



20 November 2014

Our Ref: ECM No. 6425336
Contact: Gavin Cherry
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Thomas Piovesan
Department of Planning and Environment
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Dear Mr Piovesan

Re: Notice of Exhibition – Section 75W Modification Application for DA2 MOD5, DA3 MOD4 and DA4 MOD9 for the Importation of Additional Fill (Ref No. 10/2465)

Reference is made to your correspondence dated 17 October 2014 seeking comment on the above proposed modification applications and supporting Environmental Assessment Report.

The Modification Applications and accompanying Environmental Assessment Report for the abovementioned project has been reviewed and the following submission comments are provided for your consideration and action:

Planning Matters

- It is understood from the application that the applicant has omitted to submit to the Department the required bi-annual reports (2 year plans) with a gap identified between 2001 to 2013. It is not clear then what regulatory process is in place to monitor the extractive works being undertaken to ensure that the required commitments are being adhered to in accordance with the issued consents. Further information is sought as to why the reports / plans were not pursued in accordance with the issued consents.
- It is not clear from the documentation submitted why the lakes themselves, which are intended for recreational use cannot be deepened to provide greater passive recreational opportunities and reduce the need for the importation of additional fill. Concern remains that the proposed works may be seeking to compensate for additional extractive works undertaken without sufficient monitoring over the last decade, which has now necessitated the current modification proposals with the intention to fill parts of the scheme to an as yet undefined flood planning level.

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- To manage the off-site impacts, mechanisms need to be put in place so that it can be assured that the Statement of Commitments included in the application is complied with. This is required to ensure that all of the required mitigation measures proposed are implemented. In addition, the provisions of the Statement of Commitments in relation to the soil material will also assist in ensuring that contaminated material is not brought onto the site. It is requested that conditions of consent be imposed to ensure that environmental management commitments outlined within the application are adhered to. In addition the following should be specifically conditioned if the application is supported:-
 - Adequate erosion and sedimentation (Soil and Water Management) controls are in place to ensure that no impacts to water quality; and
 - All disturbed areas are to be reinstated.
- It must be ensured that the proposed works will not impact on the ability to implement the Water Management Plan.

Traffic Management and Infrastructure

- The importation of additional fill will result in an increase in vehicle movements in and out of the site and within the local road network. The application indicates that 238 trucks per day (476 truck movements) will be required which is in addition to the existing fill approval and associated truck movements. Concern is raised with the impacts of this intensification on the condition of the road network.
- Concern is raised with the frequency of truck movements proposed and the resulting safety implications on existing vehicles using Castlereagh Road. The roadway within the urban area of Cranebrook does not provide a continuous two lanes in each direction. Consideration should be given to the upgrade of Castlereagh Road to provide a dual carriageway width extending from McCarthy's Lane to Cranebrook Road. This is recommended to separate trucks from private vehicles to reduce the potential for vehicle conflict, safety impact and traffic congestion. This will require liaison with RMS and Council and intensification of activity within the local road network should not be supported until such time as this is resolved.
- Council has reviewed the existing function and capacity of Andrews Road and the Castlereagh Road section north of Cranebrook. These roads will experience traffic growth over the existing approved forecast, and while it is acknowledged that the volumes are predicted to be below peak approved movements, concern is still raised with the prolonged use of the road network and the potential degradation of the road pavement given the increased traffic generation and truck movements resulting from the additional importation activities.
- Irrespective of the above concerns, the intersection treatment at Castlereagh Road and Northern Access Road 8 as shown on the proposed J. Wyndham Prince Drawing No. 9600_Dar-002(C) should be conditioned to be implemented in order to facilitate controlled access movements for heavy vehicles. A Roads Act application is required to be lodged with and approved by Penrith City Council for the proposed upgrade works.

- It is also noted that the development of Waterside (residential estate north of Andrews Road) relied upon voluntary planning agreements between the RMS and the developer for contributions towards regional road works and / or upgrade works to part of Castlereagh Road. The timing of the required works needs to be investigated, discussed with the RMS and considered as part of this proposal having regard to the impacts of the proposed traffic (truck movements) on the existing and future road design. The applicant for the current modification application should also enter into discussions with the RMS (become party to the planning agreement) to ensure the delivery of the road upgrade works is progressed as the proposed development provides further burden on the road network as part of this application.

Flood Management Matters

- The Penrith Lakes Scheme is an area that is highly sensitive to flooding impacts. The proposed modification for the importation of 5 million tonnes of additional fill does not provide sufficient information for adequate assessment to be undertaken with regard to flooding.
- The following needs to be specifically considered in the assessment of the modification applications and additional information pursued for review by both the Department and Penrith City Council:-
 - On 17 August 2012 the PLDC submitted a draft Water Management Plan (WMP) for approval by the Director General. On 5 November 2013 the Stage 1 WMP was approved by the Director General, subject to a number of conditions.
 - The Stage 1 WMP involved a revision to the configuration of the lakes and weirs within the Penrith Lakes Scheme. Council has received advice that as a result of amendments to the final landform, lake and weir configuration, adverse flooding impacts will occur on land outside of the Lakes Scheme. An impact will also occur to future flood planning levels of the internal land.
 - It is Council's understanding that no flood mitigation and/or management works to reduce the external flooding impacts have been proposed to date. In this regard, it is Council's position that the requirements of Condition 3 of the Water Management Plan (Stage 1) approval have not yet been satisfied. Until such time as this is sufficiently addressed, no application for additional filling works should be entertained.
 - The application states that the additional 5 million tonnes of fill is required to meet the "approved landform". However, as Condition 3 of the Stage 1 WMP approval has not been satisfied, it is not clear what references to the 'approved landform' are actually referring to. The applicant should be requested to provide clarity to the Department and subsequently Council on the specific level to be filled to, in order to allow adequate consideration of this application with regard to the flooding impacts both internal and external of the site.
 - It is unclear as to how the additional 5 million tonnes of fill is to be placed in association with both interim and final landform scenarios at different

stages of fill importation and what impact this may have on flooding (short term and long term).

- It is considered that inadequate information has been submitted to enable the Department to appropriately assess the implications of the importation of an additional 5 million tonnes of fill and at a minimum, the following additional information must be requested and circulated for further comment:
 - Finished contour levels at different stages of VENM/ENM importation;
 - Cut and fill plans at different stages of VENM/ENM importation; and
 - Further information on how the above required information relates to approved 'final landforms'.

Public Comment

Council has also received a written submission from a concerned resident who has raised the following matters:-

- The proposal results in an unsatisfactory increase in truck movements being 111,110 movements per year (associated with 36 tonnes of fill material per truck) which equates to approximately 47 truck movements per hour; and
- The additional truck movements will result in additional strain and damage on the local road network as well as noise and air pollution impacts.

Submission Timeframe

- It is also noted that the exhibition timeframes provided are inadequate to enable a thorough assessment of the application noting that the department has recently advised Council that extensions to submission periods will not be granted.
- The site has been the subject of numerous applications both through the State Government and Council and is also the subject of current Land and Environment Court proceedings. The proposal cannot be considered in isolation of these applications and Court matters and it is requested that any additional information submitted is referred to Council for further comment. The response timeframe provided should reflect the magnitude of the existing and proposed works and the need to ensure that any proposed works and subsequent approval does not result in adverse environmental or social impacts for the broader locality. It is requested that at least four (4) weeks is provided for the review of any amended information submitted.

Please ensure these comments are considered in the assessment of the application and that any additional information submitted in response is made available to Council for further review and comment.

Should you require any clarification on the issues raised above or wish to discuss the matters in further detail, please don't hesitate to contact me on (02) 4732 8125.

Yours faithfully,



Gavin Cherry
PRINCIPAL PLANNER