



Our reference: 8424297
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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

**Comments on Applicants Submission Response - Modification
Applications to Approved Works within the Penrith Lakes Scheme (DA 2
MOD 7, DA3 MOD 6 & DA 4, MOD 11)**

I refer to the above modification applications and the applicant's response to the submission issues raised during the exhibition process. Thank you for providing Council with an opportunity for further consideration and comment.

Council previously requested that the Department confirm some strategic planning concerns that are currently unresolved, and which will impact on the assessment and consideration of the current proposal.

The following key questions and issues remain unresolved and request is again made for these issues to be considered and clarified by the Department:

- Clarification is still 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 requirements outlined in State Environmental Planning Policy (Penrith Lakes Scheme) 1989. This is a matter for the Department to confirm rather than the applicant given there are discrepancies between the documents / instruments in terms of environmental management considerations.
- The justification for fill by the applicant is that it is needed to meet the 2016 approved landform and the freeboard requirements of the SEPP set in 2017 which were conditioned to be interim levels only. This would bring into the question the suitability of any additional fill to meet this interim level. Further as the two year plan pre-dates the SEPP instrument, it still needs to be confirmed how these two processes relate to each other. For example, does a new landform that meets the requirements of the SEPP need to be approved, or is there sufficient freeboard built into the 2016 approved land form that it meets the more recent requirements of the SEPP. If it's the first of these (a new landform needs to be approved) then an application to meet the 2016 approved landform is premature and does not meet the aims of the SEPP – it should be deferred or withdrawn whilst the new landform is identified and approved.



- The applicant's submission response details that no landform levels or landform design is proposed as part of this application, however to assess the proposal, the outcomes of the proposed works in terms of landform levels and land form design must be understood. It is yet to be explained how the additional fill in response to levels established in approved 2 year plans is suitable and complies with the SEPP and Water Management Plan provisions and requirements.
- Council has confirmed in writing to the Department that a flood level was not set for the Scheme as part of the Nepean Flood Study at the specific request of the Office of Environment and Heritage (OEH). Until such time as a flood level is set, compliance with the provisions within the SEPP cannot be assessed and satisfied, as freeboard considerations require the flood level to be firstly identified and set in place. The applicant's response reiterates the requirements in the SEPP (being the 100 year ARI plus 1.0m freeboard) however the actual 100 year ARI is not set by the SEPP, and as such the implications of the filling cannot be known at this stage to adequately assess the proposal.
- The applicant's submission response implies that the Water Management Plan has set the 100 year ARI which is not correct. The levels have not been set and were specifically excluded from the Nepean Flood Study as outlined above. While the WMP may identify suitable flood levels at the time of that documents assessment, the actual flood level has not been set for this Precinct.
- Noting that the 2016 approved landform identifies an alternative design for the Main Lake to Duralia Floodway to that identified in the Water Management Plan, it still needs to be confirmed by the Department what the process is, for securing the design of this Floodway in accordance with the Water Management Plan.
- The applicant response to road maintenance intentions address proposed rectification works to be undertaken in McCarthy's Lane where required, however the local road network for the haulage route is also subject of the same concerns. Clarification is required on the extent of pre and post dilapidation assessments required for the broader road network to ensure that the broader road assets are not detrimentally impacted by the proposed works.
- Furthermore, the adequacy of the section of Castlereagh Road between McCarthy's Lane and Nepean Street in terms of safe haulage route in its existing two lanes rural type road with no verge is questioned and the additional demand warranting an upgrade of this section of road should be investigated.

It would be greatly appreciated if the above concerns and requests for clarification are again addressed by the Department.

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