



Our reference: ECM: 8990055
Contact: Gavin Cherry
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Mr Bruce Zhang
NSW Department of Planning Industry & Environment
By Email: Bruce.Zhang@planning.nsw.gov.au

Dear Mr Zhang,

**SSD 7348 - MOD 3 - Further Amendments to Concept Plan and Stage 1
and SSD10397 – Stage 2 Development Works, Oakdale West Precinct**

I refer to your emailed dated 15 January 2020 regarding the dual exhibition of the further Modification Application (SSD7348 Mod 3) and a separate Stage 2 Development Application (SSD10397).

Thank you for providing Council with an opportunity to review the submitted documentation and comment on the proposed applications.

The applications in combination have been reviewed by a number of Council Departments and a consolidated list of comments are outlined below for consideration and address in the assessment of the application: -

1. Environmental Management Considerations – Acoustic Impacts

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) should 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 this application (Mod 3) are based on the assumption that the finished ground levels within Mod 1 are both suitable and supportable. As outlined within Council's comments on Mod 1, 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 3 is modelled with 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 with respect to fill and finished ground levels within Mod 1 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 necessary 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 the 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 in the Mod 1 response by Council, 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 predications only, then the predications should be conservative in nature and include likely mitigation measures at receiver boundaries to understand what could be required after construction and occupation.

Further to the above comments which relate to implications of MOD1 and MOD2, it is also raised that MOD 3 specifically identifies the following operational noise implications:

- approved noise limits will be achieved for typical and peak operations under all meteorological conditions at receivers to the west of the OWE, and
- exceedances of noise criteria at night under noise enhancing weather conditions at residential receivers (N4 and N5) to the south and south west of the site. The NIA identifies that due to the elevation of the receivers to the south, noise barriers at the source will be of little effect to these receivers.
- The NIA states that the exceedances at southern receivers, N4 and N5, will occur only under 'relatively rare noise enhancing meteorological conditions' coinciding with the six week end of year peak season. The NIA does not predict the frequency of noise enhancing weather conditions, such as temperature inversions.

- Predicted operational noise levels in the Wilkinson and Murray Noise and Vibration Assessment Report No. 19440 Version F are lower than those predicted in MOD 2. This is in part due to the revised noise barrier location and design proposed by MOD 3. It is also due to Wilkinson Murray reducing the sound power level input data for this assessment based on the view that the data used for MOD 2 was overly conservative. This assessment also relies upon mechanical plant and equipment achieving a specific noise reduction which is yet subject to detailed design. Wilkinson Murray's NIA predicts that 'at receiver' treatments will fully mitigate against the potential for sleep disturbance at the impacted receivers.
- It is noted that development of the OWE in stages will mean that Lot 2B and Precinct 1 will operate for a substantial period prior to the full development of the OWE and it is during this stage that the most noise impact will occur to receivers N4 and N5 to the south.

2. Environmental Management Considerations – Construction Noise

Construction noise exceedances are predicted during out of hours works (evening and night), even during standard weather conditions. The NIA considers the exceedances in relation to the sleep disturbance criteria of 52dBA and concludes the exceedances 'would ...be clearly audible, but not highly intrusive' and 'would not be expected to result in material sleep disturbances'. However, the NIA does not discuss the frequency and duration of the exceedances.

The existing SSDA 7348 consent restricts noise generating construction works to standard NSW EPA construction hours. MOD 3 however seeks an extension to those hours (7am-10pm 7 days a week) for a period of approximately two months to facilitate the completion of earthworks for Building 2B to meet tenancy requirements. An Extended Hours Construction Noise and Vibration report No. 19440-EH is included in the EIS. The report recommends a number of construction noise mitigation measures, including the provision of temporary noise curtains to affected receivers to the west (Emmaus Aged Care*) and the south (N4 and N5). The report indicates that noise agreement negotiations are underway with these receivers to establish at-receiver noise mitigation treatments. Ultimately, the impact of the extended construction hours is influenced by the outcome of these negotiations. Given that the noise mitigation measures have not been agreed to at this stage, the impact of extended construction hours is not certain. Any agreement to extended construction hours should be predicated on known and agreed mitigation measures to the satisfaction of the Department / Minister as the consent authority.

3. Landscape Design Matters

The plans have been considered by Council's Landscape Architecture Team as well as Council's Urban Design Review Panel and the following landscape design matters are raised for consideration and address:-

- The long bay car parking encroachment into the 20m setback zone adjacent to the southern link road is recommended to be amended to delete a small portion of parking that encroaches into the established setback line. This will improve the landscape design outcome along the link road. Given the nature of the link road, a consistent landscape setback along this arterial road is considered to be of particular importance.
- The quantity and planting arrangements of trees within the front road setbacks are recommended to be amended to achieve a clumping of mixed species and mature heights, supported by understorey planting that work in combination with street tree planting as per below. A layering of canopy cover from the road reserve through the development site should be demonstrated by way of the landscape design to address and minimise urban heat island effects and respond to Council's cooling the city strategy initiatives. This would not require an amendment to the areas identified for landscaping, but rather the species and spatial arrangement of the planting as proposed. This could be addressed through conditions of consent requiring endorsement of the landscape plan by the consent authority or Council prior to the issue of any construction certificate.
- The provision of additional large canopy trees is requested within the corner setback to Estate Road 1 and the Link Road. The planting palette should include a variety of species and deference in mature heights. The planting currently indicated are virtually all small trees and will not achieve the canopy cover and spread required for this prominent corner. This could be addressed through conditions of consent requiring endorsement of the landscape plan by the consent authority or Council
- The plantings proposed within the setback to the truck / long bay parking adjacent to Estate Road 1 and Lot 2E must be sufficient to achieve screening of these hard stand areas. Concern is raised that the current planting arrangements will not provide sufficient screening and is it recommended that trees planted at 8-10m centres are requested within the front setback to Estate Road 1 and with understorey planting confirmed. The current plans do not provide specificity of understorey planting beyond a general schedule and palette mix. A planting matrix and density details are requested within all boundary setbacks to clearly identify the boundary edge conditions and the quantity and specific species of planting intended. At present, quantities are only indicated for trees throughout the landscape design. This could be addressed through conditions of consent requiring endorsement of the landscape plan by the consent authority or Council
- Council has consistently raised issue with the streetscape language of street tree plantings within this precinct (being small groups with ballast mulch at very large centres planted at 3 trees per 100 linear metres). This does not deliver adequate streetscape outcomes nor best practice canopied cooling to streets. Council typically requires 8-10m tree

spacings within road reserves, with supplementary tree planting in landscape setbacks to maximise canopy area. There are large areas of turf which are opportunities for canopy planting. This could be addressed through conditions of consent requiring endorsement of the landscape plan by the consent authority or Council prior to the issue of any construction certificate.

- Council has previously suggested that there is opportunity for greater variety in tree species adding to climate and biodiversity resilience. The landscape design throughout the car park should include a mix of species and effective mature heights. This could be addressed through conditions of consent requiring endorsement of the landscape plan by the consent authority or Council prior to the issue of any construction certificate.
- Council through other project and road approvals has established a Southern Link Road streetscape character (road verge and front setback) of informal yet massed planting with native trees providing full canopy cover. A consistent landscape design for the Southern Link Road is required. This could be addressed through conditions of consent requiring endorsement of the streetscape landscape plan by Council's Landscape Architecture Supervisor prior to the issue of any construction certificate.
- Ballast as a ground cover is not supported due to its heat attracting properties thus compromising healthy growing conditions for trees. An alternative product must be provided and established for the precinct in consultation with Council's Engineering and Landscape Departments. This should be included as any condition of consent.
- Irrigation details should be required as security of ongoing maintenance and viability is critical.
- The proposed strata cell structural root vaulting is accepted however suggestions for an alternative "structural soil pit" are not the same. The car park planting should be as per the proposed carpark tree pit system / root vaulting and should be conditioned accordingly.

Development Engineering Considerations

Mod 3 Stage 1 Amendments

The following is requested to be addressed within any amended determination issued:-

- A Stage 3 road safety audit of proposed new road layouts should be conditioned.
- An amended Subdivision Certificate and Construction Certificate (if already issued) is likely required and should reflect the updated road layout and drainage.

Stage 2 Development Works



It is reiterated that no importation of fill via Bakers Lane should be supported.

It is proposed that a bio basin will service Lots 2B to 2E, Part of Road 3 and Precinct 3. Lot 2B is the subject of the current application which is proposed under separate approval. Details are requested as to the timing of infrastructure delivery under MOD3 which is required to service Stage 2 works. This should include demonstration that water quality targets are met, and mechanisms around the conversion of the temporary sediment basin to the final Bio-retention Basin 3.

Details of the proposed timing of finalising Bio-Retention Basin No.2 should also be confirmed.

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

Yours sincerely,

Gavin Cherry
Development Assessment Coordinator