

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA18/1253
Description of development:	Demolition of Existing Structures & Construction of a Seniors Housing Development Including 6 x Villas and Associated Works
Classification of development:	Class 1a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 69 DP 218969 Lot 68 DP 218969
Property address:	8 Linksvie Avenue, LEONAY NSW 2750

DETAILS OF THE APPLICANT

Name & Address:	Glenstone Holdings One Pty Ltd 3/152 Old Bathurst Road EMU PLAINS NSW 2750
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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.

Date of this decision	8 May 2019
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POINT OF CONTACT

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

Assessing Officer:	Lauren Van Etten
Contact telephone number:	+612 4732 8222

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 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

Name:	Lauren Van Etten
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 following provisions of:

a) State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

- Clause 26 - Location and access to facilities. The panel was not satisfied the applicant had provided by written evidence and requisite details to ensure compliance with Clause 26 (1) and (2).
- Clause 29 - Consent authority to consider certain site compatibility criteria for development applications to which Clause 24 does not apply.
- Clause 31 - Design of in-fill self-care housing.
- Clause 33 - Neighbourhood amenity and streetscape
- Clause 34 - Visual and acoustic privacy
- Clause 36 - Stormwater
- Clause 38 - Accessibility.
- Clause 39 - Waste management
- Schedule 3, Part 1, Clause 5 Private Car Accommodation

b) Penrith Local Environmental Plan 2010:

- Clause 2.3 - Objectives- The proposal is inconsistent with the objectives of the R2 Low Density Residential zone, specifically:

i) To promote the desired future character by ensuring that development reflects features or qualities of traditional detached dwelling houses that are surrounded by private gardens.

ii) To enhance the essential character and identity of established residential areas.

iii) To ensure a high level of residential amenity is achieved and maintained.

- Clause 7.1 - Earthworks- The proposal is inconsistent with the objectives of the Earthworks clause, specifically:

i) to ensure that earthworks for which development consent is required will not have a detrimental impact on, neighbouring uses.

2. 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 the Penrith Development Control Plan 2014:

(i) The application has not satisfied Council with respect to the requirements under Section C1 'Site Planning and Design Principles', specifically:

- The proposed development is inconsistent with the setbacks/separation, bulk and scale and landscaped character of the surrounding area.

(ii) The application has not satisfied Council with respect to the requirements under Section C2 'Vegetation Management', specifically:

- The siting and layout of development has not considered the location of trees and favored their retention on the subject property and adjoining properties despite their healthy condition and contribution to the character of the area.

(iii) The application has not satisfied Council with respect to the requirements under Section C5 'Waste Management', specifically:

- The developments does not provide a waste bin storage/collection area that is of a sufficient size to accommodate all required waste bins associated with the development.

(iv) The application has not satisfied Council with respect to the requirements under Section C10 'Traffic, Access and Parking', specifically:

- The application has not demonstrated that there is adequate space within the site to facilitate vehicle manoeuvring, visitor parking nor provide accessible parking in accordance with Australian Standard AS/NZS 2890.6:2009.

(v) The application has not satisfied Council with respect to the requirements under Section D2.4 'Residential - Multi Dwelling Housing' specifically:

-The development does not meet the controls for front setbacks or secondary street setbacks on corner blocks, nor reflect the character to the established garden suburb nor allow for the development of flora and fauna corridors.

-The bulk and scale of the urban form is not integrated into the surrounding garden area given the building lengths exceed the maximum 20m control with limited front and side green setbacks and removal of all existing vegetation.

- The development does not minimise disturbance to existing topography due to the level of fill and height of retaining walls which exceeds Council's maximum controls. The proposed retaining walls exacerbate the visual prominence and bulk and scale of the proposal as viewed from the street, while also interrupting the landscaped setback pattern that characterises the area with abrupt hardstand areas.

- The removal of all existing mature trees does not allow for a garden design that preserves existing green corridors and therefore the proposal does not reflect the established garden suburb in relation to the front side or rear setbacks.

- The proposed front fence and retaining wall is incompatible with the neighbourhood character as they dominate the front setback with minimal landscaping and minimal separation between the retaining wall and fence.

3. The application is not satisfactory for the purpose of Section 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act 1979* as the proposal does not meet the following matters prescribed by the Regulations:

-In accordance with Clause 49 (1) (a) of the Environmental Planning and Assessment Regulation 2000, the proposal does not include owner's consent for tree removal within the adjoining property to the west (Lot 70 DP 218969) which is likely to be damaged by the proposed works.

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 the development including those related to:

(i) negative streetscape and local character impacts;

(ii) noise and privacy impacts;

(iii) inadequate car parking provision;

(iv) landscaping, setbacks and site coverage;

(v) negative impacts on residential amenity;

(vi) stormwater management;

(vii) negative social and economic impacts; and

(viii) insufficient waste infrastructure and site access.

5. The application is not satisfactory for the purpose of Section 4.15(1)(c) of the Environmental Planning and Assessment Act as the site is not suitable for the scale of the proposed development. This includes the extent of earthworks and tree removal associated with the proposal.

6. The application is not satisfactory for the purpose of Section 4.15(1)(d) of the *Environmental Planning and Assessment Act 1979* due to matters raised in submissions which include the developments compatibility with the surrounding locality.

7. Based on the above deficiencies and submissions received, approval of the development would not be in the public interest pursuant to Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*.