

Michael Doyle

From:
Sent: Thursday, 27 June 2024 7:18 AM
To:
Subject: RE: Referral to Chief Eng - Mod app MP 10_0194 MOD 14 for Stage 1 Bulk Earthworks at Kings Forest

Trent/Michael,

I have reviewed the documents provided and provide these comments.

The approval of a maximum exposed area (from 5ha to 30ha) does represent as significant shift in the nature of the site works. With such an increase in works the magnitude of risk also increase. It is noted that generally the type of works has not changed. However what was considered a small risk based on the consequences of a 5ha site works does now shift given the risks are applied over a 30ha site. For this reason there should be a thoroughness of site management plans and other relevant documents.

In in response to your request I have also reviewed the Tweed Shire Council response to the modification in their letter dated 2 May 2024. For the Chief Engineer's response I have not sought to reproduce comments that have already been made by the Tweed. I do note that the Tweed Shires responses and objections to the modification do have vary levels of merit. The Tweed responses have included statements of *"As with the Acoustic & Vibration Plan, and the Sediment & Erosion Control Plan, it is considered that it would be inappropriate to defer the submission of the Soil/Dust Suppression Plan to post determination"*. Given the significant shift in the nature of site works (5ha to 30ha) and increase in the magnitude of risk increase, I concur with the Tweed responses. These plans and all plans should provide a proportionate response, and should not be deferred. The approach of "it will be alright we will address these issues down the track" is not supported.

With regard to the Mortons Urban Solutions letter dated 13 March 2024 concerning the justification for the modification, the explanations given are considered appropriate. That is, it is a better more efficient approach carry out the earthworks on a larger more efficient scale. Worth noting I have NOT considered Condition 9 g). This issue is better addressed by those administering the various contractual arrangements.

Given in my response I have not seen fit to duplicate issues already raised in the Tweed Council response. I would welcome to opportunity to review responses by the proponent to the Tweed Shire Council's identified issues. Seeing how the proponent responds to those comments would be a logical next step and would avoid duplication of effort by both the Department and the proponent.

It think it would be best is we have a follow up meeting to this email.

Kind regards

Chief Engineer

Department of Planning, Housing and Infrastructure

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From:

Sent: Thursday, 16 May 2024 8:50 AM

To:

Subject: RE: Referral to Chief Eng - Mod app MP 10_0194 MOD 14 for Stage 1 Bulk Earthworks at Kings Forest

Thank-you , we are more than happy to request additional information from the applicant to justify the modification and we appreciate your assistance with this one. If you're in 4 PSQ next Tuesday, let's have a chat in person.

I'm not sure if Michael shared some of the background information when they sought our support to increase the disturbed area to 20ha below:

On 10 July 23 Marcus Ray advised the applicant that *the department is willing to consider increasing the limit of disturbed area and how the site is to be stabilised under the 'as otherwise agreed by the Planning Secretary' arrangement provided for under Conditions 9(d) and 52(2)*. Letter attached

The assessment team confirmed the submission requirements below:

The Department can consider increasing the maximum disturbed area to 20ha and how the site is to be stabilised under conditions 9(b) and No.52(2) to Project Approval 08_0194 under the 'as otherwise agreed by the Planning Secretary' arrangements provided for under these conditions. To do this we need:

- 1. Details, including plans, explaining the staging of earthworks. An updated drawing 12301-ALL-041 Revision B prepared by Mortons Urban Solutions dated 16 October 2012, is likely to be required.*
- 2. An updated Sediment & Erosion Control Plan with details of how areas subject to earthworks will be stabilised and managed (eg application of top soil, mulch, seeded or other product or material, and how it will be secured, eg battering or other strategy & technique/s, and details of how long earth will be stabilised before undertaking further earthworks)*
- 3. Certification from a suitably qualified person(s) on the efficacy, including with respect to erosion from wind and water, of the proposed management & mitigation measures for stabilising & managing areas subject to earthworks contained in the Sediment & Erosion Control Plan.*
- 4. A Remediation Plan that addresses lack of grass cover as well as the soil deficiencies identified in the Soil Properties Assessment, Project dated 3 February 2023.*

The other amendments required a formal modification and assessment team confirmed the submission requirements below

A minor modification under section 4.55(1A) of the EP&A Act will be required for the other proposed changes including changing the requirement for geotechnical endorsement, the use of crushing plant machinery and increasing the size of the stockpiled area. There's no proviso for 'as otherwise agreed by the Secretary' in these conditions. The Department won't need to publicly exhibit or consult agencies about this amendment. Accompanying this mod, we need:

- 1. A Geotechnical Assessment, or an amended Geotechnical Report prepared by Cardno Bowler titled Geotechnical Investigation proposed subdivision Depot Road, Kings Forest dated 7 April 2011, describing why it is appropriate for a civil engineer to certify compliance with detailed earthworks design plans.*
- 2. Justification why condition No.91(6) dealing with stockpiling should be increased to 20ha, including with respect to potentially increasing the disturbed area up to 40ha of the site at any one time.*
- 3. A report by an appropriately qualified person(s) why the use of crushing plant machinery, mechanical screening or mechanical blending of materials is appropriate, and can be effectively used in the rehabilitation of poor-quality top spoil or unsuitable material sourced on-site and replaced on-site, and with consideration of any potential impacts.*
- 4. An Acoustic & Vibration Report prepared by a suitably qualified person(s) that determines potential impacts of proposed crushing plant machinery, mechanical screening or mechanical blending of materials.*
- 5. A soil/dust suppression plan for the operation of the proposed crushing plant machinery, mechanical screening or mechanical blending of materials.*

We much prefer the proponent selected approach to deal with all earthworks matters as a modification to provide transparency.

Regards

Trent Wink

Team Leader, Regional Assessments
Department of Planning, Housing and Infrastructure

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The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

From:

Sent: Thursday, 16 May 2024 6:43 AM

To: Michael Doyle <michael.doyle@dpie.nsw.gov.au>

Cc: Trent Wink <Trent.Wink@planning.nsw.gov.au>

Subject: RE: Referral to Chief Eng - Mod app MP 10_0194 MOD 14 for Stage 1 Bulk Earthworks at Kings Forest

Michael/Trent

I have reviewed most of the information provided. I cannot support the modification in its current form.

- Increasing the permitted size of a 'disturbed areas' from the current limit of 5ha (see condition 9(d)) to being 30ha
- Undertaking bulk earthworks, civil works, stockpiling and blending of soil & fill material concurrently
- Use of on site fill material to minimise and reduce potential external haulage/traffic /dust and noise issues

The proposed modification poses a significant change in the engineering risk profile that currently exist. The increased risk is not insurmountable and could be addressed. However based on the very limited information I could not support the modification. The information provided some explanation that as to how risks/issues may be addressed down the track. I cannot support an approach of "will be addressed down the track", for such a significant risk change from the current approval.

I will provided a more detailed response ASAP. That response will go into specifics which would assist in the proposed modification concept.

We should discuss further as I prepare my detailed response, please let me know when your available to discuss.

Kind regards

Chief Engineer



The Department of Planning, Housing and Infrastructure acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

From: Michael Doyle <michael.doyle@dpie.nsw.gov.au>
Sent: Tuesday, 16 April 2024 9:46 AM
To:
Cc: Trent Wink <Trent.Wink@planning.nsw.gov.au>
Subject: Referral to Chief Eng - Mod app MP 10_0194 MOD 14 for Stage 1 Bulk Earthworks at Kings Forest

Hi

Thank you for speaking with me and Trent shortly ago. As chatted about briefly, modification application Project Approval MP 10_0194 MOD 14 for Stage 1 Bulk Earthworks at Kings Forest was lodged on Mon 15 April. The application proposes to modify conditions as well as introduce a bulk earthworks strategy for Precinct 3,4, part 5, 7 and part 9 and that includes rolling earthworks (bulk and civil) phases, increasing the permitted size of the 'disturbed areas' and use of onsite fill material.

Subject modification application MP 10_0194 MOD 14

The subject modification application proposes to modify existing consent conditions A3, A6, 9(a), 9(d), 9(f), 9(g), 10, 11, 52 & 81 of the Project Approval, including to develop a bulk earthworks strategy that includes

- Increasing the permitted size of a 'disturbed areas' from the current limit of 5ha (see condition 9(d)) to being 30ha
- Undertaking bulk earthworks, civil works, stockpiling and blending of soil & fill material concurrently
- Use of on site fill material to minimise and reduce potential external haulage/traffic /dust and noise issues
- Delete redundant conditions and introduce new conditions, including introducing 9(h) for bonding of sediment and 10(k) for a borrow pit and 20m wide landscaped buffer.

The bulk earthworks strategy is proposed to apply to Precincts 3, 4, part 5, 7 and part 9 and, within these precincts, phases and sequencing will be later developed. Refer to section 3 in the applicant's modification report for detail on the proposed modifications.

Referral to Chief Engineer

We have referred the application to Tweed Shire Council for comment as well as to our Far North Region Compliance team. We would also like to ask you to consider the proposal (available under [EF24/4055](#) in CM10, or at <https://www.planningportal.nsw.gov.au/major-projects/projects/modification-14-kings-forest-stage-1-bulk-earthworks>) and make comment such as on:

- The proposed changes to condition 9(a) which requires a Construction Certificate application for bulk earthworks: Given the proposed 30ha size of disturbed earthworks at any one time, whether further requirements are recommended to be incorporated into the conditions of consent for future CC applications.
- The proposed 30ha size of disturbed earthworks at any one time, including any foreseen risks involved with such a large area, and whether any such risks are sufficiently ameliorated by existing consent conditions and

proposed modified conditions, and whether the proposed size of area is considered to be appropriate for the size & nature of development across the relevant precincts.

- The adequacy of the proposed methods of treating disturbed areas under proposed conditions 9(d), 9(g) and 52(2), including where the application describes that previous grass strike across the site has failed.
- Whether proposed condition 9(h) satisfactorily provides surety that sediment & erosion control will be implemented adequately.
- Whether mechanical blending of rock on site is considered to be appropriate (condition 81).
- Whether 1.8m high is adequate for temporary screening (condition 10(k)).
- Geotechnical and constructability considerations that make the proposal appropriate or inappropriate.
- Any other matter based on details of the proposal, the history of the site or other relevant information.

Background

Concept Plan MP 06_0318 was approved on 19 Aug 2010 for:

- residential development for approximately 4500 dwellings
- town centre and neighbourhood centre for future retail and commercial uses
- employment land and community and education facilities
- a golf course, open space, wildlife corridors, protection and rehabilitation of environmentally sensitive land
- water management areas and lake
- roads, bicycle and pedestrian network and utility services infrastructure.

This Concept Approval has been subject to a number of modifications including that relate to the number of proposed precincts within the estate, uses, and exempt & complying development provisions in the future for the site. The last modification, MOD 9, was approved on 25 Jan 2023.

Project Approval MP 10_0194 was approved on 11 Aug 2013 for:

- the staged creation of 10 development lots
- bulk earthworks across the site
- subdivision of Precinct 5 into 376 residential lots
- infrastructure and roadworks along the Kings Forest Parkway and within Precincts 1 and 5
- construction of 2,036sqm of floor space within Precinct 1 for future use as a rural supplies building with associated car parking and landscaping.

This Project Approval has been subject to a number of modifications including that relate to weed management plans, dust mitigation measures, and timing of submission of civil works drawings. The last modifications, MOD 12 and MOD 13, were approved on 1 March 2024 and 23 June 2023 respectively.

Please provide any such comment by Tues 30 April. Feel free to make comment through reply email, or to give me a call on my below number if you would like to discuss the proposal at all

Many thanks for your assistance

Regards

Michael Doyle (*he/him*)

Senior Planning Officer, Regional Assessments

Development Assessment and Systems

Department of Planning, Housing and Infrastructure

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