

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA19/0121
Proposed development:	Bulk Earthworks, Cut and Fill.
Property address:	14 - 28 Cullen Avenue, JORDAN SPRINGS NSW 2747
Property description:	Lot 22 DP 1194338
Date received:	20 February 2019
Assessing officer	Kathryn Sprang
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 Earthworks at 14-28 Cullen Avenue Jordan Springs. Under Sydney Regional Environmental Plan No 30-St Marys the site is an Urban Zone. Within this zone education establishments are permitted with consent.

The proposal seeks consent for bulk earthworks which will enable the future development and use of the site for a new school, and is therefore permitted with consent.

The application has been lodged on behalf of the NSW Department of Education, and therefore is a Crown development application.

It is noted that a State Significant Development is currently with the NSW Department of Planning and Environment (see SSD 9354) for Jordan Springs Public School. This proposal is to fast track the delivery of the school and ensure that site preparation works are completed prior to the SSD's finalisation.

Key issues identified for the proposed development and site include:

- A Preliminary Site Investigation and an Environmental Site Assessment was carried out and the subsequent reports submitted to Council with the application. These reports have been reviewed by Council's Senior Environmental Health Officer who noted that while the sampling size was appropriate for a site of that size, when looking at the sampling locations it is not clear whether the investigation considered the potential impacts associated with fill material imported and/or stockpiled in the northern corner and southern areas of the site.

Additional comment was provided from the consultant who prepared the reports stating:

From the site observations and laboratory testing we would consider it unlikely that significant impacts have leached from any stockpiles which were present on site, however given the unknown contamination status of the former stockpiles, if you wanted 100% certainty then surface sampling would be required.

Given that the contamination status cannot be established and that the use of one of the areas of concern is the oval for the primary school a condition of consent is recommended for further testing of the areas in question.

The application has been notified to adjoining properties between 26 February and 12 March 2019. No submissions were received in response.

This application is to be determined under delegated authority by Council.

An assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to recommended conditions.

The applicant, as a crown body, has agreed to the recommended conditions of consent.

Site & Surrounds

Properties of the site

Site area: 30,040m²

Site dimensions: The site is an irregular lot with frontages to Cullen Avenue and Lakeside Parade.

Orientation: North- south

Grade/slope: The site is generally flat with a gentle rise towards the north-west boundary.

Surrounding area:

- The site is bordered to the north by newly constructed low density residential dwellings
- To the east of the site is a riparian corridor and a public park
- To the south of the site (on the other side of Cullen Avenue) is vacant land, which is earmarked for multi dwelling housing
- To the south-west of the site (on the other side of Cullen Avenue) is the Jordan Springs town centre
- Within the same block of the site is a childcare and a community centre, both of which front Cullen Avenue
- To the west of the site (on the other side of Lakeside Parade) are newly constructed low density residential dwellings

Site constraints

Easements: Easement for a pad mount station.

Flooding: Nil

Bushfire-prone land: Nil

Existing building and structures: Nil

Proposal

The proposed development involves:

- Bulk Earthworks
- Cut and Fill
- Site Clearing

Plans that apply

- Western Precinct
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River
- Sydney Regional Environmental Plan No.30 - St Marys

Planning Assessment

• **Section 4.15 - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.15 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

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.

As per the SREP the site is zoned Urban and educational establishments are permissible in the zone with consent. As the proposed earthworks are to facilitate future delivery of Jordan Springs Public School the proposed works are permissible with consent.

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

Western Precinct Plan

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

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

Likely impacts of the proposed development as identified throughout the assessment process include:

- **Natural resources and systems eg. Air, water, soil**

The development is not subject to flooding, subsidence or slip.

A Preliminary Site Investigation and an Environmental Site Assessment was carried out and the subsequent reports submitted to Council with the application. These reports have been reviewed by Council's Senior Environmental Health Officer who noted that the while the sampling size was appropriate for a site of that size, when looking at the sampling locations it is not clear whether the investigation considered the potential impacts associated with fill material imported and/or stockpiled in the northern corner (near TP05 and TP08) and southern areas of the site (near TP28, TP36 and TP38).

Additional comment was provided from the consultant who prepared the reports stating:

From the site observations and laboratory testing we would consider it unlikely that significant impacts have leached from any stockpiles which were present on site, however given the unknown contamination status of the former stockpiles, if you wanted 100% certainty then surface sampling would be required.

Given that the contamination status cannot be established and that the use of one of the areas of concern is the oval for the school a condition of consent is recommended for further testing of the areas in question.

- **Flora and fauna**

The subject site has been previously cleared and is now dominated by exotic pasture. Council's Senior Biodiversity Officer has reviewed the proposal and is satisfied that the development will not negatively impact on biodiversity.

Heritage conservation

The property is not identified as having heritage significance. However, the reports provided indicate there is a chance that relics may be found upon excavation. Therefore an unexpected finds condition is recommended.

Will the proposal threaten the local community's desired future character of the area

It is anticipated that the proposal will facilitate the envisioned direction of a place of learning for the community and therefore is in keeping with the desired future character of the area.

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

The site is suitable for the following reasons:

- The site is zoned to permit the proposed future use.
- The use is compatible with desired vision of the Western Precinct.
- No significant vegetation is impacted by the development.
- The proposal will not prejudice the SSD application as no foundation works are proposed in this current DA.

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	Not supported, however conditions provided
Environmental - Biodiversity	No objections

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 relevant environmental planning policies, being Sydney Regional Environmental Plan No 20 - Hawkesbury Nepean River, Sydney Regional Environmental Plan No 30. - St Marys and the Western Precinct Plan the proposal satisfies the aims, objectives and provisions of these policies.

In its current form, the proposal will have a positive impact on the surrounding character of the area as it will assist in facilitating the delivery of Jordan Springs Public School.

The proposed design is site responsive, complies with key development standards and is in the public interest.

The site is suitable for the proposed development, the proposal is in the public interest, and there is unlikely to be negative impacts arising from the proposed development.

Therefore, the application is worthy of support, subject to recommended conditions.

Recommendation

1. That DA19/0121 for Bulk Earthworks, Cut and Fill at 14 -28 Cullen Avenue Jordan Springs be approved subject to the attached conditions (Development Assessment Report Part B)

General

1 A001

The development must be implemented in accordance with the following stamped approved plans issued by Penrith City Council:

Plan Reference	Drawing Number	Revision	Prepared by	Dated
Sediment and Soil Erosion Control Plan	DAC02.01	3	Northrop	13/02/19
Sediment and Soil Erosion Control Details	DAC02.11	3	Northrop	13/02/19
Bulk Earthworks Cut and Fill Plan	DAC03.01	3	Northrop	13/02/19

and other plans, the application form, Waste Management Plan or documents approved by Council, except as may be amended in red on the attached plans and by the following conditions.

Heritage/Archaeological relics

2 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

3 D001 - Implement approved sediment& erosion control measures

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).

4 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.

5 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.

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.

6 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.

7 **D - Dust**

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

8 **D - Mud/Soil**

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

9 **D Special BLANK**

Prior to works commencing, a temporary noise barrier is to be erected along the child care centre boundary shared with the school site. The barrier is to be a minimum of 1.8m high and constructed from a solid material such as plywood or sheet metal having a surface density exceeding 3 kg/m² with no gaps.

10 **D Special BLANK**

Prior to works commencing, a detailed Noise Management Plan, relating to the approved earthworks, is to be prepared and submitted to Penrith City Council for approval. Penrith City Council has fourteen (14) days to provide comment on the submitted Noise Management Plan. Approval is considered granted if no comment is received from Penrith City Council within 14 days.

This Plan is to incorporate the recommendations made to manage noise impacts associated with the approved earthworks as included in Section 10.8 of the 'Western Sydney Schools - Jordan Springs Public School Environmental Noise and Vibration Assessment' prepared by Acoustic Logic Consultancy Pty Ltd dated 23 January 2019 (Ref. 20190060.1/2301A/R1/VF). It is also to describe in detail the construction phases, programme, processes and equipment used for the earthworks component.

The approved Noise Management Plan is to be implemented and adhered to during all site works.

11 **D Special BLANK**

The 'Environmental Management Plan' prepared by Richard Crookes Constructions dated January 2019 (Project No. 1157) is to be implemented and adhered to during all site works.

12 **D Unexpected Finds**

Should any "unexpected finds" occur during site excavation and earthworks including, but not limited to, the identification/finding of contaminated soils, buried building materials, asbestos, odour and/or staining, works are to cease immediately and Penrith City Council is to be notified. Any such "unexpected finds" shall be addressed by an appropriately qualified environmental consultant.

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy 55-Remediation of Land. Should any contamination be found during development works and should remediation works be required, development consent is to be sought from Penrith City Council before the remediation works commence.

Health Matters and OSSM installations

13 F Special BLANK

Prior to the commencement of any works, a further assessment of contamination is to be undertaken in accordance with the Additional Site Investigations Plan, Revision: 01, dated 21/05/2019. This assessment is to supplement the 'Jordan Springs Public School Environmental Site Assessment: 14-28 Cullen Avenue, Jordan Springs, NSW 2747', prepared by WSP, dated 30 January 2019 (Ref. REF. PS110032) and is to be undertaken in accordance with the NSW Environment Protection Authority's 'Contaminated Sites: Guidelines for Consultants Reporting on Contaminated Sites'.

The assessment is to include (but is not limited to):

1. Further sampling to address those areas on site impacted by the historical importation of fill material as identified in the Additional Site Investigations Plan, Revision: 01, dated 21/05/2019.
2. Confirmation that the entire site is suitable for the proposed future use as an educational establishment.

The assessment is to be provided to Penrith City Council for approval. No works are to commence until the assessment has been submitted and approved by Penrith City Council.

Should it be identified in the assessment that remediation works are required to be undertaken on the site, a separate development application is to be submitted to Council for this work. No work on the current development is to proceed until such time as this new application has been approved by Council, and Council has approved the Validation Report associated with the remediation works.

Construction

14 H041 - Hours of work (other devt)

Construction 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.

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

Engineering

15 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.

16 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 commencement of any works on site. 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.

17 **K202 - S138 Roads Act – Works and Structures - Minor Works in the public road DRIVEWAYS ROAD OPENINGS**

Prior to the commencement of any works on site, a Section 138 Roads Act applications, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Concrete footpaths and or cycleways
- c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- d) Road occupancy or road closures
- e) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
- f) Temporary construction access
- g) Temporary works zone

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

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

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

Prior to the commencement of any works, it shall be ensured that 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.

19 **K224 - Construction Traffic Management Plan**

Prior to the commencement of any works on-site, a Construction Traffic Management Plan (CTMP) shall be submitted to Penrith City Council for approval. Penrith City Council has fourteen (14) days to provide comment or advise if the proposal requires Local Traffic Committee review and approval on the submitted Construction Traffic Management Plan. Approval is considered granted if no comment is received from Penrith City Council within 14 days.

The CTMP shall be prepared in accordance with Council's Engineering Construction Specification for Civil Works. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads & Maritime Services (RMS), and in accordance with Council's Engineering Construction Specification for Civil Works. Approval of the CTMP may require approval of the Local Traffic Committee.

20 **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 works commencing.

21 **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.

22 [K501 - Penrith City Council clearance – Roads Act/ Local Government Act](#)

Prior to the completion of works/construction of the school, it shall be ensured that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.

23 [K Special Condition BLANK](#)

Prior to the commencement of any works on site, it shall be ensured that the construction traffic management plan supplied by Bitzios, version 004, Issued 23 January 2019 is modified to show that all construction traffic and haulage routes enter and leave the site from the north via Greenwood Parkway and Lakeside Parade. Access through the shopping centre precinct of Lakeside Parade shall be prohibited.

Appendix - Development Control Plan Compliance

Western Precinct

The proposed earthworks are to facilitate the future school on site.

In this respect it will meet the learning need of the community, which is one of the main development visions for the Western Precinct.

It is demonstrated that the proposed works will assist with facilitating delivery of the future school, and in this case the proposal is within keeping of the vision of the area.

The archeological report s supplied with the application indicates there may be European & Aboriginal heritage present, however the likelihood of finding relics on site are low. Nevertheless a condition of consent is recommended in respect to an unexpected finds policy.

Sustainability and design of the School is to be considered within the State Significant Development Application (SSD 9354) currently with the Department of Planning and Environment for assessment.

Therefore, the proposed bulk earthworks satisfactorily demonstrate compliance to the Western Precinct Plan.