

From: Christopher Jattan
Sent: 10 Jul 2019 14:11:15 +1000
To: Penrith City Council - RECORDS
Subject: Notification of Integrated and Designated Development application for Bulk Earthworks (DA19/0319) – Badgerys Creek
Attachments: Signed Liverpool City Council ~ys Creek (Penrith) - DA19 0319.pdf

Attention: Kathryn Saunders

Good Afternoon

Please find attached comments regarding Notification of Integrated and Designated Development application for Bulk Earthworks (DA19/0319) – Badgerys Creek.

If you have any questions please contact Kweku Aikins, Strategic Planner on 8711 7416.

Kind Regards
Christopher Jattan
Administration Officer



JattanC@liverpool.nsw.gov.au

www.liverpool.nsw.gov.au

Customer Service: 1300 36 2170

| 33 Moore Street

Liverpool , NSW 2170 , Australia



This email (including any attachments) may contain confidential and/or legally privileged information. If you are not the intended recipient please delete this email and notify us by telephone. Any privilege is not waived and the storage, use or reproduction is prohibited.

Penrith City Council
PO Box 60
PENRITH NSW 2751

By email: council@penrith.city

Attention: Kathryn Saunders

Re: Notification of Integrated and Designated Development application for Bulk Earthworks (DA19/0319) – Badgerys Creek

Thank you for providing Liverpool City Council with the opportunity to provide comment on the development application for bulk earthworks at 1669 -1723 Elizabeth Drive Badgerys Creek. Council raises concerns with the Development Application, particularly with regards to flooding and visual amenity impacts.

Impacts in the existing RU2 and E2 zones

The site is zoned RU2 (Rural Landscape) and E2 (Environmental Conservation). The proposed development will only occur in the RU2 zoned portion of the site and has been defined as *waste disposal facility* which is permissible in the RU2 zone pursuant to Clause 121(1) of SEPP Infrastructure.

Despite being permissible, there are concerns that the development will fail to meet the objectives of the zone, particularly *‘to maintain the rural landscape character of the land’* as the earthworks will result in mounds of soil of up to 10 metres above natural ground level. The applicant asserts that the soil will remain in place until works commence for any future land uses. However, given that there is great uncertainty regarding the timing of any future rezoning of land, it is likely that the presence of the earth mounds will ultimately contradict the objectives of the RU2 zone for an extended period of time.

Although the earthworks will occur within the existing RU2 zone, it appears that there may be a slight encroachment into the E2 zone in the southern portion of the site. Given that the development is not permitted in the E2 zone, it is recommended that a zoning overlay is submitted to confirm that the earthworks will not encroach into the E2 zone.

Western Sydney Aerotropolis Land-Use and Infrastructure Implementation Plan (LUIIP)

The site is identified in the Badgerys Creek precinct of the LUIIP. Precinct planning has not yet been completed for this precinct. The development application should EIS states that the development will embody *“site preparation works that will benefit future development on the site”*. As the site is not located in an Initial Precinct under the LUIIP, a timeframe for the Badgerys Creek precinct planning and rezoning has not yet been established. In addition, Council considers the Western Sydney Planning Partnership maybe interested in reviewing the development application.

The LUIIP states ‘out of sequence’ proposals may be accepted on a case-by-case basis. However, the LUIIP is referring to cases in which it is proposed to amend an environmental planning instrument. Page 46 of the LUIIP states that *“out of sequence proposals must demonstrate consistency with the strategic planning for the Western Parkland City”* and that any proposals *“must be submitted to, and assessed by, the Department through a planning gateway process”*.

Given the above, it is clear that the LUIIP is not making reference to development applications that have been lodged pursuant to Part 4 of the Environmental Planning and Assessment Act 1979. Accordingly, the proposed development is not considered to meet the parameters for an 'out of sequence' proposal as outlined in the LUIIP. Therefore, the proposed works seem to be pre-emptive of a future land use zone change, is inconsistent with the existing zoning; and may contradict any future zoning of the land (especially considering that the earth mounds will be placed in accordance with an arbitrary indicative road layout).

Justification of land-use

The applicant asserts that the *waste disposal facility* will dispose of excess landfill taken from infrastructure projects throughout the Sydney basin. It is claimed that the earthworks should be enacted now, as waiting for the site to be rezoned will result in delayed site preparation works and increase the likelihood of obtaining fill from less sustainable sources such as extractive industries. However, the rationale for the earthworks appear to be unsubstantiated as it has not been specified as to which site(s) the soil would come from. Notwithstanding the above, it is presumed that there will be multiple opportunities to obtain landfill from various construction sites in future, as the NSW government has indicated that there will be more land release areas and infrastructure projects in the pipeline.

As discussed earlier, premature development would not be in the public interest as a timeframe for the Badgerys Creek precinct planning and rezoning has not yet been established. Accordingly, there is no certainty that this is the optimal time for obtaining landfill for site preparation works

Flooding

The earthworks will be divided into two stages (1A and 1B) in which stage 1B will comprise of works on the periphery of South Creek. The submitted documentation indicates that the earthworks will result in adverse flood impacts within the south-eastern corner of the site as flows will be deflected back towards the creek. Given that the south eastern corner of the site is upstream, this indicates that there will be increased flood velocities within the vicinity of South Creek where it traverses through the Liverpool LGA boundary.

The EIS states that *"mitigation in respect of flooding impacts within the Stage 1B area will... be addressed in future applications that incorporate built form and associated uses"*. The applicant asserts that flood impacts will be mitigated at a later stage, however given that there is no indicative timing for the rezoning of Badgerys Creek precinct or any future development, it is unknown as to when the flood impacts can be mitigated.

Air Quality

Council has been made aware of adverse air quality impacts in the vicinity as a result of the construction of the airport at Badgerys Creek. It is understood that a Construction Air Quality Management Plan (CAQMP) has been submitted for the proposed earthworks and that the recommendations are to be implemented as part of a future Construction Environmental Management Plan (CEMP) that is to be prepared prior to commencement of any works. However, concerns are raised that a number of mitigation measures identified in the EIS have only been considered as being 'desirable' in the CAQMP. It is recommended that the 'desirable' measures are included as part of any future CEMP (subject to consent) to ensure that extensive measures are undertaken to minimise the propensity of dust in the vicinity.

Visual Impacts

The EIS states that the site *"will form the part of the visual gateway that welcomes visitors to Western Sydney"*. Given the subject site's prominence, concerns are raised as the submitted Visual Impact Statement indicates that the earthworks could result in moderate to high visual impacts upon the landscape when viewed from Elizabeth Drive. Particularly, there will be adverse

impacts when proposed Lots 1, 2 and 3 are viewed from the south (Liverpool LGA) as the earth mounds will become the dominant feature of the scene (once trees are removed), and significantly affect the visual character of the existing rural landscape. Although, it is proposed to incorporate planting to 'filter' (not obscure) views to the site, it is unknown if the proposed landscaping would be sufficient as a landscape plan has not been submitted. Despite attempts to 'filter' unsightly views it is likely that any new planting will require removal once works get underway for any future development on the site. Accordingly, as discussed earlier, it is likely that the presence of the earth mounds will undermine the key objectives of the RU2 zone.

Although it is noted that the airport is currently under construction to the west of the site, the airport is zoned SP1 (Commonwealth Activities) and is not susceptible to the same standards as required in an RU2 zone. Given that the subject site has yet to be rezoned from RU2, it is pertinent that the rural landscape character is maintained until the Badgerys Creek precinct is released.

Traffic

The submitted Construction Traffic Management Plan has been prepared without taking into consideration the cumulative traffic impacts of planned future construction works in the vicinity. Therefore, Transport for NSW/Transport Management Centre should be consulted regarding the cumulative impacts of construction vehicles along Elizabeth Drive, and for any regulated haulage times.

Transport for NSW – Roads and Maritime Services (RMS) should also be consulted for road pavement conditions before and after construction. Additionally, Liverpool City Council and Western Sydney Airport Co should be included in the stakeholder communication list for traffic impacts as shown on page 100 of the EIS.

Conclusively, a holistic approach should be undertaken for any development on the subject site and surrounding areas in consultation with the Department of Planning, Industry and Environment; Western Sydney Planning Partnership, Transport for NSW; and Liverpool City Council.

If you have any questions please contact Kweku Aikins, Strategic Planner on 8711 7416.

Yours sincerely,



David Smith
Manager Planning and Transport Strategy