

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

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| Application number: | DA18/0240 |
| Description of development: | Demolition of Existing Structures, Construction of a Six (6) Storey Residential Flat Building containing 45 Apartments and Two (2) Levels of Basement Car Parking |
| Classification of development: | Class 2 , Class 7a |

DETAILS OF THE LAND TO BE DEVELOPED

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| 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

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| Name & Address: | S Elias 23/3 West Terrace BANKSTOWN NSW 2200 |
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DECISION OF CONSENT AUTHORITY

The Penrith Local Planning Panel 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.

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| Date of this decision | 25 October 2018 |
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POINT OF CONTACT

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

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| 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.

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 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

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| 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 following provisions of Penrith Local Environmental Plan 2010 in that:
 - (i) The proposal is inconsistent with the aims of the plan in particular, those related to relating to Council's commitment to the provision of healthy and safe communities and environmental protection and enhancement and 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.

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 following provisions of the State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development and the accompanying Apartment Design Guide 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 Apartment Design Guide including the objectives and design guidance statements in particular those related to:
 - (a) Communal open space provision
 - (b) Principles of Crime Prevention Through Environmental Design
 - (c) Building separation
 - (d) Solar access
 - (e) Servicing and waste management provisions
 - (f) natural cross ventilation
 - (g) deep soil zones
 - (h) internal amenity of apartments

3. The 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 proposal is not satisfactory having regard to the objectives and controls 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 C3 Water Management,
 - (d) Part C5 Waste Management,
 - (e) Part C6 Landscape Design,
 - (f) Part C8 Public Domain, and
 - (g) Part C10 Transport, Access and Parking in particular, service vehicle parking provision.

4. The application is not satisfactory for the purpose of Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act as the proposed development was not accompanied by all of the information as required under Schedule 1 Forms of the Regulations including:

- Proposed finished levels of the land in relation to existing and proposed buildings and roads,
- Development compliance with building setbacks and building envelope controls, marked on plans, sections and elevations,
- A sample board of the proposed materials and colours of the façade, and
- Detailed sections of proposed facades
- Inadequate site analysis
- a design verification certificate

The amended set of architectural plans were not accompanied by a design verification statement in conflict with the requirements of Clause 50(1A) and (1B) of the Regulations.

5. The application is not satisfactory for the purpose of Section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979 due to the negative impacts likely to result from the proposed development related to:

- (i) streetscape and local character,
- (ii) limited landscaping and deep soil zone,
- (iii) traffic, access and car parking,
- (iv) bulk, scale and overbearing,
- (v) solar access and privacy impacts,
- (vi) waste management impacts,
- (vii) amenity, safety and security impacts related to the ground floor layout, and
- (viii) site isolation
- (ix) natural cross ventilation
- (x) communal open space

6. The application is not satisfactory for the purpose of Section 4.15(c) of the Environmental Planning and Assessment Act 1979 as the site is not suitable for the scale of the proposed development.

7. 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 received submissions which include site isolation, overshadowing and privacy and amenity impacts.

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.