



Our reference: ECM Ref: 9696211
Contact: Gavin Cherry
Telephone: (02) 4732 8125

26 August 2021

Department of Planning, Industry and Environment
Attn: Michelle Niles
Email: Michelle.Niles@planning.nsw.gov.au.

Dear Ms Niles,

Response to Request for Advice: Statement of Environmental Effects for Penrith Lakes Employment Lands and Subdivision and Works (DA 9876) at 14-278 Old Castlereagh Road, Penrith

I refer to the Department's request to provide comments in relation to the above application. Thank you for providing Council with the opportunity to comment.

The following comments are provided for the Department's consideration in relation to this matter.

1. Site Specific DCP, Planning and Design Considerations

- i) The proposal includes a site specific DCP that departs from the key subdivision development controls within the Draft Penrith Lakes DCP which was recently exhibited. In particular, the minimum frontage control in the exhibited DCP is 30m and the proposed site specific DCP is 25m. The Draft site specific DCP should be amended to ensure consistency with the lot size requirements within the exhibited DCP for the broader scheme.
- ii) The revised Statement of Environmental Effects suggests that significant amendments have been made to the proposal however Council has not been previously advised of the scheme as lodged, nor has Council been afforded an opportunity to comment on the application as originally lodged. Irrespective of the changes made, further revisions to the allotment arrangement is recommended. The civil design drawings suggest quite substantial battering across Lost 26&27, 30&31 and 53&54. Further the dimensions of these lots and ability to achieve a built form outcome that complies with setbacks and vegetation cover requirements in the Precinct Draft DCP is questionable. It is considered that Lots 26 and 27, Lots 30 and 31 and lastly, Lots 53 and 54 should be amalgamated from 6 x lots to 3 x lots.
- iii) The revised Statement of Environmental Effects does not include earthworks within the scope of works. The proposed civil drawings however include bulk earthworks plans with considerable filling works indicated. When compared to the civil design drawings in the separated approved 2 year plans, it appears that the proposal includes additional fill, on top of the fill already approved. The fill extent is in the vicinity of an additional 4-5 metres which suggests an approximate 8m level difference between the finished ground level of the site and that of the

eastern existing adjacent industrial developments. Previous submissions to the Department raised concern with the suggestion of fill, both the intent of the fill and the resulting finished ground levels relative to adjacent developments. It is assumed that the indicated additional filling works, on top of the 2 year plan finished ground levels, is to achieve water quantity and quality dispersal back into the broader Penrith Lakes Scheme. If this is the direction the Department has issued to the applicant, then the treatment of the interface batter including its setback to the boundary and the capability for mature tree planting is critical. It appears that the setback of the top of bank is approximately 15-16m from the eastern property boundary with a gradient slope of 1:3. This should be clarified however if the quantum of fill and resulting level differences is deemed necessary, dense tree and understorey planting must be achieved on the batter and the details of which should be included in the application and deemed viable to achieve necessary landscaped separation and canopy screening of the development as viewed from neighbouring properties.

2. Engineering and Stormwater Management Considerations

- i) **Flood Planning Level:** It is understood that the Department must determine the appropriate Flood Planning Level (FPL) for the proposed development. The FPL should be determined through a risk based assessment in accordance with the State's Flood Prone Land Policy and the NSW Floodplain Development Manual. Subsequently the proposed development must demonstrate compliance with flood related development controls based on the adopted Flood Planning Level with regard to finished levels, site fill and locations of infrastructure.
- ii) **Flood Evacuation:** The applicant, in consultation with the Department, INSW and SES, shall undertake a detailed flood impact and evacuation assessment for the proposed development. The SES and INSW must be satisfied that the development can be accommodated within the Regional Evacuation framework.
- iii) **Filling/Bulk Earthworks:** The vast majority of the Penrith Lakes Scheme is formed by previous quarry activities. Large scale bulk earthworks has transformed the site over several decades. Extensive filling has occurred across large areas and therefore it is critical that the applicant and the Department determine the adequacy of the site in terms of the nature/extent/compliance of any fill that may be present. It is critical that past activities on the site be documented and any filling be certified as controlled fill in accordance with the relevant Australian Standard to cater for the additional proposed fill, and full development to occur on the whole site.
- iv) The consent authority is requested to ensure that all proposed batters must be no steeper than 1 in 3.
- v) The consent authority is requested to ensure that detailed designs and supported modelling of the Southern Wetland is submitted with demonstrated compliance with the pollutant removal rates specified in the Penrith Lakes Draft DCP for the Employment Zone. Information necessary for assessment includes:-

- *Details are to be provided how the onsite stormwater detention is addressed.*
 - *Evidence indicating that Post development discharge from the Employment zone to the Southern Wetlands must primarily be at a flow-rate that is suitable for the Southern Wetlands treatment train to accept and must not be more than pre-development flow rates from the Employment zoned land.*
 - *Clarification is required if the Southern Wetland is designed to treat the fully developed Employment Zones.*
 - *Details of the timing of construction of the Southern Wetland is to be provided, and dedication to the Penrith Lakes.*
 - *Details that the scour protection is satisfactory for the proposed flow rates.*
- vi) A Section 138 application would be required to be submitted for the proposed road works on public road – Old Castlereagh Road and Lugard Street to Penrith City Council Specifications. Including stormwater pipe connection to Lugard Street. This could be addressed by conditions of consent if the proposal is favourably determined. The condition would also
- Performance Bond requirements
 - Stage 2 Road Safety Audit
 - Pavement design to Penrith City Council specification for Heavy Industry ESA 1x10⁷

3. Traffic Modelling and Road Design Considerations

- i) The proposed new intersection treatment at Lugard Street and Old Castlereagh Road is for a left turn deceleration lane only. Given that the proposal is for B-Double access and Old Castlereagh Road provides an 80km/hr speed zone, it is considered necessary (and best practice) that the intersection be designed to provide right turn separation via an appropriate right turn treatment. An assessment under Austroads Guidelines should be undertaken using forecast traffic generation for this intersection with the design revised to ensure the above is provided.
- ii) While B-Double access is proposed for the development (as per page 13 of TTPA Traffic Report, Ref. 18210, dated December 2020, Issue I), it is noted that many of the proposed lots are not likely to be able to accommodate B-Double access. This intent needs to be clarified and explained in the application as this will inform the capability for future infill development both in terms of operation and scale. If the application is suggesting B-Double access for all lots, this should be demonstrated. If this is not the case, confirmation of such should be addressed via restrictions on title for the lots incapable of these arrangements.

4. Environmental Management Considerations

- i) While it is noted that the proposal is for a subdivision of land, the intention of the development is to establish allotments for future employment and industrial development. As a result, consideration of cumulative potential noise emissions and site wide attenuation capability is critical to the consideration of the current proposal. Section 4.4 of the Noise Assessment identifies that:

'The specific industries and businesses that will occupy the site following the subdivision are not known at this stage and therefore it is not possible to accurately predict the cumulative noise impact on the community. However, it is expected that each proposed development within the industrial subdivision will need to undergo an acoustic assessment with consideration to the NSW NPfl and ICNG.

Despite the specifics not being known at this stage it is considered that with careful consideration and planning of each new business that occupies each lot, and given that there is already an industrial presence in the area, that project noise goals can be met and any potential impact to the community mitigated'.

- ii) Whilst it is accepted that specific industries are unknown at this stage, it is considered necessary that high-level noise modelling should be undertaken to provide indicative operational noise levels and to inform the design arrangement of the subdivision. Modelling may be undertaken with assumptions and inputs informed by similar developments and should consider maximum potential noise emissions based upon full development of the site. Completing high-level noise modelling will identify whether any broadscale built elements such as noise barriers and landscaped mounds are required to be incorporated into the subdivision and civil engineering works to facilitate and assist in compliance with the applicable noise criteria.
- iii) It is noted that the 2020 DCP includes noise and vibration controls focused upon individual developments as individual DA's are assessed and determined in the future. However, this does not allow for site-wide mitigation measures to be incorporated into the design of the subdivision. It is considered appropriate that high-level noise modelling be undertaken to better inform as to the likely noise levels nearby receivers (existing and future) will be exposed to and to identify any required and appropriate broadscale noise mitigation measures that may be integrated into design of the subdivision. The noise modelling should address the Noise Policy for Industry, including (but not limited to) *Fact Sheet D 'Accounting for noise-enhancing weather conditions'* given the occurrence of temperature inversions in the Penrith LGA.
- iv) In terms of land contamination, the site is the subject of a Site Audit Statement (SAS). The SAS advises that:

Due to the potential for the presence of materials containing asbestos in the form of fragments of fibre cement in the soil at the Site, it is recommended that an unexpected finds protocol consistent with the objective of the unexpected finds protocol Appendix 1 of the DLA Environmental (December 2011) Off Specification Mulch Management Plan, Penrith Lakes, 89-151 Old Castlereagh Road, Castlereagh, NSW, Revision 6.0, is maintained in relation to the future management of excavation or earthworks at the Site'.

This recommendation should be captured as conditions of consent if the application is approved. Given the time lapsed since the date of the SAS and associated Unexpected Finds Protocol (December 2011), an updated Unexpected Finds Protocol, prepared by an appropriately qualified person/consultant, should be developed for the site and

implemented during site works. This SAS advice should also be captured moving forward as development on individual lots will occur.

- v) The application outlines that *'any required fill will be VENM, ENM and/or material subject to a site specific resource recovery order and exemption as issued by the EPA'*. If the proposal is deemed supportable, conditions of consent should address fill importation including source, transport and suitability of material, and should require the development and implementation of a Fill Importation Protocol.

5. Waterway Quality Considerations

- i) The Site specific DCP for the employment land only includes reference to rainwater harvesting and reuse. There are no water conservation targets or requirements to meet non-potable demands with harvested rainwater. It is recommended that the proposed site specific DCP for the employment lands be amended to reflect the requirements of the Draft Penrith Lakes DCP which has been recently exhibited.
- ii) The water quality controls in the site specific DCP for the employment land are not consistent with the Draft Penrith Lakes DCP or supporting Civil report. The Civil report states that gross pollutant traps are to be provided at each stormwater outlet as part of the subdivision works, prior to discharge into the Southern Wetlands. The civil report also notes that these GPTs are to be sized to cater for and treat gross pollutant runoff from the road reserve areas only, and that each individual lot will be required to provide a GPT. However, Section 6.3.2 (c) of the DCP for the employment land states that *Development on each lot is not required to provide stormwater quality controls for building roof and general hardstand (car park and driveways)*. Section 6.3.2 (d) states *Developments involving potential for discharge of free oils, grease, heavy metals or other contaminants must provide on-lot controls to treat stormwater prior to discharging into Council's stormwater system. Alternatively, and if relevant, developments may seek Trade Waste Agreement with Sydney Water*.

Clarification is required on the need to provide GPTs to capture gross pollutants and suspended solids (as well as oils etc.) on each lot. However, I am of the view that a GPT should be installed on each lot to treat stormwater to the standards outlined in the Draft Penrith Lakes DCP, as to safeguard the wetland. This should be documented in the Civil report and the DCP should be amended.

- iii) In respect to the 2 CDS GPTs located near the wetland, it is not clear if they will be dedicated to Council for ongoing management. I am of the view that we should be seeking to have the GPTs dedicated to the owner of the wetland for the ongoing maintenance responsibility. However, if the GPTs are to be dedicated to Council, I suggest that conditions will need to be applied to ensure that Council has an opportunity to approve the GPTs prior to construction, as to ensure that it is designed in a manner consistent with Council's requirements.
- iv) With respect to the Southern wetlands, it is noted that no designs have been provided, the wetlands are yet to be constructed, and there is no indication as to when this will occur. As such, details of the wetland construction timing should be provided. Further, details of

proposed interim stormwater treatment arrangements should also be provided to outline how stormwater will be managed until the wetlands are constructed and operational.

- v) Additional details are also recommended to be pursued from the applicant to demonstrate that the design of the connections to the Southern Wetlands is adequate to dissipate stormwater velocity and integrate into the overall wetlands design, as well as satisfy the entity operating the Southern Wetlands.
- vi) It is noted that a small area of the proposed subdivision (proposed Lot 1 and a small part of the road) will drain into Council's drainage network to the east of the site. In respect to this, Clause 5 of Section 3.2.1 of the Draft Penrith Lakes DCP requires that any stormwater from the Employment zoned land does not discharge into the Southern Wetlands treatment train, must be treated to the standards defined in Control (1) of Clause 3.2 of the DCP. Therefore, the affected lot would require additional on-site stormwater treatment measures to comply with the Draft Penrith Lakes DCP and this should be addressed via a restriction on title that requires this to be provided as part of any development proposal on the affect lot(s).

6. Waste Management Considerations

- i) While no concerns raised with the proposed subdivision with respect to waste management, it must be noted that the future development of the allotments should ensure compliance with Council's Waste Infrastructure Guidelines. Given that Penrith DCP 2014 will not apply, compliance with the requirements of Council's Waste Management Guideline is recommended to be included as a restriction on title of the proposed lots, to ensure that the waste volume rates, servicing requirements and on lot infrastructure is suitably provided. The terms of the restriction could be:-

"No development is permitted on the lot unless the proposal has demonstrated compliance with Penrith City Council's Waste Infrastructure Guidelines unless otherwise deemed appropriate by the applicable consent authority".

For further specific waste operational and infrastructure information refer to the 'Industrial, commercial and mixed-use waste management guideline' at the following link:

<https://www.penrithcity.nsw.gov.au/Building-and-Development/Development-Applications/Forms/>

7. Ecological Considerations

- i) It is understood that the four residual lots (Lots 200, 2021, 202 and 203) are in the 'Environment' zone and are intended to accommodate the future extension of the Great River Walk (subject to separate development application). Based on Aerial Imagery the site has been cleared which appears to be due to previous approvals. The proposed development is not considered to result in a significant impact on any threatened ecological communities, flora species or fauna species or their habitats listed under the NSW *Biodiversity Conservation Act 2016*. It is however noted that the development will involve stormwater outlets

constructed on the land zoned as 'Environment' located to the west of Road 3. It is recommended that within these areas of works planting is incorporated within the rock scour protection area including using native sedges and rushes that are characteristic species of wetlands that are tolerant to periodic inundation.

- ii) Batters adjoining the wetland and land zoned as Environment should be stabilized with locally indigenous native grass species that are non-invasive rather than 'turf'. Shrubs and other groundcovers should be considered that are characteristic species of the locally occurring native vegetation communities.
- iii) Consideration for regular weeding and ongoing maintenance to ensure any evidence of erosion, sedimentation and weed infestations are addressed through the preparation and implementation of a Construction Environmental Management Plan.

8. Landscaping Considerations

- i) It is important to note that section 4.2.4 Vegetation and Landscaping in the updated SEE states that "The concept landscaping plan supplements the trees to Old Castlereagh Road and within the Great River Walk area with street trees throughout the subdivision comprising native indigenous river plain species." The Landscape Plan proposes *Corymbia eximia* (Yellow Bloodwood). The selection of *C.eximia* should be reconsidered as this species is not a species that is known to occur within the local native vegetation communities that occur (or once occurred) in the subject area. Species should be selected that are from Cumberland Plain or River-flat Eucalypt Forest. This species should be replaced with species from the following list:

- *Angophora floribunda* (Rough-barked Apple)
- *Angophora subvelutina* (Broad-leaved Apple)
- *Corymbia maculata* (Spotted Gum)
- *Eucalyptus amplifolia* (Cabbage Gum)
- *Eucalyptus crebra* (Narrow-leaved Ironbark)
- *Eucalyptus fibrosa* (Red Ironbark)
- *Eucalyptus moluccana* (Grey Box)
- *Eucalyptus saligna* (Sydney Blue Gum)
- *Eucalyptus tereticornis* (Forest Red Gum)

To meet Bushfire specifications consideration should be given to Smooth-barked species rather than Rough-barked species.

- ii) The following landscape design comments are raised for consideration by the Department with a request that they be further addressed by the applicant :-

- Eucalyptus saligna has performed poorly in Western Sydney and should be replaced within the species list / schedule with a more appropriate planting selection.
- Agonis flexuosa has performed poorly in Penrith and should be replaced within the species list / schedule with a more appropriate planting selection.
- Elaeocarpus reticulatas is not recommended for industrial developments and should be reconsidered.
- Corymbia eximia normally grows on sandstone soils with higher rainfall and is not ideally suited to this location. This specie selection should be reconsidered.
- Planting of canopy species larger than 15m is not advised within the 1.7m Road verges. Small to Medium canopy trees are recommended in these spaces to ensure longevity of the plants.
- Planting works adjacent to the river corridor/along this boundary are be in alignment with the Nepean River Vegetation Management Plan including species and intent. Council can provide this document is required.
- Proposed planting species and locations for offset planting due to existing tree removal is requested.
- The typical landscape section does not reflect the levels, dimensions and spatial configurations consistent with the civil engineering documentation. The civil plans show a batter at each lot frontage. The landscape plans must be updated to reflect the actual proposed conditions within the road reserve cross sections.
- Old Castlereagh Road is considered to be the gateway to the Penrith Lakes Recreation Precinct, as such in relation to the frontage along Old Castlereagh Road, the following recommendations are made:-
 - o The current 1:2 battered embankment should be terraced rather than a single engineered approach to allow for a more diverse planting typology to assist in amenity, screening the industrial development and helping to cool the surrounding hard surfaces by allowing more larger canopy tree planting.
 - o Further Investigation into the undergrounding of powerlines along Old Castlereagh Road should be pursued to allow for larger canopy trees for both amenity, cooling and to mitigate compromising in their future growth during pruning efforts.
 - o Further information on the design treatment at the interface of the Easement Boundary is required as well as to public roads. The setback interface to the eastern boundary must be planted as a fully structured vegetated edge to help screen the development from the road and reduce urban heat island effects of the surrounding pavements.
 - o Clarification is required as to where is the fence to be located within the landscape cross sections to the eastern boundary.

- iii) The verge widths should be consistent across all cross-section typologies, requesting a change to standard 1.7m verge width on Road 3 to help support larger tree stock and canopy to assist in shading and cooling the surrounding pavement and road reserve.
- iv) With regards to, the Connection to Great River Walk, is this to be a gated access or accessible through the development to all pedestrians?
- v) Further information is requested on the location of fencing across the site. Further information is also requested about the style of fencing to be used across the subdivision.
- vi) With regards to the connection to the great river walk, there are concerns about security of the users along the section that will run behind Lot 7. Further information regarding fencing and proposed landscape treatment to this boundary is requested.

9. Tree Retention and Protection Considerations

- i) The Arborist report supplied proposes to remove a large proportion (64%) of trees along Old Castlereagh Road due to structural defects and declining health. It is noted that the report is dated 17 September 2019 which is almost two years old. It is unknown if the health and vigour of the trees have improved since the time the site has been inspected. Additionally, the report has not undertaken an assessment on the impacts to trees based on the specific development i.e. what trees will directly impacted from the proposed development.
- ii) In addition, it is apparent that a revised Statement of Environmental Effects (SEE) has been submitted which indicates that tree retention along the Castlereagh Road frontage is now proposed which is in conflict with what is outlined and recommended in the submitted Arborist Report. The retention of existing trees along the southern side of Old Castlereagh Road within the site is essential to maintain the existing tree lined character of the locality and a sense of arrival into this precinct. The quantum of removal as outlined within the Arborist Report is not supported and a revised and current Arborist Report is required that specifically identifies the trees to be retained (aligning with the commitments within the revised SEE) as well as recommendations for their retention, including an analysis of the location and battering of fill nearby to the northern property boundary with respect to the structural root zone and viability of those trees as proposed in the civil design drawings. This also includes consideration to impacts from revised design plans concerning road construction and stormwater drainage infrastructure.
- iii) The Department is also requested to ensure that the compensatory tree replacement planting requirements outlined within the Draft Penrith Lakes DCP are provided for within this development, when the final number of trees required to be removed is confirmed. The Draft Penrith Lakes DCP requires a 2:1 replacement ratio and each lot should be required to achieve vegetation / landscaping capability which aligns with the detail in the Draft Penrith Lakes DCP, irrespective of the detail in the proposed site specific DCP.



PENRITH

Should you wish to discuss any aspect of Council's comments further, please do not hesitate to contact me on (02) 4732 8125.

Yours sincerely



Gavin Cherry

vi) **Development Assessment Coordinator**

Penrith City Council
PO Box 60, Penrith
NSW 2751 Australia
T 4732 7777
F 4732 7958
penrithcity.nsw.gov.au