

5 March 2021

# JORDAN SPRINGS EAST – AMENDED NOTATIONS

## SUPPLEMENTARY INFORMATION

At its meeting of Monday, February 22, Council resolved to amend notations that were added to section 10.7 planning certificates for properties in the Jordan Springs East precinct in February and September last year. The effect of the new notations is that Council will treat all lots constructed on fill deeper than 400mm as 'Class P' sites for all regulatory and planning purposes.

Earlier last year, as a result of reported instances of subsidence and property damage in the vicinity of Armoury Road, Council commenced a formal investigation under its statutory powers to determine, among other things, whether the bulk earthworks for Jordan Springs East were carried out in compliance with the development consent for the subdivision works.

Critically, Council was concerned to determine whether the fill platform for Jordan Springs East, which is up to 8 metres deep in places, was constructed in accordance with the technical and control requirements for the importation, placement, compaction, inspection and testing of fill specified in the Council's conditions of development consent and the earthworks specification for the Jordan Springs East subdivision works.

As a result of extensive information supplied to Council by the developer and its geotechnical consultant, Pells Sullivan Meynink, and independent legal and geotechnical advice obtained by Council in connection with the investigation, Council is satisfied that substantial parts of the fill platform for Jordan Springs East were not constructed in accordance with the technical and control requirements that applied to the subdivision works.

Of particular concern, is that information supplied to Council by the geotechnical and inspection authority retained by the developer, certifying that each section of the earthworks in Jordan Springs East was carried out in accordance with the earthworks specification and the Council's conditions of development consent, did not disclose the existence of extensive non-compliant earthworks.

Council has pressed the developer to provide evidence demonstrating that the fill platform in any part of Jordan Springs East was constructed in accordance with the relevant technical and control requirements for the earthworks at the time of placement. The developer has not done so to date. The invitation for the developer to do so remains open.

The default position under the relevant Australian Standards for the construction of residential slabs and footings, AS 2870, is that all lots constructed on fill in Jordan Springs East that is deeper than 400 mm are classified as Class P sites (i.e. 'problem' sites). AS 2870 requires footing systems for Class P sites to be designed in accordance with engineering principles specified in the standard to allow for the geotechnical conditions specific to the site.

The standard permits a Class P site to be reclassified using engineering principles only if the site is constructed on 'controlled fill'. Re-classification permits standard 'deemed-to-comply' slab and footing designs to be used for residential construction.

In order for the subsurface conditions of any lot constructed on fill in Jordan Springs East to be correctly described as 'controlled fill', it must be established that the lot is constructed on fill that complies with the relevant technical and control requirements for the earthworks at the time of placement. Absent such evidence, the site must retain its default classification of Class P.

Council is aware that the developer has used data obtained from cone penetration testing after the completion of the earthworks as a basis for reclassifying the vast majority of lots constructed on fill in Jordan Springs East.

Council is satisfied that this is not permissible under the relevant standard. The earthworks specification and the conditions of development consent specified the acceptance criteria for the earthworks at the time of placement. Neither, the earthworks specification, nor the conditions of development consent, permit the developer to develop alternative 'acceptance' criteria for non-compliant earthworks for the purpose of reclassifying sites under AS 2870.

A Council spokesperson said: "The results of Council's investigation has left the Council with no option but to amend the notations. As we said last year, Council has a moral and legal obligation to give current and future owners information on matters that may impact their property."

"We have always strived to be open and transparent with property-owners in Jordan Springs East. Furthermore, we have supported and will continue to support efforts by residents to ensure the developer addresses property issues and owners concerns in a prompt and professional manner. Residents are encouraged to seek their own legal and engineering advice about these issues."

A copy of the independent report from Council's geotechnical experts is available on Council's website [www.penrith.city/jordanspringseast](http://www.penrith.city/jordanspringseast).

Residents who have concerns about these issues are encouraged to reach out to the Building Commissioner who has been involved in the matter by contacting NSW Fair Trading.