Our Reference: DA/745/2018
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Ms Y X A Guo
25 Ray Road
EPPING NSW 2121

24 April 2019

DEVELOPMENT APPLICATION
NOTICE OF DETERMINATION

Issued under the Environmental Planning and Assessment Act 1979
Sections 4.16, 4.17 & 4.19

Development Consent No:	DA/745/2018
Property Address:	Lot 4 DP 8487, Lot A DP 371706 21-23 Norfolk Road, EPPING NSW 2121
Description:	Demolition of existing structures at No. 23 Norfolk Road, partial demolition of the existing dwelling at No. 21 Norfolk Road and construction of a centre based child care facility with basement parking for 15 vehicles. The centre is proposed to operate between 7am and 6pm, Monday to Friday.
Determination:	**REFUSED**
Determination Date:	16 April 2019

You are advised that your application has been **REFUSED** for the following reasons:

Preservation of Trees and Vegetation

1. In accordance with Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979,* the proposal fails to comply with the aims of the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

- The removal of two (2) significant trees *Angophora Costata and Eucalyptus Resinifera* are proposed. Both trees are identified as being prominent features of the streetscape and are worthy of retention.

Flood Planning

2. In accordance with Section 4.15 (1) (a) (i) and Section 4.15 (1) (a) (iii) of the *Environmental Planning and Assessment Act 1979* the proposal fails to comply with the aims of the Hornsby Local Environmental Plan 2013 and Clause 1C.3.2 of the Hornsby Development Control Plan 2013 to minimise risk to the community in areas subject to environmental hazards, including flooding.

   - A portion of the childcare centre comprising of the car parking level and playroom 3 encroaches into the flood affected area;
   - The on-site detention system has not been designed for drowned conditions and taking into account the 1% AEP flood level; and
   - The basement floor level has not been designed to meet the probable maximum flood (PMF) level at the front entry.

   Further details to include:

   - Definition of the Flood Planning level on the site
   - The development impact on any overland flows being diverted onto adjoining properties
   - Whether any creek improvement works are required to existing watercourse, taking into account any blockage of the existing culvert, to avoid exacerbation of on-site flooding
   - Is any provision required to accommodate overland flow paths along the rear boundary.

Heritage Conservation

3. In accordance with Section 4.15 (1) (a) (i) of the *Environmental Planning and Assessment Act 1979* the proposal fails to comply with the aims of the Hornsby Local Environmental Plan 2013 to conserve the environmental heritage of Hornsby and to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views.

   - The proposal seeks consent for the demolition of a dwelling identified as having heritage value;
   - The proposal seeks to alter the existing subdivision pattern; and

- The proposal is contrary to the controls of the East Epping Heritage Conservation Area as the proposal exceeds a single storey built form.

Earthworks

4. In accordance with Section 4.15 (1) (a) (i) and Section 4.15 (1) (a) (iii) of the *Environmental Planning and Assessment Act 1979* the proposal fails to comply with the aims of the Hornsby Local Environmental Plan 2013 and Clause 1C.1.4 of the Hornsby Development Control Plan 2013: to reduce earthworks that is likely to have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

    - A maximum of 3.3 metres in cut and an excavated area of 1615m^2 is proposed. This is well in excess of the control which prescribes a maximum of 1 metre cut under Clause 1C.1.4 of the Hornsby DCP 2013. The earthworks are excessive and is not supported as the development has not been designed to respect the natural landform characteristics that maintains the amenity of adjoining properties and streetscape character.

Bulk and Scale

5. In accordance with Section 4.15 (1) (a) (iii) of the *Environmental Planning and Assessment Act 1979* the proposal fails to comply with the Clause 7.1.2 of the Hornsby Development Control Plan 2013 to ensure the development height, scale and intensity is compatible with the character of the area.

    - The proposal as a two storey building is not supported as it adversely impacts on the East Epping Heritage Conservation Area which is characterised by single storey dwellings.

Public Interest

6. In respect to Section 4.15 (1)(b), Section 4.15 (1)(c) and Section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979, the proposed development is likely to have a substantial detrimental impact on the environment in the locality and therefore, the proposal in its current form is not in the public interest.

Parking Arrangements

7. The Parking arrangements and traffic impact, in particular having regard to the proximity of Epping Public School, are not acceptable.

Right of Appeal:

If you are dissatisfied with this decision, Section 8.7 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court **within six months after the date** on which you receive this notice.

Section 8.2 of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination. The request must be made in writing (or on the review application form) together with payment of the appropriate fee. The review must be lodged and determined **within six (6) months of** the date on which you received this notice.

Note: To enable the Section 8.2 review to be considered within the six month timeframe prescribed by under the Environmental Planning and Assessment Act 1979, it is advisable to lodge the application for review under Section 8.2 as soon as possible to facilitate the statutory timeframes.

Section 8.2 does not apply to complying development, designated development, or a determination made by Council under Division 4 in respect of Crown applications.

Yours faithfully

Steven Chong
Team Leader Development Assessment
Development Assessment Services