



## DETERMINATION OF DEVELOPMENT APPLICATION

P E N R I T H C I T Y C O U N C I L

### DESCRIPTION OF DEVELOPMENT

DA No.	DA12/1199
Description of development	Residential-Single New Dwelling - Proposed Lot 1170 Bartlett Place
Classification of development	The classification of the building(s) forming part of this consent is as follows: <ul style="list-style-type: none"><li>▪ Class 1a</li></ul>

### DETAILS OF THE APPLICANT

Name & Address	Eden Brae Homes PO Box 7210 BAULKHAM HILLS NSW 2153
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### NOTES

1. Your attention is drawn to the attached conditions of consent attachment 1.
2. You should also check if this type of development requires a construction certificate in addition to this development consent.
3. It is recommended that you read the Advisory Note enclosed with this consent.

## **DETAILS OF THE LAND TO BE DEVELOPED**

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Legal Description: Lot 1 DP 33753  
Lot 11 DP 1159973  
Lot 1 DP 532379  
Property Address: Lot 11 The Crescent PENRITH NSW 2750

## **DECISION OF CONSENT AUTHORITY**

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In accordance with Section 81(1) (a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions implementation in attachment 1.

Date from which consent operates 14 January 2013  
Date the consent expires 14 January 2015  
Date of Decision 08 January 2013

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

## **REVIEW OF DETERMINATION & RIGHTS OF APPEAL**

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1. 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.

2. 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.

3. Right of Appeal if the application was for Designated Development

If a written objection was made in respect to the Application for Designated Development, the objector can appeal against Council's 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 Council's 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.

## **REASONS**

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The conditions in the attached schedule have been imposed for the following reasons:

- To ensure compliance with the terms of the relevant Planning Instrument.
- To ensure that no injury is caused to the existing and likely future amenity of the neighbourhood.
- Due to the circumstances of the case and the public interest.
- To ensure the structural integrity of the development.
- To ensure the protection of the health and safety of the occupants of the development.

## **POINT OF CONTACT**

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

Assessing officer	Clare Aslanis Graduate Town Planner
Contact telephone number	(02) 4732 7777

## **SIGNATURE**

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Name	Geoff Goodacre
Signature	Team Leader – Building Approvals

For the Development Services Manager

# ATTACHMENT 1: CONDITIONS OF CONSENT

## GENERAL

- 1 The development must be implemented substantially in accordance with the plans numbered 1 to 7, drawn by Eden Brae Homes and dated August 2012, and stamped approved by Council, the application form, the BASIX Certificate and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.
- 2 The work must be carried out in accordance with the requirements of the Building Code of Australia. If the work relates to a residential building and is valued in excess of \$20,000, then a contract of insurance for the residential development shall be in force in accordance with Part 6 of the Home Building Act 1989.  
  
{Note: Residential building includes alterations and additions to a dwelling, and structures associated with a dwelling house/dwelling such as carport, garage, shed, rural shed, swimming pool and the like}.
- 3 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 4 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 5 **Prior to the issue of Construction Certificate** the land to which the development consent relates shall be registered at Land and Property Information division of the Department of Lands.
- 6 Following registration of the subdivision the applicant is to demonstrate compliance with any restrictions on the use of the land arising from the 88b instrument that impact on the approved plans. The documentation shall be submitted to the Principal Certifying Authority for consideration and approval **prior to the issue of a Construction Certificate.**
- 7 An acoustic report prepared by an Acoustic Engineer or a suitably qualified person demonstrating that the proposed construction will achieve the internal noise levels specified in the North Penrith Design Guidelines 2012 Clause 3.8 shall be submitted to Principal Certifying Authority for consideration and approval **prior to the issue of a Construction Certificate.**

## ENVIRONMENTAL MATTERS

- 8 Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the landscaping, driveway and on-site parking areas have been completed for the development.** These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

- 9 Cut and fill operations on the property are only permitted in conjunction with the building works as detailed on the approved plans and specifications, and shall not extend more than 2 metres past the defined building footprint.

**Before any fill material is imported to site, a validation certificate issued by an appropriately qualified person is to be provided to the Principal Certifying Authority.** The validation certificate must demonstrate that the fill material is free from contaminants and weeds, that it is suitable for its intended purpose and land use, and that it will not pose an unacceptable risk to human health or the environment.

If Penrith City Council is not the Principal Certifying Authority, a copy of the validation certificate is to be submitted to Council for their reference.

{Note: Penrith Contaminated Land Development Control Plan defines an appropriately qualified person as “a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance.”}

- 10 All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

- 11 All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

## **BCA ISSUES**

- 12 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
- a) complying with the deemed to satisfy provisions, or
  - b) formulating an alternative solution which:
    - complies with the performance requirements, or
    - is shown to be at least equivalent to the deemed to satisfy provision, or
  - c) a combination of (a) and (b).

## **HEALTH MATTERS & OSSM INSTALLATION**

- 13 The rainwater tank must be maintained so as not to create a nuisance and it must be protected against mosquito infestation.

## CONSTRUCTION

- 14 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details is to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed **when the Occupation Certificate has been issued for the development.**

15 **Prior to the commencement of construction works:**

- (a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:
- a standard flushing toilet connected to a public sewer, or
  - if that is not practicable, an accredited sewage management facility approved by the council, or
  - alternatively, any other sewage management facility approved by council.
- (b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- (c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
- must preserve and protect the building from damage, and
  - if necessary, must underpin and support the building in an approved manner, and
  - must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).

- 16 Cut and fill is limited to a maximum of 1 metre, in accordance with Penrith Residential Construction Works Development Control Plan.
- 17 The building shall be set out by a registered surveyor. A Survey Certificate shall be undertaken and submitted to the Principal Certifying Authority when the building is constructed to ground floor slab level and frame stage with eaves and gutters installed.
- 18 The external finishes of the dwelling must be in accordance with the submitted colour schedule and in accordance with developer's guidelines.
- 19 The rainwater tank(s) is to be:
- erected on a self-supporting base in the approved location on the property in accordance with the stamped-approved site plans for the development,
  - structurally sound and constructed in accordance with AS/NZS 3500 1.2-1998: *National Plumbing and Drainage - Water Supply - Acceptable Solutions*,
  - fully enclosed and all openings sealed to prevent access by mosquitoes,
  - fitted with a first flush device,
  - fitted with a trickle system to top up from mains water,
  - provided with an air gap, and
  - installed by a licensed plumber in accordance with Sydney Water's "*Plumbing requirements Information for rainwater tank suppliers and plumbers April 2003*" and the NSW Code of Practice: *Plumbing and Drainage*.

Additionally, the following are to be provided:

- back flow prevention device shall be provided at the water meter in accordance with Sydney Water requirements.
- In the event of a power failure, a back up supply of mains water shall be provided to at least one toilet in the dwelling.
- The rainwater tank(s) and associated piping is to be labelled 'Rainwater Not for Drinking' in accordance with Sydney Water requirements.
- The rainwater tank and pipework is to be painted in colours matching the external finishes of the dwelling and is to be of non-reflective finish.
- The overflow for the rainwater tank is to be connected into the existing stormwater disposal system on the site.

Before a rainwater tank(s) can be used, a certificate or suitable document is to be submitted to the Principal Certifying Authority stating that the rainwater tank has been installed in accordance with:

- the manufacturer's specifications, and
- Sydney Water and NSW Health requirements.
- This certificate or documentation is to be provided by the licensed plumber who installed the rainwater tank on the property, and is to be submitted **prior to the issue of the Occupation Certificate**.

- 20 The catchment area (for the rainwater tank) includes the parts of the roof of the dwelling(s) from which water is collected and includes gutters. To ensure a safe supply of water:
- roof catchment areas must be kept clear of overhanging vegetation,
  - gutters must have sufficient fall to downpipes to prevent pooling of water,
  - overflow, discharge from bleed off pipes from roof mounted appliances such as airconditioners, hot water services and solar heaters must not discharge into the rainwater catchment area,
  - for roofs containing lead based, tar based or asbestos material the tank supply must not be connected to drinking, bathing and gardening tap water outlets,
  - gutter guard must be installed in roof gutters to prevent foreign materials from contaminating the water which enters the rainwater tank.

- 21 The rainwater tank supply must not be connected to drinking and bathing water tap outlets.
- 22 The pump must not exceed 5dBA above ambient background noise level at the nearest residential property boundary. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- 23 Construction works or subdivision works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:
- Mondays to Fridays, 7am to 6pm
  - Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
  - No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

## **ROADS ACT REQUIREMENTS**

- 24 Penrith City Council is the Roads Authority under the Roads Act 1993 responsible for approving:
- Works on the road reserve, or
  - The placement of hoardings, structures, containers, waste skips etc.on the road reserve.
  - The application for a Construction Certificate is to accompany documentation specifying that a Roads Act application, including payment of appropriate application and Inspection fees under the Roads Act, has been sought from Penrith City Council for the following works:
    - a) Provision of gutter crossing 5m wide.
    - b) Provision of a vehicular footway crossing 5m wide.
    - c) Opening the road reserve for the provision of services including stormwater.
    - d) Provision of driveway entrances.

All works on the road reserve including the placement of hoardings, containers, waste skips and the like on the road reserve shall be carried out in accordance with Penrith City Council's specifications.

**Prior to the issue of an Occupation Certificate**, Penrith City Council (being the Roads Authority under the Roads Act) shall approve the works completed on or over the road reserve. Contact Council's Asset Management Department on (02) 47327777 to arrange an inspection of the works (and payment of inspection fees, if required).

## **ENGINEERING**

- 25 Roofwater drains shall be discharged into the street gutter or common line.
- 26 All land required for vehicular access within the site is to be stabilised.



- 27 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Council's Public Infrastructure Assets. The bond is to be lodged with Council **prior to the issue of a Construction Certificate**. The bond is based upon the estimated value of the works with a bond of \$500 payable for the subject development.

The bond is refundable once a final inspection has been carried out by Council's Works Department and the works have been completed to Council's satisfaction. The bond may be used to repair or reinstate any damage that occurs to Council's Public Infrastructure Assets as a result of the development works.

Contact Council's City Works Department on 4732 7777 or visit website to obtain the form and request for final inspection.

- 28 **No earthworks** including cut and fill **or building works** including a retaining wall, garden shed or other structures of the like are to take place **within the site of the easement unless otherwise permitted by the 88b instrument**.

## SECTION 94

- 29 This condition is imposed in accordance with Penrith City Council's Section 94 Contributions Plan(s) for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, \$2606.00 is to be paid to Council **prior to a Construction Certificate being issued for this development** (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 94 plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S94 invoice accompanying this consent should accompany the contribution payment.

The Section 94 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

## PAYMENT OF FEES

- 30 **Prior to the commencement of any works on site**, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

## CERTIFICATION

- 31 **Prior to the commencement of any earthworks or construction works on site**, the proponent is to:
- a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
  - b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

- 32 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and **prior to the occupation/use of the dwelling.**

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

Geoff Goodacre

Signature

For the Development Services Manager