



Our reference: ECM: 9339609
Contact: Kate Smith
Telephone: 02 4732 7705

2 November 2020

Nathan Heath
Email: Nathan.heath@planning.nsw.gov.au

Dear Mr Heath,

Response to Notification of SSD7308 - MOD 1 – Rail Siding Refurbishment Works, Amended Development Footprint, Construction Compound, Stormwater Management Works and Revised Access Arrangements at 2 Forrester Road ST MARYS

I refer to notification of the above Modification Application received on 19 October 2020. Thank you for providing Council with the opportunity to comment on the proposed development.

The following comments stem from a review of the documentation submitted and are provided for consideration in the assessment of the proposed development:

Permissibility and Zoning – Further Works within RE1 Zoned Land

The proposed works compound is situated on land zoned RE1 and not IN1 and given it is specifically associated with the construction of the freight facility, it is not considered to be permissible in the zone.

It is however understood that the facility is temporary (being for 6 months). It is also understood that Section 4.38(3) of the EP&A Act 1979 may allow for the Department / Minister to approve a part of the development on land that is prohibited development. This capability would not preclude the need to ensure that the objectives of the zone are not undermined, that the impacts of the works are negligible, and that ground and vegetation conditions can be rectified at the conclusion of the temporary works period.

If the vegetation management plan is expanded to include this lot (noting MOD 3 also seeks inclusion of a temporary stockpile in the RE1 zoned land), then reliance on the above provisions to override the zoning prohibitions may be acceptable as a short term consideration. Inclusion of this land into the VMP is considered critical as the applicant seeks the lot inclusion in the SSD determination by way of MOD 3, meaning that the impacts of the works to the broader vegetation community on this land warrants consideration as well as measures to reinstate natural vegetation conditions at the conclusion of the stockpile period. It is important to note that natural vegetation conditions is not the same as pre-existing ground conditions given the disturbance that is evident from aerial photography.

It is also apparent from the scope of works in MOD1 and MOD3 that land zoned IN1 that forms the land subject of the original SSD consent, is not sufficient in



size to cater for the intensity and scale of development, including construction management, without impact on a new lot not zoned for Industrial purposes. This increasing dependency on the adjacent land zoned RE1 reinforces the need or the applicant to pursue a planning proposal to reconsider the appropriateness of the RE1 zoned land, especially as they have insisted that there is no intention for this land to be developed for public recreation purposes.

With respect to the proposed permanent drainage works on RE1 zoned land, it is appreciated that the SEPP (Infrastructure) 2007 permits drainage works within any zone pursuant to Division 20, Clause 111A however this aspect still requires development consent and that assessment requires consideration of the appropriateness of permanent works in land not zoned for this land use activity. It is considered that the combination of the temporary stockpile in MOD3, the proposed temporary construction compound in this MOD1 and the permanent drainage works now suggested warrants a planning proposal to reconsider the zoning of the land. It is noted that Section 4.38(5) and (6) of the EP&A Act also includes provisions relating to the consideration of a planning proposal that may be affiliated with a state significant development proposal which suggests that a rezoning is a necessary consideration with any application or works sought within Lot 2031.

Environmental Management Comments

It is noted that the proposed construction access road is within an area of the overall site that has not been investigated for land contamination. The supplementary contamination assessment supporting this application is specific to the rail siding corridor. If works, including internal temporary accessways or roads are to spill over into areas of the site not yet investigated, then it should be ensured that the safety of those areas is ascertained for site workers and the function proposed. For example, ensuring that surficial asbestos is not present in the area to be utilized as a construction access road. Concern is raised at the encroachment of construction activities within areas not investigated.

Management controls included in the Construction Management Plan/Sub-Plan to ensure the stockpiling of materials does not result in contamination should extend to the proposed Construction Compound Area also. For example, ensuring the application of controls such as installation of liners, bunding and diversion mounds/drains prior to commencement of stockpiling and storage.

All excavation and filling activities within the rail siding corridor should be supervised by an appropriate person to ensure known (and any unexpectedly found) land contamination, and remediation, is supervised satisfactorily, and to ensure that all material (imported and sourced from the site itself) is suitable for the proposed use and in accordance with the consent.

The acoustic report predicts noise levels based upon modelling and Council's officers do not have the facility to verify the modelling undertaken. It is noted that the assessment does not include consideration of horn use. It is requested that should horns be a safety mechanism to be used, that this noise source also be considered.



It is noted that old sleepers will be stockpiled on site. The end use and disposal location for sleepers that will not be reused is not discussed. It is not detailed whether the sleepers may be impacted by treatment or potential asbestos fibres. If applicable, consideration of this aspect is requested.

Development Engineering Comments

Flooding

It is acknowledged that previous flooding correspondence from Council's Flood Engineer (Ratnam Thilliyar, 27 July 2018) advised that it was acceptable to use only the Little Creek Flood Model in the assessment of the Freight Hub. At that time, the footprint of the Freight Hub did not extend north beyond Little Creek. The current modification now includes filling of the rail corridor north of Little Creek which, according to Council's flood mapping, is inundated in the 1% AEP flood event by both the South Creek Flood Model and the Little Creek Flood Model. The Flood Impact assessment is to consider the impact of filling of the rail corridor upon South Creek.

The proposed access track along the western edge of the refurbished rail sidings proposes to cross Little Creek utilising an existing gravel access track. The access track will be used to transport locomotive drivers and undertake maintenance inspections. The track is serviced by a 2100mm RCP where it crosses Little Creek. A flood safety assessment is to be undertaken for this section of the track and shall assess: flood velocity / depth products for flood safe access of vehicles; possible warning signage including depth markers, flood warning; upgrading of the pipe culvert to achieve flood safe access.

Mainstream Flooding

The site is affected by mainstream flooding from both South Creek and Little Creek.

The Flood Impact assessment has modelled the development against Little Creek as Council had previously advised the applicant that this was the predominant flood model for the development. At that time, the proposed development (Freight Hub) did not extend north of Little Creek. The current development (refurbishment of rail corridor) is now proposing to fill the existing rail line corridor north of Little Creek which is impacted by both South Creek Flooding and Little Creek flooding. This will need to be considered in the Flood Impact Assessment.

The development also proposes an access track along the western side of the rail line / sidings. The access track will be used to transport locomotive drivers and undertake maintenance inspections. The access track proposes to use an existing gravel track where it crosses Little Creek which will be inundated in times of flood as the pipe culvert under the track is of a smaller size than the culvert under the rail track. This access track has not been assessed for flood safety for its users (i.e. depth and velocity of floodwaters, depth markers, flood warning signage or upgrading of pipe culvert).



General

The modification proposes to refurbish the existing twin rail lines that run as a spur line from the existing main western rail line up to the terminal just south of Christie Street. The existing rail lines are proposed to be upgraded - remaining on a similar horizontal alignment with changes to the vertical alignment involving filling of the area north of the crossing of Little Creek. An access track is proposed to be constructed along the western side of the sidings. A third parallel siding / rail line is proposed to the west at some future development application.

Stormwater

Stormwater drainage is acceptable as it proposed to drain the siding via grass channels that discharge into longitudinal bio-retention systems (subject to concurrence from Council's Waterways Team).

Biodiversity Comments

It is understood that the proposed works are also subject to determination of MOD3 and the inclusion of Lot 2031 within the existing development consent.

A revised/updated BDAR has been submitted to assimilate additional works associated with the rail refurbishment, requiring additional clearing of native vegetation of approx. 2,000m² (which indicates this includes the additional clearing associated with MOD3.). It does not appear that any survey work has been undertaken on Lot 2031. One concern is the dam to the west of the rail refurbishment area. Please clarify if this dam has been subject to fauna/flora assessment.

A Vegetation Management Plan should be submitted for the management of native vegetation on Lot 2031. This plan should be submitted for review and approval, prior to determination of MOD3/1. At a minimum, the plan should initially cover a 5-year period for targeted management of the riparian corridor for immediate implementation, and to a minimum of 5 years beyond the last date of use of the site for the stockpile, with updates/extension required according to monitoring, review and adaptive management to achieve prescribed milestones (should they not be achieved within the 5 year timeframe). The plan should include annual milestones, subject to assessment and reporting. The Vegetation Management Plan should also include harvesting and translocation of threatened flora (assessed as viable for this process) on Lot 2031, prior to clearing. The plan should give attention to:

- the riparian corridor zoned E2-with management actions aimed at addressing the objectives of this zone under the Penrith LEP 2010
- rehabilitation of the site to reinstate natural vegetation conditions at the conclusion of the stockpile period.

Should approval be granted, the project Ecologist should review/inform plans for works associated with the riparian corridor on Lot 2031, which may have (direct, indirect or prescribed) impacts on the E2 zone. Controls must be in place to ensure impacts do not exceed those forecasted / the mapped development footprint. Vegetation protection measures, which may include fencing, to ensure construction impacts do not extend beyond the mapped area will be required. The project Ecologist should also coordinate pre-clearing removal of affected



fauna in accordance with best practice, guidelines, policy and legislation, by an appropriately qualified fauna handler.

Should you wish to discuss any matters further and allow for further dialogue as requested between officers, please do not hesitate to contact me on 4732 7705.

Yours sincerely,

Kate Smith
Acting Development Assessment Coordinator