



Our reference: ECM: 8974312
Contact: Gavin Cherry
Telephone: 4732 8125

28 January 2020

Mr Shaun Williams
NSW Department of Planning Industry & Environment
By Email: shaun.williams@planning.nsw.gov.au

Dear Mr Williams,

Re: Oakdale West Estate MOD 1 – Amendments to Approved Concept Plan and Stage 1 Works

I refer to the email received dated 17 December 2019 regarding public exhibition of the above proposed modification application.

The documentation in support of the modification application has been reviewed and the following matters are raised for address and resolution in the assessment of the application:-

1. Finished Ground Levels and Western Boundary Interface

The proposed finished ground levels provide a considerable increase in fill and finished ground levels which does not represent a better planning outcome than that previously proposed and approved through SSD 7348.

The amended fill extent seems to be driven by a desire for increased developable areas in the created allotments west of Road 1, without adequate site responsive consideration to natural topography, and the implications of the fill through the precinct and externally around the site.

The approved concept plan and civil design drawing currently necessitate an internal design solution within approved Lot 2D (now indicated as 2A and 2B). The amended scheme essentially removes the onus on the developer / future applicants to manage gradient transitions within the boundaries of the approved allotments. Instead a minor level difference is provided west of Road 1 with a finished ground level of 66.20 which extends to the western edge of the western most allotment. This would appear to be designed to achieve relatively flat developable blocks however this desire necessitates an excessive and unacceptable retaining wall presentation (RW02) adjacent to existing development west of the precinct.

Retention of finished ground levels as approved, or similar to what is approved, is considered essential for all lots west of Road 3, with gradient transitions to be managed through future Development Applications within the confines of allotments, not additional imported fill presenting adverse visual impact external to the allotments.

There is currently no indication that the approved levels cannot achieve a suitable development outcome within the approved lots, nor is there a

suggestion that the approved drainage strategy cannot be realised with the finished ground levels as approved.

It is also noted that a landscape bund / mound is proposed south of the basin, with no indications of a landscape mound west and north of the basin. While the fill as proposed is not supportable, it would be recommended that any fill required within the western end of the precinct be separated from adjoining development by a suitable landscape mound where canopy tree planting and layered shrub planting can ameliorate the bulk, scale and visual impacts of development, specifically noting Mod 2 and Mod 3 seeks approval for non-compliant building height well beyond the DCP limitation of 15m.

It is also noted that the proposal seeks to partially manage level differences to the north through battered slopes adjacent to the pipeline. It would then stand to reason that a battered design treatment west should be provided rather than finished ground levels necessitating extensive retaining walls. It is also unclear what the height of the proposed retaining walls will be, as the section drawings indicate "H" without a nominated wall height. Coupled with the suggestion of a 5.0m acoustic wall, the effective wall presentation as viewed from neighbouring properties is excessive. If the absence of mounding relates to stormwater management and discharge capability to the basin, then the stormwater strategy cannot sufficiently cater for the development form and arrangement sought through the current modification.

The elevated nature of development within the allotments, is also likely necessitating acoustic walls of 5.0m on top of the retaining walls. This further reinforces that the fill activities are not only resulting in a poor interface and presentation outcomes as viewed from existing developments to the west, but the fill will also set up future acoustic management issues, as a 5.0m wall on top of an excessive retaining wall is not a suitable planning outcome given the zone and development interface. The information submitted also suggests that neighbour engagement is ongoing for further 'receiver' mitigation measures which would suggest that those proposed measures may not be sufficient to address and manage noise impacts external to the site. The scale relationship of this fill and the visual presentation of the proposed retaining wall and acoustic fence is best reflected on the landscape sections (AA) and (BB) which provided a finished ground level above the roof of the adjacent residential dwellings.

2. Western Bund Maintenance Track

The design of the western bund maintenance track should include a requirement that the track be sealed to minimise the potential for scouring and erosion and to eliminate dust disturbance and to the adjoining school and retirement village. It is noted that this could be addressed as an additional / amended condition of consent if the modification application is supported.

3. Acoustic Impacts and Modelling Assumptions

The proposal outlined within Mod 1 seeks to substantially change finished ground levels from that approved on the endorsed concept plan for this estate.

In order to adequately assess acoustic implications resulting from the scope of works within Mod 1, the implications of works resulting from Modification 2 and Modification 3 (Stage 2 Construction) must be factored into the assessment to appreciate the cumulative acoustic implications of development (given they are

proposed and substantially known at this point in time). This is also required as the acoustic report submitted in support of Mod 1 is predicated on modelling assumptions for noise generation, which are further refined and clarified as a consequence of Mod 2 and Mod 3 which both include building works and tenant occupation as part of the development.

Having regard to the above, the predicted noise levels within Mod 2 and Mod 3 are based on the assumption that the finished ground levels within Mod 1 are both suitable and supportable. As outlined above, the finished ground levels and visual impacts of the additional imported fill are not deemed suitable or supportable and the address of this matter will necessitate revised modelling predicated on suitable and supportable finished ground levels and associated finished floor levels.

It is also noted that Mod 2 and Mod 3 is modelled to result in noise levels in exceedance of the approved limits. This is not supportable when the exceedance is resulting from elevated finished ground and floor levels resulting from the additional fill activities proposed as part of Mod 1.

In the first instance it is requested that the concerns raised above with respect to fill and finished ground levels be resolved. Following this resolution, it is then recommended that revised modelling be undertaken as part of Mod 1, Mod 2 and Mod 3 that addresses the following:-

- In considering the maximum noise level criteria in accordance with NPfl, it is requested that the Department pursue further analysis with reference to the health impact data sourced from the World Health Organisation and enHealth as detailed in the Road Noise Policy. It is recommended that maximum noise levels be cumulatively assessed against the information provided in the Road Noise Policy, giving detailed consideration to the frequency and duration of elevated noise levels and demonstrating that long-term adverse health impacts will not likely result. Long-term health concerns may not necessarily be linked only to the maximum noise level per event but may also be correlated with elevated noise over a long period. For example, the Road Noise Policy indicates that levels between 40 and 55dBA may be related to adverse health effects with many people needing to adapt to cope.
- Whilst the noise impact assessments refer to noise-enhancing weather conditions, the frequency of these conditions is not discussed. Given that temperature inversions are a feature of the Penrith Local Government Area, it is suggested that it is necessary for this aspect of the noise assessments to be considered further. If DPIE is not able to ascertain this, it is recommended that the EPA be engaged to consider the modelling assumptions and implications and the predicted noise levels.
- The noise assessment accompanying Mod 3 effectively seeks to 'supersede' or 'over-ride' the separate acoustic assessment in support of Mod 2, specifically relating to revised sound power levels. The Wilkinson Murray assessment (supporting Mod 3) states that the sound power levels used in SLR's Report (for Mod 2) are overly conservative. It is not acceptable that one report is disregarding or changing the parameters of another report as a consistent approach to modelling that results in the predicted noised levels must be established to ensure that a consistent and cumulative impact analysis can be undertaken. The applicant should be requested to provide a single acoustic report, or



separate acoustic reports that provide consistent adoption of modelling parameters and assumptions, to inform the predicted noise level emissions. The assessments progressively should also consider the cumulative impacts of preceding development approved in combination with the current proposal. Alternatively, DPIE (or EPA) is requested to determine the appropriateness of the sound power level and other input data used in the noise modelling processes for address in the submitted acoustic reports for these applications and moving forward.

- The Mod 3 acoustic assessment assumes that Lot 2B mechanical plant services can be attenuated by 10dB using noise mitigation methods. It is not clear how this can be achieved and further detail on the feasibility of this should be sought.
- In recommending operational noise mitigation strategies, the surface construction of vehicular access ways and roads is not discussed in the noise impact assessments. It is requested that consideration be given to the type of road construction to ensure maximum acoustic benefit, should this not already have occurred.
- As raised within the planning comments above, the reasonableness of a 5.0m acoustic wall on top of an elevated fill platform with extensive retaining wall is not supported. It also appears from the information submitted that further noise mitigation measures may still be required at receiver boundaries. It appears that negotiations are currently occurring with neighbouring properties and that 'at-receiver' noise mitigation measures are not yet finalised. The impacts of the completed development and the implications of necessary mitigation measures can only be assessed if the full extent of mitigation measures within the site and at receiver boundaries are included within the assessment and plans. If the suggestion is made that the ultimate impacts are unknown due to current analysis being based on predication only, then the predication should be conservative in nature and include likely mitigation measures at receiver boundaries to understand what could be required after construction and occupation.

4. Biodiversity Credit Requirements

Appendix A (BBAM Credit Report) of Appendix G (Biodiversity Assessment Report) indicates a total of 173 ecosystem credits are required. The Statement of Environmental Effects however indicates 172 ecosystem credits. Given the requirements in Appendix G, Condition D90 should be amended to make reference to 173 credits and not that referenced within the Statement.

If you require any further information, please do not hesitate to contact me on (02) 4732 8125.

Yours sincerely,

Gavin Cherry
Development Assessment Coordinator