



Our reference: P-626064-J4C8
Contact: James Heathcote
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30 January 2024

Attn: Chris Eldred
Email: Christopher.Eldred@planning.nsw.gov.au

Dear Chris Eldred,

Council Response to Notice of Exhibition - DA 23/17598 - Nepean Business Park - Penrith Lakes Employment Land Boundary Adjustment at 14-28 and 30-68 Old Castlereagh Road, Penrith, NSW, 2750

Thank you for providing Penrith City Council with the opportunity to comment on the abovementioned Notice of Exhibition.

Council has reviewed the information referred for comment and provides the following advice for the Department's consideration in relation to this matter.

1. Planning Considerations

a) The proposal should ensure it is consistent with the controls and objectives of the Penrith Lakes Development Control Plan and State Environmental Planning Policy (Precincts - Western Parkland City).

b) The boundary adjustment should be checked against the approvals on the site(s) to consider whether it aligns and is consistent with the staging plan for the development (if staging forms part of the consent approvals).

c) The proposal should consider whether there are any implications to outstanding land contamination, bulk earthworks and/or geotechnical compaction matters occurring on the site, ensuring there are no implications to any outstanding subdivision work certificate applications and the like. Please note that further concerns with ground conditions and implications of the NSW Land and Environment Court determination are raised further in this letter.

d) As both Lots 2 and 3 are bushfire prone land (entirely), a Bushfire Assessment report prepared by a suitably qualified person should be

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prepared that considers any applicable requirements of the NSW RFS document Planning for Bushfire Protection 2019. Referral may also be required to the planning division of the NSW Rural Fire Service.

2. Engineering Considerations

Council's Development Engineering Department have reviewed the proposal and have raised the following considerations:

- a) The DCP references the need for access from Lugard Street, yet the proposed boundary adjustment will remove Lugard Street access for Lot 3. Consideration should be given as to whether access should be retained (whether through a legal right of carriageway or otherwise) and whether there are any implications in terms of flood safe access or access for emergency services (noting the sites are bushfire prone land entirely also).
- b) Assessment of matters relating to access and parking, stormwater drainage, civil works and flood management planning would be considered through specific development proposals. However, the proponent may wish to consider whether the boundary adjustment will have any implications on these aspects in proactively resolving any potential future site management issues.

3. Site Suitability and Certification

- a) The subject application proposes boundary adjustments to facilitate a separate development application (DA9876) which includes amongst other things, bulk earthworks and civil construction or roads and drainage. The foundation layer for DA9876 is facilitated by the Penrith Lakes DA1 – DA4 and the approved 2 year plans. The bulk earthworks associated with the 2 year plans is understood to be currently under construction to 'remediate' the uncontrolled fill on the site.
- b) DA 9876 provides conditions regarding bulk earthworks, however, this determination omits to provide a specific and critical condition requiring certification of the 2 year plan bulk earthworks prior to further earthworks associated with DA9876. This is of particular importance to ensure that the works subject of the 2 year plans are suitably completed and certified, prior to the commencement of any further works on top of the resulting fill platform.

- c) The subject application proposes a boundary adjustment to create lots that rely upon the bulk earthworks associated with the 2 year plans which are currently underway. It is critical that the bulk earthworks are completed and certified to ensure that any lots being created have a landform that is suitable for the ultimate development of the site; being DA9867. This is a critical necessity that should have been addressed via a condition of consent as part of DA9867, requiring certification prior to the issue of any subdivision works certificate.
- d) While it is appreciated that the subject proposal is a separate DA, the same necessity applies requiring evidence of completed works and certification prior to the release of any Subdivision Certificate, which would then be relied upon (post lot registration) to allow for the progression of works associated with DA9867. As such it is requested, and deemed imperative, that a condition be imposed requiring certification of the underlying Bulk Earthworks prior to the issue of Subdivision Certificate. A draft condition has been provided to assist, as outlined below:-.

“Prior to the issue of any Subdivision Certificate, a Geotechnical Report certifying that all earthworks associated with the current approved 2 Year Plan have been completed in accordance with the 2 year plan and associated approved plans and techniques, AS3798 and Penrith City Council’s Design Guidelines and Construction specifications shall be provided to the Principal Certifier. The report must include:

- o *Certification of compliance with any DA, 2 year plan and Subdivision Works Certificate approved Geotechnical Assessments*
- o *Confirmation of remediation of all uncontrolled fill on the site*
- o *Compaction reports*
- o *Compaction reports for bulk earthworks and lot regarding.*
- o *Soil classification for all lots*
- o *Statements of Compliance that all lots are suitable for their ultimate development potential under DA9876”*



Yours sincerely,

Gavin Cherry
Development Assessment Coordinator

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