

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA19/0172
Description of development:	Demolition of Existing Structures & construction of a Two (2) Storey Boarding House containing 19 Boarding Rooms & Basement Car Parking
Classification of development:	Class 3 , Class 7a

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 67 DP 212261
Property address:	12 Anthony Crescent, KINGSWOOD NSW 2747

DETAILS OF THE APPLICANT

Name & Address:	Zac Homes Pty Ltd 6/119 Coreen Avenue PENRITH 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	24 April 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

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:	Gemma Bennett
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:

(i) Clause 1.2 Aims of the Plan - The proposal is inconsistent with the aims of the plan in relation of promotion of development consistent with Council's vision for Penrith, and the safeguarding of residential amenity.

(ii) Clause 2.3 Zone Objectives - The proposal is inconsistent with the objectives of the R3 Medium Density Residential zone, specifically:

- The proposed boarding house does not ensuring that a high level of residential amenity is achieved and maintained; and
- The proposed boarding house does not ensure that the development will reflect the desired future character of the area.

(iii) Clause 7.4 Sustainable Development - The proposal does not demonstrate that the principles of sustainable development have been appropriately incorporated into the design.

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 3, Clause 29 Standards that cannot be used to refuse consent (2)(b) landscaped area (excessive paving in front setback area), (c) Solar Access (inadequate in common room), (f) Accommodation size (many rooms do not meet the 12sqm minimum area for single lodgers) and Clause 30A Character of local area (inadequate treatment of front setback 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:

(i) The application has not satisfied Council with respect to the requirements under Part B - 'DCP Principles', specifically:

- The proposal does not minimise its ecological footprint or promote sustainable production and consumption through appropriate use of environmentally sound technologies and effective demand management.

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

- The built form and bulk and scale of the proposal is not considered to provide for a positive addition to the streetscape character.

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

- The removal of the existing tree in the front setback has not be adequately justified via provision of appropriate supporting documentation.

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

- No bulky waste storage area is provided and the waste collection room is not effectively sized.

(v) The application has not satisfied Council with respect to the requirements under Section C6 'Landscape Design', specifically:

- The landscaped design does not enhance the amenity of the site or contribute to the streetscape.
- The landscape design does not appropriately screen service areas or block unwanted views that reduce privacy.

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

- The proposed access ramp is considered insufficient as the width and grade must comply with the Australian Standard 2890.1 for two-way movement.
- The second driveway and proposal to use the driveway as the main entry pathway is an unacceptable design solution.
- Five (5) of the ten (10) provided car parking spaces are insufficient in width as required by AS2890.1 and AS2890.6.

(vii) The application has not satisfied Council with respect to the requirements under Section C12 'Noise and Vibration', specifically:

- No acoustic report was submitted with the application.

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

- The lot width does not meet the minimum 22m requirement.
- The proposal is in conflict with controls requiring external walls to be a maximum of 5m in length between distinct corners.
- The proposal does not meet the respective controls for rear or side setbacks.
- The proposal does not meet the minimum side setback requirements for the basement level.
- A landscaped area of 23% of the total site area has been provided which is non compliant with the minimum 40% landscaped area required.
- The insufficient landscaped area and basement design is considered to limit the opportunity for deep soil planting or screening vegetation, particularly along the eastern and western boundaries.
- The design does not effectively mitigate against bulk through the use of a variety of materials, articulating elements such as stepped walls and the number and design of window openings. The elevated form above existing ground level increases the appearance of bulk.
- The proposal does not adequately employ design techniques to reduce thermal loads and allow for effective solar shading which is not considered an acceptable design solution.
- The proposal is not considered to have adequately demonstrated that privacy is maintained for the subject or adjoining sites due to the minimal boundary separation and lack of screen planting.
- The proposal has not adequately addressed the principles of Crime Prevention Through Environmental Design.
- The proposal has not adequately considered accessibility requirements, in particular to access the front door.

(ix) The application has not satisfied Council with respect to the requirements under Section D5.11 Boarding Houses', specifically:

- The proposal does not comply with the objectives of clause 5.11 to ensure boarding houses fit the existing and desired future character of the area, minimise negative impacts on neighbourhood amenity, respond to increasing densities resulting from boarding house development and ensure that boarding houses operate in a manner that maintains a high level of amenity, health and safety for residents.
- The proposal does not comply with the controls within clause 5.11 including that boarding houses shall be designed to have a sympathetic relationship with adjoining development, and that the neighbourhood amenity will not be adversely impacted in relation to noise and privacy.
- The proposal does not comply with the controls related to tenant amenity, safety and privacy, visual and acoustic amenity impacts.

4. The development application is not satisfactory for the purpose of Section 4.15(1)(a)(iv) of the *Environmental*

Planning and Assessment Act 1979 in that development does not satisfactorily demonstrate compliance with the provisions of the National Construction Code.

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 the development including those related to:
 - (i) negative streetscape and local character impacts;
 - (ii) noise and privacy impacts;
 - (iii) inadequate car parking provision;
 - (iv) insufficient solar access;
 - (v) landscaping, setbacks and site coverage;
 - (vi) negative impacts on residential amenity;
 - (vii) energy efficiency and sustainable development;
 - (viii) negative social and economic impacts; and
 - (ix) insufficient waste infrastructure and site access.
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 of the proposed development.
7. 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*.
8. 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.