West 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.

Sydney West Planning Panels

If the application was decided by the Sydney West Planning Panel, please refer to Section 18 of the Greater Sydney Commission Act 2015 and 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 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:
 - (a) The proposal is inconsistent with the objectives of the R4 High Density Residential zone, particularly those related to enhancement of the local character and identity of established residential areas, provision of development that reflects the desired future character of the area and achieves and maintains a high level of residential amenity.
 - (b) The proposal does not comply with the Height of Buildings development standard, and is contrary to the objectives detailed under Clause 4.3(1) including: to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality; to minimise visual impact, loss of privacy and loss of solar access to existing development; and to nominate heights that will provide a high quality urban form for all buildings and a transition in built form and land use intensity.
 - (c) A written request under Clause 4.6, seeking to justify the contravention of the Height of Buildings development standard has not been submitted for consideration with regard to the consent.
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:

The development application does not comply with Part 2, Division 1, Clause 16A 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:
 - C1 Site Planning and Design Principles;
 - C5 Waste Management; and
 - C6 Landscape Design.
4. The modification application is not satisfactory for the purpose of Section 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act 1979* and Clause 115 of the *Environmental Planning and Assessment Regulation 2000*, in that the development application was not lodged with a design verification statement.
5. 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:
 - streetscape and local character impacts;
 - noise and privacy impacts;
 - solar access; and
 - landscaping.
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 the scale or density of the proposed development.
7. The application is not satisfactory for the purpose of Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, as the proposal is not in the public interest.