

# PENRITH CITY COUNCIL

## NOTICE OF DETERMINATION

### DESCRIPTION OF DEVELOPMENT

Application number:	DA18/1019
Description of development:	Swimming Pool and Landscaping
Classification of development:	Class 10b

### DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 501 DP 1176385
Property address:	138 Roscrea Drive, MULGOA NSW 2745

### DETAILS OF THE APPLICANT

Name & Address:	Danny Constructions Pty Ltd 8/32-34 Peter Brock Drive EASTERN CREEK NSW 2766
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### DECISION OF CONSENT AUTHORITY

In accordance with Section 4.18(1) (a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to the conditions listed in attachment 1.

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

Date from which consent operates	7 February 2019
Date the consent expires	7 February 2024
Date of this decision	7 February 2019

### POINT OF CONTACT

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

Assessing Officer:	Lawrence Ligato
Contact telephone number:	+612 4732 7427

## NOTES

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### **Reasons**

The conditions in the attached schedule have been imposed in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 as amended.

### **Conditions**

Your attention is drawn to the attached conditions of consent in attachment 1.

### **Certification and advisory notes**

You should also check if this type of development requires a construction certificate in addition to this development consent

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 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.

# ATTACHMENT 1: CONDITIONS OF CONSENT

## General

- 1 The development must be implemented substantially in accordance with the plans numbered CP01-CP05, drawn by RC (Rev F) and dated 26.11.18, 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 a 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 Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.
  
- 5 A **Construction Certificate** shall be obtained prior to commencement of any building works.
  
- 6 The proposed fire pit does not form part of this application as amended in red on the stamped approved plans.

## Demolition

- 7 Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.
  
- 8 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
  
- 9 Demolition works will 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 demolition work is permitted on Sundays and Public Holidays.In the event that the demolition relates to works inside the building and do not involve external walls or the roof, and do not involve the use of equipment that emits noise then the demolition works are not restricted to the hours stated above.

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

## Environmental Matters

- 10 No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.
- 11 No fill material shall be imported to the site until such time as a Validation Certificate(with a copy of any report forming the basis for the validation) for the fill material has been submitted to, considered and approved by Council. The Validation Certificate shall:
- state the legal property description of the fill material source site,
  - be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
  - clearly indicate the legal property description of the fill material source site,
  - provide details of the volume of fill material to be used in the filling operations,
  - provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
  - (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

{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."}.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

- 12 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.
- 13 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.

- 14 The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment

Operations Act 1997 apply to the development, in terms of regulating offensive noise.

- 15 Erosion and sediment control measures shall be installed **prior to the commencement of works on site**. The erosion and sediment control measures are to be maintained in accordance with 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 land, that was subject to the works, have been stabilised and grass cover established**. 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.

## **BCA Issues**

- 16 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 and OSSM installations**

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

## Construction

- 18 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.

- 19 The rainwater tank supply must not be connected to drinking and bathing water tap outlets.
- 20 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.
- 21 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.

## Swimming Pools

- 22 When the swimming pool construction has reached a stage where the pool is capable of holding water, the pool area shall be restricted from access in accordance with AS1926 "Swimming Pool Safety". Restriction of access to the pool area shall also comply with the Swimming Pools Act, 1992.
- 23 At all times, the swimming pool is to be surrounded by a child-resistant barrier that:
- separates the swimming pool from any residential building situated on the premises and from any place (whether public or private) adjoining the premises, and
  - is designed, constructed, installed and maintained in accordance with the standards prescribed by AS 1926 "Swimming Pool Safety".
- 24 A sign must be erected in a prominent position in the immediate vicinity of the swimming pool and must:
- be erected in accordance with the provisions relating to instructional posters of the document entitled "Policy Statement No. 9.4.1: Guidelines for the Preparation of Posters on Resuscitation" published by the Resuscitation Council. (A copy may be purchased from Penrith City Council's Civic Centre, 601 High Street, Penrith), and
  - bear a notice that contains the words "YOUNG CHILDREN SHOULD BE SUPERVISED WHEN USING THIS SWIMMING POOL", together with details of resuscitation techniques (for adults, children and infants) set out in the relevant provisions of the document entitled "CardioPulmonary Resuscitation" published by the Australian Resuscitation Council. (A copy may be purchased from Penrith City Council's Civic Centre, 601 High Street, Penrith).
- 25 The swimming pool must be registered on the NSW Swimming Pool Register when it is capable of holding water and before the issue of an Occupation Certificate. The swimming pool is to be registered at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au) or in person at Penrith City Council (\$10 fee applies when registering at Council).
- 26 In areas where sewer is not available, the following requirements apply -
- The swimming pool shall be provided with filtration equipment that does not require a backwash facility (eg. a cartridge filtration system).
  - Overspill water shall be diverted away from the swimming pool and not directed onto adjoining properties.
  - The frequency of emptying of the swimming pool water shall be minimised. Water resulting from the emptying of the pool shall be collected and disposed of by a private wastewater disposal contractor. Disposal by other means is not permitted.

## Landscaping

- 27 No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

## Payment of Fees

28 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

29 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.

30 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 swimming pool.

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.

## SIGNATURE

Name:	Lawrence Ligato
Signature:	

For the Development Services Manager