

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA15/1424.01
Proposed development:	Extension of Consent Period - Filling of Existing Dam
Property address:	144 - 150 Mt Vernon Road, MOUNT VERNON NSW 2178
Property description:	Lot 144 DP 32140
Date received:	27 February 2018
Assessing officer	Ryan Gill
Zoning:	E4 Environmental Living - LEP 2010
Class of building:	N/A
Recommendations:	Approve

Executive Summary

Council is in receipt of an application seeking an extension of the consent lapsing period for DA15/1424 under Section 4.54 (previously Section 95A) of the Environmental Planning and Assessment Act 1979. At 144-150 Mt Vernon Road, Mount Vernon, DA15/1424 approved the filling of a dam on the western side of the property.

An assessment under Section 4.54 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application for an extension of the consent lapsing period is recommended for approval.

Site & Surrounds

The subject site is situated on the eastern side of Mt Vernon Road approximately 500m of the intersection of Mount Vernon Road and Georgina Road Mount Vernon. The site is approximately 2 ha in area, is orientated in an east-west direction and has a gentle slope from the existing dwelling to the north-western corner of the site.

The majority of the existing vegetation on the site is localised around the existing dwelling. There is no vegetation located around the existing dam.

The surrounding area is typically characterised by rural-residential development on large 2 ha lots.

Proposal

The application seeks approval for an extension to the lapsing period of the consent for DA15/1424 which was determined on 22 February 2016 and is due to lapse on 10 March 2018. Section 4.54 of the Environmental Planning and Assessment Act 1979 permits Council to extend the lapsing period of a consent by up to one (1) year.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014

• Section 95A - Extension of lapsing consent by 1 year

The application has been assessed in accordance with the matters for consideration under Section 4.54 (previously Section 95A) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, is found to be acceptable. The subject application proposes as extension of the consent lapsing period related to DA15/1424 as follows:

- Current expiry date: 10 March 2018
- Proposed expiry date: 10 March 2019

In relation to Section 4.54 of the Environmental Planning and Assessment Act 1979, it is noted that the applicant has required the extension due to a delay of the preparation in consultant documents and reports to meet Condition 12 of the consent. It is therefore considered that the applicant has shown good cause and that there are no outstanding planning considerations.

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies
Clause 2.3 Zone objectives	Complies

Section 79C(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies

Section 79C(1)(d) Any Submissions

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions

Conclusion

In assessing this application for an extension of consent lapsing period against Section 4.54 of the Environmental Planning and Assessment Act 1979 the application has been found to be satisfactory. The applicant has shown good cause and it is therefore recommended that the consent lapsing period be extended by one (1) year.

Recommendation

That DA15/1424.01 for the extension of the consent lapsing period for DA15/1424 at 144-150 Mt Vernon Road, Mount Vernon, be approved.

General

1 [A001](#)

The development must be implemented substantially in accordance with the stamped approved plans numbered DA00 - DA05, drawn by Mladen Stancovici and dated Nov 2015, and stamped approved by Council, the application form, 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 [A046 - Obtain Construction Certificate before commencement of works](#)

A **Construction Certificate** shall be obtained prior to commencement of any earthworks.

3 [A Special \(BLANK\)](#)

The dam is to be filled to restore the area of the dam to the previous natural surface levels and appropriately treated to establish grass cover. The finished levels are to maintain the prevailing slope of the land in the vicinity of the dam and are not to result in the diversion or concentration of stormwater runoff onto adjoining properties.

4 [A Special \(BLANK\)](#)

A final inspection certifying that all works have been completed in accordance with the stamped approved plans and conditions of this consent shall be obtained at the completion of the works.

Environmental Matters

5 [D001 - Implement approved sediment& erosion control measures](#)

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 and **remain in place until turf /vegetation is established onsite**.

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

6 [D002 - Spraygrass](#)

All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.

7 [D005 – No filling without prior approval \(may need to add D006\)](#)

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.

8 **D006 - No filling without prior approval (Use always, except for bulk earthworks/ major fill operations)**

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.

9 **D - Dust**

Dust suppression techniques are to be employed during fill and compaction activities to reduce any potential nuisances to surrounding properties.

10 **D - Hours of work**

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 works are permitted to be carried out on Sundays and Public Holidays.

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

11 **D - Mud/Soil**

Mud and soil from vehicular movements to and from the site must not be deposited on the road.

12 **D special BLANK**

Prior to the commencement of all dam filling activities, a Water Management Plan is to be submitted to Council for approval. This Plan is to address all de-watering and disposal activities associated with the approved works, including proposed management and disposal methods and locations. This approved Plan is to be implemented and adhered to during the works.

Construction

13 **H001 - Stamped plans and erection of site notice**

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.

Engineering

14 **K101 - Works at no cost to Council**

All roadwork, stormwater, associated civil works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.

15 **K209 - Stormwater Discharge – Minor Development**

Stormwater drainage from the site shall be discharged to the:

- a) Existing site drainage system

The proposed development and stormwater drainage system shall be designed to ensure no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater flows.

The proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the Certifying Authority.

16 **K210 - Stormwater Management**

The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Mladen Stancovici, reference number 1215- DA00 to DA 05, revision A, dated 26th November 2015.

Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of any Construction Certificate the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design (WSUD) Policy.

17 **K301 - Sediment & Erosion Control**

Prior to commencement of any works associated with the development sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Managing Urban Stormwater series from the office of Environment and Heritage.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

18 **K403 - Major Filling/ Earthworks**

All earthworks shall be undertaken in accordance with AS 3798 and Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments and Engineering Construction Specification for Civil Works.

The level of testing shall be determined by the Geotechnical Testing Authority/ Superintendent in consultation with the Principal Certifying Authority.

19 [K Special Condition BLANK](#)

Compaction of filled areas is to be 98% standard compaction and in accordance with relevant Australian Standards, including AS1289 Method of testing soils for engineering purposes and AS3798 Guidelines on earthworks for commercial and residential development, and Council's engineering standards. Compaction certificates are to be submitted to the Principal Certifying Authority and Council.

20 [K Special Condition BLANK](#)

The filled area shall be drained to Council's satisfaction and not impact upon the drainage characteristics of other properties in the catchment area.

21 [K Special Condition BLANK](#)

Earth moved from areas containing noxious weed material must be disposed of at an approved waste disposal facility and transported in compliance with the Noxious Weed Act 1993.

22 [K Special Condition BLANK](#)

Water from the dam is to be released in a manner as to not cause flooding or any undue effects on the downstream properties or Council's infrastructure. No filling work to the dam is to commence until the dam has been full drained and allowed to dry sufficiently to allow access by earth moving equipment.

23 [K Special Condition BLANK](#)

All organic matter and silt material from the dam is to be removed from the dam prior to the placement of any fill material. Details of compliance shall be submitted to and approved by the Principal Certifying Authority.

Certification

24 [Q05E - Compliance Certificate for earthworks if Construction Certificate not required](#)

On completion of the earthworks, a Compliance Certificate/Final Inspection Notice is to be obtained from the Principal Certifying Authority certifying compliance that all conditions of the development consent required to be met has in fact been met. 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 Compliance Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the certifier who issued the Compliance Certificate.