

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA16/1128
Proposed development:	Bulk Earthworks (Excavation and Filling Works)
Property address:	1 Charlotte Street, JORDAN SPRINGS NSW 2747
Property description:	Lot 14 DP 1195110
Date received:	26 October 2016
Assessing officer	Hannah Gilvear
Zoning:	URBAN ZONE (SREP30 - ST MARYS)
Class of building:	N/A
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for bulk earth works at 1 Charlotte Street, Jordan Springs. The subject site is zoned Urban under Sydney Regional Environmental Plan No 30 - St Marys (SREP 30 - St Marys). The proposed works are confined to subject site and are required in order to prepare on the site for future development, subject to a separate development application.

The application is integrated development under Section 91 of the Environmental Planning and Assessment Act 1979. The NSW Office of Water however has confirmed that a controlled activity for the works is not required.

In accordance with Appendix F4 of the Penrith Development Control Plan 2014 – Notification and Advertising, this application was notified to one hundred and twenty six (126) nearby owners and occupiers of adjoining properties and concurrent authorities for a period of thirty (30) days who were invited to inspect the proposal from 14 November 2016 to 14 December. Council received submissions from The NSW Office of Water and from Endeavour Energy.

An assessment under Section 79C of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to recommended conditions.

Site & Surrounds

The subject site is located within the new release area known as Jordan Springs (Western Precinct) and is legally identified as Lot 14 in DP 1195110 - 1 Charlotte Street, Jordan Springs. The subject site is situated on the southern side of Cullen Avenue, western side of Charlotte Street and is approximately 20m north of an existing riparian zone.

The site is orientated in a north-south direction from the front to the rear, is irregularly shaped with an area of 8498m². The subject site has not been identified as bushfire prone land and is not affected by any drainage easements or mainstream and local overland flow flooding.

Proposal

The application seeks approval for the following cut and fill requirements of the subject site:

- 30m³ of cut; and
- 3,700m³ of fill.

The earthworks are proposed to provide for appropriate ground level for the future development of the subject site.

Plans that apply

- Western Precinct
- Western Precinct
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River
- Sydney Regional Environmental Plan No.30 - St Marys

Planning Assessment

• Section 79C - Evaluation

The development has been assessed in accordance with the matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

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

State Environmental Planning Policy (Infrastructure) 2007

Clause 45 of State Environmental Planning Policy - Infrastructure (2007) provides the following key considerations to be addressed in the assessment of any Development Applications.

45 Determination of development applications—other development

- (1) This clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following:
 - (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,
 - (b) development carried out:
 - (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or
 - (ii) immediately adjacent to an electricity substation, or
 - (iii) within 5m of an exposed overhead electricity power line,
 - (c) installation of a swimming pool any part of which is:
 - (i) within 30m of a structure supporting an overhead electricity transmission line, measured horizontally from the top of the pool to the bottom of the structure at ground level, or
 - (ii) within 5m of an overhead electricity power line, measured vertically upwards from the top of the pool,
 - (d) development involving or requiring the placement of power lines underground, unless an agreement with respect to the placement underground of power lines is in force between the electricity supply authority and the council for the land concerned.
- (2) Before determining a development application (or an application for modification of a consent) for development to which this clause applies, the consent authority must:
 - (a) give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and
 - (b) take into consideration any response to the notice that is received within 21 days after the notice is given.

The subject site has been identified as containing an easement over the site for low voltage and 11,000 volt/11 kV high voltage underground cables. In response to the easement, Endeavour Energy has reviewed the proposal and has provided the General Terms of Conditions that apply for electrical easements..

Subject to compliance with the recommended conditions, the proposed development is limited to filing works within an existing lot to improve the finished ground level of the site. Therefore the site will be made suitable for future development thereby complying with provisions of Clause 45 of the State Environmental Planning Policy - Infrastructure (2007)

State Environmental Planning Policy No 55—Remediation of Land

As assessment has been undertaken of the application against relevant criteria within State Environmental Planning Policy No 55—Remediation of Land and the application is satisfactory subject to recommended conditions of consent.

The Statement of Environmental Effects submitted as part of the application refers to the Geotech Testing Pty Ltd document which confirms that the fill to be placed on the site is appropriate as defined by the relevant Australian Standards and Council requirements and free of contamination. Councils Environmental Officers have reviewed the document have concluded that the document does not discuss material proposed to be brought onto the site, but instead outlines the current site conditions.

Significantly, whilst confirming that the site remains suitable, the document does not provide any information regarding the suitability of the material proposed to be imported under this development application, nor does it identify a source site. This will be addressed in the conditions of consent through (modified) D06A condition, which requires that all material be reviewed for suitability and that all placement is supervised.

The proposal has been advertised in accordance with the SEPP and recommended conditions of consent will ensure compliance with the SEPP and the relevant guidelines.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against relevant criteria with Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) and the application is satisfactory subject to recommended conditions of consent.

Sydney Regional Environmental Plan No.30 - St Marys

As assessment has been undertaken of the application against relevant criteria with Sydney Regional Environmental Plan No 30—St Marys and the application is satisfactory.

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

Western Precinct

Provision	Compliance
Western Precinct Plan	Complies - see Appendix - Development Control Plan Compliance

Section 79C(1)(a)(iv) The provisions of the regulations

The proposed development complies with the requirements of the Regulations.

Section 79C(1)(b)The likely impacts of the development

The proposed development is consistent with the provisions of the Environmental Planning and Assessment Act 1979, Sydney Regional Environmental Plan No. 20 - Hawkesbury Nepean River and Sydney Regional Environmental Plan No.30 - St Marys applicable to the site. The proposed works are mainly to prepare the ground works for the future residential building works on this site. The proposal is unlikely to have a detrimental impact on the existing amenity of the area.

Section 79C(1)(c)The suitability of the site for the development

The proposed earthworks will improve the ground level of the site. Works associated with the proposal will be fully contained within the site and will not interfere with uses on adjoining properties.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Appendix F4 of the Penrith Development Control Plan 2014 – Notification and Advertising, this application was notified to one hundred and twenty six (126) nearby owners and occupiers of adjoining properties and concurrent authorities for a period of thirty (30) days who were invited to inspect the proposal from 14 November 2016 to 14 December.

Council received submissions from The NSW Office of Water and from Endeavour Energy.

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

Section 79C(1)(e)The public interest

The proposed development will not generate any significant issues of public interest.

Conclusion

In assessing this application against the current relevant instruments being Environmental Planning and Assessment Act 1979, Sydney Regional Environmental Plan No. 20 - Hawkesbury Nepean River and Sydney Regional Environmental Plan No.30 - St Marys, with appropriate conditions, the proposal satisfies the requirements.

With the recommended conditions of consent, it is considered unlikely to have a negative impact on the surrounding properties and environment, the site is suitable for the development proposed and is considered to complement the existing surrounding developments

Recommendation

1. That DA16/1128 for the Bulk Earthworks (Excavation and Filling Works) on Lot 14 DP 1195110, No.1 Charlotte Street, Jordan Springs be approved subject to the attached conditions (Development Assessment Report Part B).

General

1 A001

The development must be implemented substantially in accordance with the following plans 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.

Plan	Project/Sheet No.	Drawn by:	Dated:
Jordan Springs – VC8 Bulk Earthworks	16-63 Plan BEW00 Revision A	Orion Consulting Engineers	17/10/16
Site Regrading Plan	16-63 Plan BEW01 Revision A	Orion Consulting Engineers	17/10/16
Site Regrading Sections	16-63 Plan BEW02 Revision A	Orion Consulting Engineers	17/10/16
Sediment and Erosion Control Plan	16-63 Plan BEW03 Revision A	Orion Consulting Engineers	17/10/16
Sediment and Erosion Control Notes	16-63 Plan BEW04 Revision A	Orion Consulting Engineers	17/10/16

2 A Special (BLANK)

All vehicle maneuvering, loading, unloading and parking associated with the subject development must be confined entirely within the allotment boundaries of the subject site.

Heritage/Archaeological relics

3 C003 - Uncovering relics

If any archaeological relics are uncovered during the course of the work no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the Heritage Act, 1977 may be required before any further work can be recommenced in that area of the site.

Environmental Matters

4 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 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 **maintained throughout the construction phase of the development until the land, that was subject to the works, has been stabilised and grass cover established.**

5 D002 - Spraygrass

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

6 **D009 - Covering of waste storage area**

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.

7 **D010 – Appropriate disposal of excavated or other waste**

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.

8 **D026 - Liquid wastes**

Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.

9 **D06A – Approval for bulk earthworks/major filling operations (Use for bulk earthworks/ major filling operations)**

An appropriately qualified person/s (as defined in the Penrith Development Control Plans) shall:

- Supervise all filling works.
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and submit a review findings report to Council and any Principal Certifying Authority. All fill material documentation is to (at minimum):
 - > be prepared by an appropriately qualified person (as defined in the Penrith Development Control Plans) with consideration of all relevant guidelines, standards, planning instruments and legislation (e.g. EPA, NEPM, ANZECC, NH&MRC),
 - > clearly state the legal property description of the fill material source site and the total amount of fill tested,
 - > 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 NSW Environment Protection Authority's "Waste Classification Guidelines" 2009, 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.
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

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.

{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 **D - Dust**

Dust suppression techniques are to be employed during all works to reduce any potential nuisances to surrounding properties.

11 **D - Mud/Soil**

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

Construction

12 **H041 - Hours of work (other devt)**

All 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 that do not involve the use of equipment that emits noise are not restricted to the hours stated above.

Engineering

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

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

14 **K201 - Infrastructure Bond**

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to the issue of any Construction Certificate. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

15 **K224 - Construction Traffic Management Plan**

Prior to the issue of a Construction Certificate, the Certifying Authority shall ensure that a Construction Traffic Management Plan (CTMP) has been submitted to and approved by Penrith City Council. Approval of the CTMP may require endorsement from the Local Traffic Committee. The CTMP shall include, but not limited to the following: haulage vehicle routes, number of construction vehicles and haulage vehicles, hours of operation, access arrangements, pedestrian management, turning templates for narrow streets and intersections and parking management for workers. The CTMP shall be certified by an appropriately accredited person.

16 **K302 - Traffic Control Plan**

Prior to commencement of any works associated with the development, a Traffic Control Plan, including details for pedestrian management, shall be prepared in accordance with AS1742.3 "Traffic Control Devices for Works on Roads" and the Roads and Maritime Services' publication "Traffic Control at Worksites" and certified by an appropriately accredited Roads and Maritime Services Traffic Controller.

Traffic control measures shall be implemented during the construction phase of the development in accordance with the certified plan. A copy of the plan shall be available on site at all times.

Note:

a) A copy of the Traffic Control Plan shall accompany the Notice of Commencement to Penrith City Council.

b) Traffic control measures may require road occupancy / road closure approvals issued under Section 138 of the Roads Act by Penrith City Council prior to CC.

17 **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.

18 **K405 - Turf to Verge**

Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

19 **K503 - Works as executed – General and Compliance Documentation**

At the completion of the works, works-as-executed drawings and any other compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Engineering Construction Specification for Civil Works.

An original set of Works As Executed drawings and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation and / or Subdivision (Strata) Certificate where Penrith City Council is not the Principal Certifying Authority.

20 **K Special Condition BLANK**

Prior to the issue of a construction certificate, a dilapidation report is to be undertaken upon the existing pavement condition of the proposed haulage route. A copy of the dilapidation report shall be submitted to Penrith City Council.

At the completion of the works any damage to Council's road pavement or any loss of design life to the road pavement shall be rectified by the applicant to the satisfaction of Council.

Certification

21 **Q01F - Notice of Commencement & Appointment of PCA2 (use for Fast Light only)**

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.

22 **Q05E - Compliance Certificate for earthworks if Construction Certificate not required**

On completion of the earthworks, a Compliance Certificate 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.

Appendix - Development Control Plan Compliance

Western Precinct

Western Precinct Development Control Strategy

The proposed development is limited to filling works within an existing lot to improve the finished ground level of the site. The proposed development is consistent with the Purpose and Aims of the Western Precinct Development Control Strategy.