

PENRITH CITY COUNCIL

NOTICE OF DETERMINATION

DESCRIPTION OF DEVELOPMENT

Application number:	DA13/0686
Description of development:	Proposed Bulk Earthworks in Two (2) Stages, Stormwater Treatment Works & Associated Tree Removal
Classification of development:	N/A

DETAILS OF THE LAND TO BE DEVELOPED

Legal description:	Lot 11 DP 1176163 Lot 8 DP 1176874 Lot 21 DP 1194338 Lot 22 DP 1194338 Lot 23 DP 1194338 Lot 24 DP 1194338
Property address:	11 Lakeside Parade, JORDAN SPRINGS NSW 2747 14 - 52 Cullen Avenue, JORDAN SPRINGS NSW 2747 2 - 20 Lakeside Parade, JORDAN SPRINGS NSW 2747 14 - 28 Cullen Avenue, JORDAN SPRINGS NSW 2747 30 - 34 Cullen Avenue, JORDAN SPRINGS NSW 2747 36 - 52 Cullen Avenue, JORDAN SPRINGS NSW 2747

DETAILS OF THE APPLICANT

Name & Address:	Maryland Development Company Pty Ltd PO Box 4 PARRAMATTA NSW 2124
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DECISION OF CONSENT AUTHORITY

In accordance with Section 81(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	9 January 2014
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Date the consent expires	9 January 2016
Date of this decision	7 January 2014

POINT OF CONTACT

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

Assessing Officer:	Aimee Lee
Contact telephone number:	(02) 4732 7429

NOTES

Reasons

The conditions in the attached schedule have been imposed in accordance with Section 80A 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 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 a Joint Regional 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.

Joint Regional Planning Panels

If the application was decided by a Joint Regional Planning Panel, please refer to Section 23H of the Environmental Planning and Assessment Act, 1979 (as amended) for any further regulations.

OTHER APPROVALS

APPROVAL BODY NAME	DATE OF GENERAL TERMS OF APPROVAL	REF. NO.	NO. OF PAGES	RELEVANT LEGISLATION
Office of Water	30 August 2013	10 ERM2013/0610	4	Water Management Act 2000

The approval bodies listed above have provided General Terms of Approval for this development in accordance with the relevant legislation. A copy of these General Terms of Approval is provided with this development consent notice. Compliance with the relevant State Government departments' General Terms of Approval are required in conjunction with the following conditions listed in Attachment 1: Conditions of Consent issued by Penrith City Council.

ATTACHMENT 1: CONDITIONS OF CONSENT

General

1

The development must be implemented substantially in accordance with the following stamped-approved plans/documents, the application form and any supporting information issued by Penrith City Council, except as may be amended in red on the attached plans and by the following conditions.

Drawing Title	Plan No	Prepared By	Date
Jordan Springs – Village 12 Bulk Earthworks			
Cover Sheet, Index & General Notes	9343/05CC01 Issue B	J Wyndham Prince	undated
Bulk Earthworks Sheet 1 of 2	9343/05CC02 Issue C	J Wyndham Prince	01/11/13
Bulk Earthworks Sheet 2 of 2	9343/05CC03 Issue C	J Wyndham Prince	01/11/13
Site Sections No. 1,2 &3	9343/05CC04 Issue C	J Wyndham Prince	01/11/13
Site Sections No. 4	9343/05CC05 Issue B	J Wyndham Prince	15/10/13
Soil &Water Management Plan, Notes and Details	9343/05CC06 Issue C	J Wyndham Prince	01/11/13
Jordan Springs – Education/Residential Site Bulk Earthworks			
Cover Sheet	9343/06DA01 Issue B	J Wyndham Prince	undated
Notes and Legend	9343/06DA02 Issue A	J Wyndham Prince	06/06/13
Bulk Earthwork Plan	9343/06DA03 Issue D	J Wyndham Prince	06/11/13
Site Sections	9343/06DA04 Issue B	J Wyndham Prince	01/11/13
Soil and Water Management Plan	9343/06DA05 Issue D	J Wyndham Prince	06/11/13
Jordan Springs – Village Oval Site Bulk Earthworks			
Cover Sheet	9343/07DA01 Issue A	J Wyndham Prince	undated
Notes and Legend	9343/07DA02 Issue A	J Wyndham Prince	17/06/13
Bulk Earthwork Plan	9343/07DA03 Issue C	J Wyndham Prince	06/11/13
Site Sections	9343/07DA04 Issue B	J Wyndham Prince	06/11/13
Soil and Water Management Plan	9343/07DA05 Issue C	J Wyndham Prince	06/11/13

- 2 A copy of the General Terms of Approval issued by the NSW Office of Water (Ref 10 ERM2013/0610) dated 30 August 2013 under the Water Management Act shall be submitted to the Principal Certifying Authority, before the Construction Certificate can be issued for the same development. A copy of the approval shall be submitted to Penrith City Council with the copy of the Construction Certificate, if Council is not the Principal Certifying Authority.
- 3 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 4 Construction Certificates shall not be issued over any part of the site requiring a Controlled Activity Approval until a copy of the approval has been provided to Penrith City Council.
- 5 The soil salinity management measures outlined within the Western Precinct Plan must be implemented during construction. The measures and recommendations outlined in the Salinity Review prepared by Geotech Testing Pty Ltd Ref 7508/23-AA Final Revised dated 8 March 2012 are to be adopted and implemented as a part of the development.
- 6 The development shall be carried out in accordance with the procedures set out in the Western Precinct Contamination Management Plan and the conditions and procedures set out in the Site Audit Statements relating to the Western Precinct.
- 7 Construction works shall be carried out in accordance with the NSW Department of Environment and Climate Change's (2009) "Interim Construction Noise Guideline".
- 8 All construction works that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties, are restricted to the following hours in accordance with the NSW Department of Environment and Climate Change's (2009) "Interim Construction Noise Guideline":
 - 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 HolidaysOther construction works that are carried out inside a building that 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 construction works.
- 9 The development shall be carried out in accordance with the procedures set out in the Western Precinct Contamination Management Plan and the conditions and procedures set out in the Site Audit Statements relating to the Western Precinct.

Demolition

- 10 Dust suppression techniques are to be employed during construction to reduce any potential nuisances to surrounding properties.
- 11 Mud and soil from vehicular movements to and from the site must not be deposited on the road.

Environmental Matters

- 12 All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.
- 13 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.
- 14 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 area 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.
- 15 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.

- 16 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 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.

An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) shall:

- Supervise the filling works,
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- 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."}

- 17 Felled trees are to be re-used as large-woody debris habitat features within the Jordan Springs/Western Precinct area. This should be in proposed natural areas such as the riparian corridor. Mulching is only to be carried out if necessary and all mulch is to be used within the Western Precinct and is not to be used in the Regional Park.
- 18 Prior to the removal of any trees associated with development activities, an inspection for hollows and hollow dependent threatened fauna is to be undertaken under the supervision of a fauna ecologist. Any fauna found are to be relocated. Should juveniles be contained within the affected tree then clearing is to be delayed until juveniles have vacated.
- 19 No trees or other vegetation (including understory species) other than those identified in the Tree Plan for Village Centre Bulk Earthworks (Lend Lease, 20-06-2013), are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those proposed for the subdivision) without the prior consent of Penrith City Council.
- 20 All trees to be retained are to be protected throughout development activities in accordance with AS 4970-2009. No fill, machinery, or materials are to be placed or stored within the drip-line of any tree on site.

Engineering

21 Prior to the Issue of a Construction Certificate

Any Construction Certificate issued by the Principal Certifying Authority or Certifying Authority shall incorporate plans and details for erosion and sediment control in accordance with the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

22 Prior to the Commencement of Works

(a) Prior to the commencement of works on site, including approved clearing of site vegetation, erosion and sediment control measures shall be installed. The erosion and sediment control measures are to be installed 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.

(b) Seven (7) days prior to the commencement of works on site a Construction Traffic Management Plan shall be submitted to Penrith City Council for approval demonstrating that the works will not have an adverse impact on the surrounding road network. A Roads Act Application shall be submitted to and approved by Penrith City Council and the Roads and Maritime Services for any road closures or road occupancy required by the development works as detailed by the Construction Traffic Management Plan.

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

24 All filling shall be undertaken in accordance with AS 3798 and Penrith City Council's Design Guidelines and 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

25 Prior to the Issue of an Occupation Certificate

After completion of all civil works, works-as-executed drawings and compliance documentation shall be submitted to the Principal Certifying Authority in accordance with Penrith City Council's Design Guidelines and Construction Specification for Civil Works.

An original set of works-as-executed drawings and copies of compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority.

Prior to the issue of an Occupation Certificate the following compliance documentation shall be submitted to the Principal Certifying Authority. A copy of the following documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation Certificate where Council is not the Principal Certifying Authority:

a) Work as Executed (WAE) drawings of all civil works. The WAE drawings shall be marked in red on copies of the stamped Construction Certificate drawings signed, certified and dated by a registered surveyor or the design engineer. The Work as Executed drawings shall be prepared in accordance with Council's Design Guidelines.

b) The WAE drawings shall be accompanied by plans indicating the depth of fill for the entire development site. The plans must show, by various shadings or cross hatchings, the depth of any fill within 0.3m depth ranges.

c) A Geotechnical Report certifying that all earthworks have been completed in accordance with AS3798 and Council's Design Guidelines and Construction specifications. The report shall include:

- Compaction reports for bulk earthworks.
- Statement of Compliance

26 General

The filling of any land is not to have any adverse impact upon adjoining lots or development sites by the diversion, damming, concentration or ponding of stormwater surface flows.

Landscaping

- 27 All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Chapter 2.6 Landscape of the Penrith Development Control Plan.
- 28 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.
- 29 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

- 30 All roadworks, dedications and drainage works are to be carried out at the applicant's cost.
- 31 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

- 32 Prior to the commencement of any earthworks, construction or demolition 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.

SIGNATURE

Name:	Aimee Lee
Signature:	

For the Development Services Manager