

Memo

Wednesday 22 November 2017

To: Panel Members – Northern Joint Regional Planning Panel
From: Colleen Forbes
Subject: Deferral of DA15/1026.02
Reference: DA15/1026.02 (2017NTH016)

Dear Panel Members,

I refer to DA15/1026.02 (2017NTH016), which is a proposed modification to increase the maximum exposed area specifically in relation to proposed earthworks acquiring fill material from Precinct 9 to be placed within Precincts 6 and 7. The proposed increase of maximum exposed area is from a 5ha limit to a total of 15ha.

The application was reported to the Panel for determination on Wednesday 15 November 2017. The Panel agreed to defer the determination of the matter to allow Council officers to negotiate a satisfactory amendment to draft Conditions 24A and 66A to clarify the maximum disturbed area allowed, specifically in relation to works acquiring fill material from Precinct 9 to be placed within Precincts 6 and 7, without compromising other conditional requirements limiting the maximum disturbed area across the site to 5ha.

The initial wording (as presented to the JRPP) proposed for parts of draft conditions 24A and 66A was as follows:

The maximum disturbed area (that has not been permanently vegetated) at any time shall not exceed the maximum areas as detailed in the Arcadis Report dated 23 March 2017, with Appendix B – Engineering Drawings conceptual only and subject to Council's final approval of the associated Bulk Earthworks Construction Certificate. All other site earthworks areas are limited to a maximum disturbed area of 5ha, unless otherwise approved by the General Manager or his delegate.

The Panel members raised a few concerns with regard to ensuring that the overall site was limited to 5ha exposed area, with the works within P6, 7 and 9 being an additional 10ha permitted for a limited time. The applicant raised concerns with the haul roads and Cobaki Parkway being included in the overall 5ha. It was acknowledged by all that Cobaki Parkway and existing dedicated roads would not be included in the overall exposed area. The applicant also raised concern with regard to the currently dormant Precinct 11 quarry, which is already exposed. It was acknowledged that the 5ha limit would not be workable if the P11 quarry was taken into consideration for the maximum exposed area. Council officers raised concerns with the potential for the P11 quarry being excluded the 5ha limit from future earthworks within Precinct 11.

Following the deferral of the matter, Council officers proposed the following wording for Conditions 24A and 66A, in an effort to create a clear, concise and workable condition that catered for all of the concerns raised by Panel members, Council officers and the applicant:

Overall site earthworks (excluding land in any existing dedicated roads and the future Cobaki Parkway) at any time shall not exceed a maximum disturbed area (that has not been permanently vegetated) of 5ha, unless approved otherwise by the General Manager or his delegate. The only exception to the 5ha limit is an additional 10ha maximum disturbed area for Precincts 6, 7 and 9, as specified in the Arcadis Report dated 23 March 2017 (with Appendix B – Engineers Drawings conceptual only and subject to Council’s final approval of the associated Bulk Earthworks Construction Certificate. No earthworks are to be undertaken in the Precinct 11 quarry concurrently with earthworks (as detailed in the Arcadis Report dated 23 March 2017) in Precincts 6, 7 and 9.

The above wording was forwarded to the applicant for consideration. Upon review, the applicant noted that it is “...*fundamental to have the existing exposed quarry area within P11 to be excluded from the overall 15ha limitation. We are now also of the view this exclusion needs to be in the condition itself. The ... sole objective for submitting the S96 Application was to facilitate the earthworks as proposed in the Arcadia Report of 23 March 2017 and accepting a condition which requires further approval, by written consent of the General Manager (to exclude the area disturbed for the quarry) fails to meet this objective. I do however also respect council’s intention to maintain the 5ha limitation beyond these specific earthworks for precincts 6, 7 and 9. As such, I have recommended wording below that excludes the quarry area from being calculated in to the addition 10ha disturbed area, specific to the earthworks for P6, 7 & 9, rather than the overall existing 5ha limit (for future site earthworks)*”. It was also noted that the consulting engineers had requested a further amendment, to the term “*permanently vegetated*” to “*appropriately stabilised*” to allow for flexibility of proposing alternative appropriate stabilisation methods.

The wording of the condition as proposed by the applicant was as follows, with the applicant noting no objection if Council preferred to combine the two conditions:

24A

Overall site earthworks are limited to a maximum disturbed area of 5ha, that have not been appropriately stabilised (and excluding any dedicated road and the future Cobaki Parkway). The only exception of earthworks for precincts 6, 7 and 9 which are permitted to disturb an addition 10ha (in addition to the existing quarry area located within precinct 11) for a limited period, in accordance with the schedule of works contained in the Arcadis Report dated 23 March 2017 (with Appendix B Engineering drawings being conceptual only and subject to council’s final approval associated with Construction Certificate(s) for Bulk Earthworks).

24B

No earthworks are to be undertaken in the Precinct 11 quarry concurrently with the earthworks (as detailed in the Arcadis Report dated 23 March 2017) in Precincts 6, 7 and 9.

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Council officers have reviewed the amended wording as proposed by the applicant. No objections are raised with regard to the revised wording, subject to a number of minor edits (shown underlined) and combining the two conditions into one as follows:

Overall site earthworks are limited to a maximum disturbed area of 5ha that have not been appropriately stabilised (and excluding any dedicated road and the future Cobaki Parkway). The only exception is earthworks for Precincts 6, 7 and 9 which are permitted to disturb an additional 10ha (in addition to the existing quarry area located within Precinct 11) for a limited period, in accordance with the schedule of works contained in the Arcadis Report dated 23 March 2017 (with Appendix B Engineering drawings being conceptual only and subject to council's final approval associated with Construction Certificate(s) for Bulk Earthworks). No earthworks are to be undertaken in the Precinct 11 quarry concurrently with the earthworks (as detailed in the Arcadis Report dated 23 March 2017) in Precincts 6, 7 and 9.

The applicant has provided their acceptance of the minor edits. Accordingly, the above wording has been incorporated into the full wording Conditions 24A and 66A so that they may be read in their entirety, as shown in **Attachment A**.

If the Panel members support the proposed amendments to Conditions 24A and 66A, it is requested that matter be determined electronically.

Colleen Forbes

Team Leader - Development Assessment Unit

ATTACHMENT A

Please find below the proposed draft conditions in relation to Condition 24A and Condition 66A for DA15/1026.02 (amendments shown in bold):

24A. Prior to the issue of a Construction Certificate for Bulk Earthworks, the following detail in accordance with Council's Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

- (a) copies of compliance certificates relied upon
- (b) Detailed engineering plans and specifications, prepared in accordance with Development Design Specification D13 - particularly Section D13.09. The detailed plans shall include (but are not limited to) the following, unless approved otherwise by the PCA:
 - Earthworks
 - Clearly showing pre and post development levels (spot levels and contours) at a legible scale.
 - Compliance with the provisions of Council's Design Specification D6 - Site Regrading.
 - Batter slopes on drain cross sections and in public open space areas shall not exceed 1:4 (v:h), unless otherwise endorsed by Council.
 - Compliance with the provisions of NSW RFS Planning for Bushfire Protection Guidelines 2006.
 - **Overall site earthworks are limited to a maximum disturbed area of 5ha that have not been appropriately stabilised (and excluding any dedicated road and the future Cobaki Parkway). The only exception is earthworks for Precincts 6, 7 and 9 which are permitted to disturb an additional 10ha (in addition to the existing quarry area located within Precinct 11) for a limited period, in accordance with the schedule of works contained in the Arcadis Report dated 23 March 2017 (with Appendix B Engineering drawings being conceptual only and subject to council's final approval associated with Construction Certificate(s) for Bulk Earthworks). No earthworks are to be undertaken in the Precinct 11 quarry concurrently with the earthworks (as detailed in the Arcadis Report dated 23 March 2017) in Precincts 6, 7 and 9.**
 - Detailing how the Cultural Heritage Parks permanently free drain and will not be subject to flooding inundation.
 - Cross sections provided through each proposed sedimentation basin to confirm suitable free drainage and capacity.

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- Details confirming the permanent drainage of Rehabilitation / Management Area 8 (applicable to Construction Certificate for Precinct 9).
- Including supporting calculations of proposed drainage swales to confirm compliance with the provisions of Council's Design Specification D5 - Stormwater Drainage Design (unless provided within the required SWMP).
- Stormwater drainage
- Landscaping works (as applicable)
- Sedimentation and erosion management plans
- Location of all service conduits (water, sewer, electricity supply and telecommunication infrastructure), as well as details and locations of any significant electrical servicing infrastructure - such as transformers and substations

The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

66A. Dust and Erosion Management

- (a) **Overall site earthworks are limited to a maximum disturbed area of 5ha that have not been appropriately stabilised (and excluding any dedicated road and the future Cobaki Parkway). The only exception is earthworks for Precincts 6, 7 and 9 which are permitted to disturb an additional 10ha (in addition to the existing quarry area located within Precinct 11) for a limited period, in accordance with the schedule of works contained in the Arcadis Report dated 23 March 2017 (with Appendix B Engineering drawings being conceptual only and subject to council's final approval associated with Construction Certificate(s) for Bulk Earthworks). No earthworks are to be undertaken in the Precinct 11 quarry concurrently with the earthworks (as detailed in the Arcadis Report dated 23 March 2017) in Precincts 6, 7 and 9. Completed areas are to be topsoiled and seeded immediately to protect them from water and wind erosion.**
- (b) All topsoil stockpiles are to be sprayed with dust suppression material such as "hydromulch", "dustex" or equivalent. All haul roads shall be regularly watered or treated with dust suppression material or as directed on site.
- (c) All construction activities that generate dust shall cease when average wind speeds exceed 15m/s (54 km/h). The applicant shall be responsible for the monitoring of on-site wind speeds and be able to produce this data to the PCA on request.