



Chris Eldred
Senior Planning Officer
Department of Planning, Housing and Infrastructure
4 Parramatta Square, 12 Darcy St,
Parramatta NSW 2150

5 December 2024

Subject: BCS Comment on Modification Application - Penrith Lakes – DA2 (DA86/2720) Modification 12 – DA86/2720-Mod-12

Dear Chris,

Thank you for your referral received 13 November 2024 requesting advice from the Biodiversity, Conservation and Science (BCS) Group on for this State Significant Modification Application (DA86/2720-Mod-12).

In preparing this advice, BCS has reviewed the following documentation:

- DA2 Modification Report - Arup (8 November 2024)
- Appendix A - Legal Advice - Minter Ellison (27 August 2024)
- Appendix B - Site Drawings - J. Wyndham Prince (1 March 2024)
- Appendix C - Flood Impact Assessment (FIA) – Water Technology (7 November 2024)

Flooding

BCS has reviewed the FIA prepared by Water Technology and considers it has adequately addressed the Flood Risk Management Guideline LU01. No further referral to BCS is required regarding flooding.

Biodiversity

The Biodiversity Conservation Act 2016 (BC Act) states that a Biodiversity Development Assessment Report (BDAR) is required with a modification application for State Significant Development (SSD) and State Significant Infrastructure (SSI) projects unless the authority, or person determining the application, is satisfied that the modification will not increase the impact on biodiversity values. This applies even if the original approval was granted or applied for before the commencement of the BC Act (25 August 2017).

DPHI (the consent authority determining the application) has clarified in an email to BCS on 20 November 2024, that *'a BDAR is not required for this modification... The vegetation is only in place as a result of works undertaken in accordance with this consent and is likely to be removed under works within this development consent (and the resulting 2 year plans).'*

BCS recommends that DPHI addresses Section 7.17 of the BC Act in the assessment of the application.

Should you have any queries regarding this matter, please contact Theo Wilkinson, Senior Conservation Planning Officer via theo.wilkinson@environment.nsw.gov.au.

Yours sincerely,



Louisa Clark
**Director, Greater Sydney
Regional Delivery
Biodiversity, Conservation and Science**