



Our reference: 8263509
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Department of Planning and Environment
Michelle Niles
Senior Planner
Regional Assessments

Via email: michelle.niles@planning.nsw.gov.au

Dear Ms Niles

Response to Modification Applications to Approved Works within the Penrith Lakes Scheme (DA 2 MOD 7, DA3 MOD 6 & DA 4, MOD 11)

I refer to your email regarding the further Notice of Section 96(1A) Modification to Penrith Lakes Scheme (DA 2 MOD 7, DA3 MOD 6 & DA 4 MOD 11) dated 27 June 2018 and thank you for providing Council with an opportunity to comment on the proposals.

The proposed modification applications appear to relate to a part of the Penrith Lakes Scheme which is currently 'unzoned' due to unresolved flooding and evacuation constraints. Given this, concern is raised that the timing of this application may be premature.

The following issues are also raised for consideration and address in the assessment of the applications: -

Planning Considerations

- Clarification is sought regarding the relationship between the landform levels in the approved Water Management Plan, the statutory role and weight of the two year plans, and the flood planning level set in State Environmental Planning Policy (Penrith Lakes Scheme) 1989.
- The application would appear to seek consent for additional fill to comply with an unconfirmed approved land form level. However, it also appears that the application is seeking further revision to the approved land form levels to potentially address new flood planning level requirements outlined within the SEPP. Until the specific required land form level is confirmed, and the area required to meet that level is further explained, the volume of fill proposed and the design to which that fill relates, cannot be quantified and the application cannot be adequately considered.
- The hierarchy of instruments is also critical in the consideration of works within the scheme and clarification is sought from the Department on the following matters:
 - The required finished levels for filling works and the required levels of the floodway are understood to be established within the approved Water Management Plan (WMP). The WMP is a

conditioned requirement of the various development applications as modified, and compliance with the approved WMP is required as part of the existing approved consents. It is also understood that the approved Water Management Plan is not the subject of amendment or modification as part of the proposed modifications now lodged.

- While there are conditions in the approvals for the lodgement of two year plans, the wording of the conditions requiring these plans does not appear to provide an opportunity to revise the terms within the WMP. The two year plans would appear to be the equivalent of a compliance check on the works as undertaken, designed to ensure that the works are undertaken in accordance with the consent and the terms of the approved Water Management Plan.
 - The two year plans are not understood to have statutory weight as provided for within the SEPP, and do not specifically form part of the issued approval within DA2, DA3 or DA4 as amended, beyond demonstration of works compliance with the consent and the Water Management Plan as approved. This requires clarification if there is any suggestion that details within the two year plans can, or has, amended commitments within the approved WMP.
- As a result of the above, consideration of the importation of additional fill should first demonstrate compliance with the approved Water Management Plan which establishes requirements for the floodway between Duralia Lake and the Main Lake A being constructed to a level of RL22 and width of 300m. Any deviation from this, such as would appear to be identified in the submitted documentation, would necessitate specific inclusion as part of the modification application, to amend the conditions in the consent and the details contained within the approved Water Management Plan. This aspect would then require assessment and flood modelling to ascertain the impacts of these amendments within the scheme, and to the broader local catchment, which is a critical consideration in the assessment process.

Development Engineering and Traffic Management Considerations

- As outlined above, the submitted information that supports the modification applications does not specifically address what the additional fill is for and infers that a higher finished platform level is being pursued. The details of the proposal must be clarified as part of this application. It is critical to ensure consistency with the approved Water Management Plan. The placement of the filling and the shaping of the landform is critical to flood characteristics.
- In addition, it appears the proposal is seeking deletion of a proposed temporary road intersection. Other than a few lines in Table 4 this is not clearly addressed. The importation of an additional 5 million tonnes of fill to the site will significantly impact Councils road assets in terms of pavement life and deterioration of road pavements. As such the applicant's intentions in addressing the ongoing maintenance of these roads and future pavement life needs to be further addressed and clarified.
- The Modification Application does not appear to be accompanied by a detailed Traffic Report. For traffic management purposes a Traffic Impact Assessment report should be submitted that details traffic

volumes, hours of operation and proposed routes of additional truck movements which are specifically associated with the increased fill importation (independent of previous operations and approvals). The traffic report should also address the impacts of the additional traffic generation, including (but not limited to) intersection impacts and what measures are proposed to ameliorate impacts of additional heavy vehicle movements on roads under Council's care and responsibility (particularly Andrews Road).

- The additional truck movements should also be accommodated by the construction of the new intersection (mentioned in Table 2 Approved Scheme above) at the northern end of the site as previously conditioned in DA consent. Please refer to Condition 48A being:-

“Prior to the commencement of importation of VENM or ENM using the northern most access, the road network adjacent to Gate 3 (Castlereagh Road north of Cranebrook Road intersection) shall be upgraded to provide auxiliary left turn treatment for northbound traffic turning onto the site and right turn treatment for southbound traffic in consultation with Penrith City Council and RMS.”

It would be greatly appreciated if the above concerns and requests for clarification could be addressed by the Department. It is also requested that Council be provided with an opportunity to further consider any advice received and respond prior to determination of the modification applications.

Should you require any further information or would like to discuss this matter further, please do not hesitate to contact me on (02) 4732 8125.

Yours faithfully



Gavin Cherry
Development Assessment Coordinator