



RL/TW
13070
24 April 2015

Mr Alan Stoneham
General Manager
Penrith City Council
PO Box 60
PENRITH NSW 2751

Attention: Gavin Cherry, Principal Planner

Dear Gavin

**DA14/0766 -SECTION 96(2) MODIFICATION
LINKS ROAD, DUNHEVED - ST MARYS**

On behalf of Lend Lease, we hereby submit an application pursuant to section 96(2) of the *Environmental Planning and Assessment Act, 1979* (EP&A Act) to modify Development Consent DA14/0766 relating to construction of a temporary haulage road and associated infrastructure upgrades to facilitate the movement of trucks associated with future works within the Central Precinct, St Marys.

The modifications relate to changes to the Links Road/haulage road intersection to provide better access for trucks to improve security, mitigate any potential traffic impacts from trucks waiting to enter the Central Precinct site, and improve access for vehicles. The extent of the proposed modification is minor and relates only to temporary works and greater detail regarding construction management.

The development site is located on land already approved to be cleared and developed under Development Consent DA07/0494, approved 7 March 2008 for landfill and associated works within the Dunheved Precinct.

This application identifies the consent, describes the proposed modifications and provides a planning assessment of the relevant matters for consideration contained in section 96(2) and 79C(1) of the EP&A Act. It should be read in conjunction with the Statement of Environmental Effects (SEE) prepared by JBA dated 27 June 2014 and is accompanied by revised Engineering Plans prepared by Cardno (**Attachment A**).

1.0 CONSENT PROPOSED TO BE MODIFIED

Development consent DA14/0766 was granted by Penrith City Council (PCC) on 4 March 2015 for the construction of a temporary haulage road and associated infrastructure upgrades to facilitate the movement of trucks associated with future works within the Central Precinct, St Marys.

The haul road traverses the Penrith and Blacktown local government areas (LGA) and a DA was submitted concurrently with both Councils. Blacktown City Council (BCC) approved Development Application DA14-1219 on 2 March 2015. The proposed modifications are entirely within the Penrith LGA. No modifications to the BCC Development Consent are proposed.

The road will be used to facilitate the movement of trucks in support of the importation of fill to the Central Precinct and potentially subdivision works and other development work associated with the development of the Central Precinct, in accordance with the Central Precinct Plan. The importation and compaction of fill within the Central Precinct is the subject of DA14/1228 currently under assessment by PCC.

DA14/0766 was Integrated Development with approval under s91 of the *Water Management Act 2000* require by NSW Office of Water. This modification will affect land within 40m of the top of the stream connected with South Creek, as such concurrence with Office of Water is required for this application.

2.0 PROPOSED MODIFICATIONS TO CONSENT

The modifications relate to changes to the Links Road intersection with the haulage road as shown at **Figure 1** including:

- widening of Links Road (into the Dunheved development site) and construction of a 100m right turn bay;
- construction of a roundabout 150m north of the Links Road intersection;
- construction of a holding area for entering trucks to wait adjacent to the roadway at the entrance of the haulage road within the Dunheved Precinct site area; and
- construction of an elevated gate house at the entrance of the haulage road.

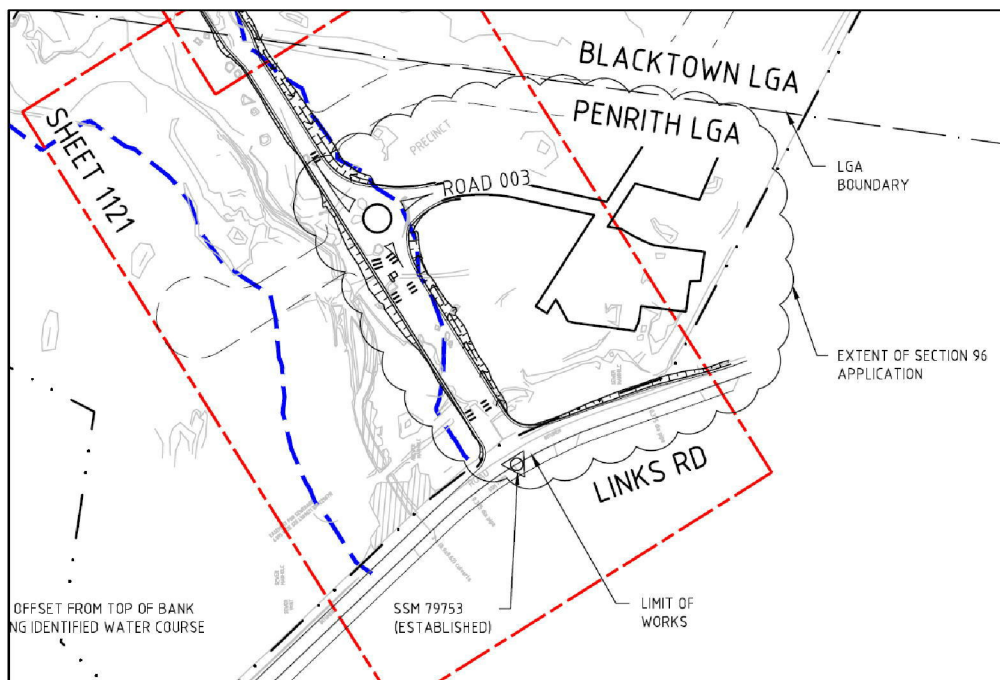


Figure 1 – Proposed Modifications to DA14/0766

Source: Cardno – Excerpt from General Arrangement Plan (Drawing Number 89914020-03-S96-1010)

The proposed modifications are described in more detail below.

2.1 Modifications to the Development

The following modifications are proposed to the approved development.

Widening of Links Road and right turn bay

The temporary widening of Links Road is proposed as a measure to mitigate the potential impacts of truck movements from DA14/1228 on the existing use of Links Road. The right turn bay will facilitate a dedicated lane for trucks to brake and queue before turning into the haul road.

The extent of the proposed works is limited to the existing road reserve and within the Dunheved site area. It is not considered that Council land owners consent is required for these works. The Public Roadworks will be subject to a separate application under s138 Road Act 1993 with PCC as noted on the Engineering Plans at **Attachment A**.

The proposed road widening is temporary in nature and upon conclusion of the need for the use of the haulage road (i.e. when the bulk earthworks under DA14/1228 and other subdivision and development works at the Central Precinct are complete), Links Road will be reinstated to its original width.

Holding area

The first 100 metres of the haul road has been widened to five lanes from the original two. The purpose of widening this area is to provide suitable storage for queuing within the site to mitigate any potential impacts on the existing road network within the vicinity of the site.

Roundabout

A roundabout has been proposed approximately 150 metres north of the Links Road intersection with the Haul Road. The roundabout is proposed as a construction traffic management measure and will provide a safe passage for vehicles entering the proposed site compound.

Gate House

A gate house is proposed adjacent to the roundabout - approximately 100 metres north of the site's southern boundary. The purpose of the gate house is to provide a structure for the life of the project as a basis for managing the entry of trucks into the Central Precinct site to monitor the fill material within trucks. The inclusion of the gate house is a critical component to managing quality control for material being delivered to site.

Site Compound

A site compound has been included which shows the likely footprint of temporary construction buildings to act as the site offices throughout the Central Precinct construction period. The site compound will include a provision for staff parking, offices and site amenities.

The above modifications are temporary in nature which will be reinstated or further developed under Development Consent DA07/0494, approved 7 March 2008 for landfill and associated works within the Dunheved Precinct.

2.2 Modification to Conditions

The proposed modifications described above necessitate amendments to the consent conditions which are identified below. Words proposed to be deleted are shown in **~~bold strike through~~** and words to be inserted are shown in ***bold italics***.

- 1 The development must be implemented and/or installed substantially in accordance with the following plans stamped approved by Council, the application form and any supporting information received with application, except as may be amended in red on the attached plans and by the following conditions.

Drawing Title	Plan No.	Prepared By	Date
Drawing Schedule	899104020-DACC-BE-1000 Revision 04	Cardno	28/10/2014
General Notes and Specification	899104020-DACC-BE-1001 Revision 04	Cardno	28/10/2014
General Alignment Plan	899104020-DACC-BE-1100 Revision 04	Cardno	28/10/2014
Site Grading Plan Sheet 1	899104020-DACC-BE-1201 Revision 04	Cardno	28/10/2014
Site Grading Plan Sheet 2	899104020-DACC-BE-1202 Revision 04	Cardno	28/10/2014
Site Grading Plan Sheet 3	899104020-DACC-BE-1203 Revision 04	Cardno	28/10/2014
Site Grading Plan Sheet 4	899104020-DACC-BE-1204 Revision 04	Cardno	28/10/2014
Road Longitudinal Sections Road 001 Sheet 1	899104020-DACC-BE-1210 Revision 04	Cardno	28/10/2014
Road Longitudinal Sections Road 001 Sheet 2	899104020-DACC-BE-1211 Revision 04	Cardno	28/10/2014
Road Longitudinal Sections Road 001 Sheet 3	899104020-DACC-BE-1212 Revision 04	Cardno	28/10/2014
Road Longitudinal Sections Road 002 Sheet 1	899104020-DACC-BE-1213 Revision 04	Cardno	28/10/2014
Road Longitudinal Sections Road 002 Sheet 2	899104020-DACC-BE-1214 Revision 04	Cardno	28/10/2014
Stormwater Layout Plan	899104020-DACC-BE-1225 Revision 04	Cardno	28/10/2014
Stormwater Typical Details	899104020-DACC-BE-1226 Revision 03	Cardno	28/10/2014
Typical Road Cross Sections	899104020-DACC-BE-1250 Revision 04	Cardno	28/10/2014
Typical Road Cross Sections Sheet 2	899104020-DACC-BE-1251 Revision 03	Cardno	28/10/2014
Erosion& Sediment Control Plan Sheet 1	899104020-DACC-BE-1301 Revision 04	Cardno	28/10/2014
Erosion& Sediment Control Plan Sheet 2	899104020-DACC-BE-1302 Revision 04	Cardno	28/10/2014
Erosion& Sediment Control Plan Sheet 3	899104020-DACC-BE-1303 Revision 04	Cardno	28/10/2014
Erosion& Sediment Control Plan Sheet 4	899104020-DACC-BE-1304 Revision 04	Cardno	28/10/2014
Erosion& Sediment Control Typical Details	899104020-DACC-BE-1310 Revision 04	Cardno	28/10/2014
Cover Sheet & Drawing List	89914020-03-S96-1000 Revision 1	Cardno	20/04/2015
General Notes And Specifications	89914020-03-S96-1001 Revision 1	Cardno	20/04/2015
General Arrangement Plan	89914020-03-S96-1010 Revision 1	Cardno	20/04/2015
Cut/Fill Plan Sheet 1	89914020-03-S96-1031 Revision 1	Cardno	20/04/2015
Cut/Fill Plan Sheet 2	89914020-03-S96-1032 Revision 1	Cardno	20/04/2015
Typical Road Cross Section	89914020-03-S96-1050 Revision 1	Cardno	20/04/2015
Erosion & Sediment Control Plan Sheet 1	89914020-03-S96-1121 Revision 1	Cardno	20/04/2015
Erosion & Sediment Control Plan Sheet 2	89914020-03-S96-1122 Revision 1	Cardno	20/04/2015
Erosion & Sediment Control Plan Sheet 3	89914020-03-S96-1123 Revision 1	Cardno	20/04/2015
Erosion & Sediment Control Plan Sheet 4	89914020-03-S96-1124 Revision 1	Cardno	20/04/2015
Erosion & Sediment Control Typical Details	89914020-03-S96-1125 Revision 1	Cardno	20/04/2015
Road And Stormwater Plan Sheet 1	89914020-03-S96-1131 Revision 1	Cardno	20/04/2015
Road And Stormwater Plan Sheet 2	89914020-03-S96-1132 Revision 1	Cardno	20/04/2015
Road And Stormwater Plan Sheet 3	89914020-03-S96-1133 Revision 1	Cardno	20/04/2015
Road And Stormwater Plan Sheet 4	89914020-03-S96-1134 Revision 1	Cardno	20/04/2015
Road Longitudinal Sections Sheet 1 Road 001	89914020-03-S96-1151 Revision 1	Cardno	20/04/2015

Drawing Title	Plan No.	Prepared By	Date
Road Longitudinal Sections Sheet 2 Road 001	89914020-03-S96-1152 Revision 1	Cardno	20/04/2015
Road Longitudinal Sections Sheet 3 Road 001, 002 & 003	89914020-03-S96-1153 Revision 1	Cardno	20/04/2015
Stormwater Catchment Plan	89914020-03-S96-1180 Revision 1	Cardno	20/04/2015
Stormwater Outlet Details	89914020-03-S96-1181 Revision 1	Cardno	20/04/2015
Stormwater Drainage Longitudinal Sections	89914020-03-S96-1191 Revision 1	Cardno	20/04/2015
Road & Retaining Wall Typical Details	89914020-03-S96-1211 Revision 1	Cardno	20/04/2015
Pavement, Signage & Linemarking Plan Sheet 1	89914020-03-S96-1221 Revision 1	Cardno	20/04/2015
Pavement, Signage & Linemarking Plan Sheet 2	89914020-03-S96-1222 Revision 1	Cardno	20/04/2015
Pavement, Signage & Linemarking Plan Sheet 3	89914020-03-S96-1223 Revision 1	Cardno	20/04/2015
Pavement, Signage & Linemarking Plan Sheet 4	89914020-03-S96-1224 Revision 1	Cardno	20/04/2015
Road Intersection Plan Sheet 1	89914020-03-S96-1231 Revision 1	Cardno	20/04/2015
Road Intersection Plan Sheet 2	89914020-03-S96-1232 Revision 1	Cardno	20/04/2015
Road Intersection Plan Sheet 3	89914020-03-S96-1233 Revision 1	Cardno	20/04/2015

- 27 Prior to the issue of a Construction Certificate for civil works the Certifying Authority shall ensure that engineering plans are consistent with the following stamped approved concept plan/s prepared by Cardno, ~~revision 04, dated 28 Oct 2014~~ **revision 01, dated 20 April 2015** and that all works have been designed in accordance with conditions of this consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, any Roads Act approval issued, Austroad Guidelines and best engineering practice.

The civil works may include but are not limited to the following:

- Public and private roads
- Stormwater management (quantity and quality) of haul road
- Sediment and erosion control measures
- Flood control measures
- Earthworks
- Bridges, culverts, retaining walls and other structures
- Landscaping and embellishment works

The Construction Certificate must be supported by engineering plans, calculations, specifications and any certification relied upon.

3.0 SUBSTANTIALLY THE SAME DEVELOPMENT

Section 96(2)(a) of the EP&A Act states that a consent authority may modify a development consent if *“it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all)”*.

The development, as proposed to be modified, is substantially the same development as that originally approved in that the haulage road will:

- continue to be temporary in nature;
- be on the same allotment as the approved haulage road site;
- facilitate the same development at the Central Precinct;
- be for the purpose of a private haulage road used for the same proposed uses as described in the SEE;
- be limited to within the Dunheved Precinct area, with any additional area of works due to the temporary widening of approved roads, or ancillary areas for temporary site compound and construction management areas;
- continue to sit wholly within the road reserve approved under the Dunheved Precinct Plans, or within the proposed developable areas under DA07/0494, approved by PCC 7 March 2008;
- be of the same overall standard and surfaced with asphaltic concrete to prevent dust and erosion; and
- only have one entry/exit point to the site at the new intersection at Links Road, which with the proposed modifications will allow for improved control of access to the site and to take responsibility for the establishment of haulage routes within the site.

In applying the “substantially the same development test”, the key qualitative and quantitative elements of the approved project remain unchanged as the new works are:

- ancillary to the approved haulage road;
- for the purpose of providing further detail regarding the approved development and construction methods;
- are considered minimal in nature, in relation to the offsite impacts; and
- remain temporary in nature so will not contribute to or influence the permanent visual context or urban form of Links Road.

4.0 PLANNING ASSESSMENT

Section 96(3) of the EP&A Act requires a consent authority to take into consideration such of the matters referred to in Section 79C(1) as are of relevance to the development the subject of the application. The SEE submitted with the original DA addressed the following environmental impacts:

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|------------------------------------|-------------------------|
| ■ Compliance with statutory plans; | ■ Traffic Impacts; |
| ■ Soil and erosion control; | ■ Dust Management; |
| ■ Flora and Fauna; | ■ Waste Management; |
| ■ Aboriginal Heritage; | ■ Site Suitability; and |
| ■ European Heritage; | ■ The Public Interest. |
| ■ Acoustic Impacts; | |

The planning assessment of the proposed modified development remains generally unchanged with respect to the above matters. The following matters however warrant further assessment.

4.1 Compliance with statutory plans

The proposed modification will continue to comply with the provisions of:

- Sydney Regional Environmental Plan No.30- St Marys (SREP 30);
- St Marys Environmental Planning Strategy 2000 (2006 Update) (St Marys EPS);
- State Environmental Planning Policy No.55 – Remediation of Land (SEPP 55); and
- the Dunheved Precinct Plan.

With regards to SREP 30, the proposed modifications do not apply to development on land adjoining the Regional Park zone, as such it is considered that this Section 96 is not required to be referred to the National Parks and Wildlife Service under Clause 44 of SREP 30.

4.2 Aboriginal Heritage

The proposed modifications apply to land wholly within the South Dunheved area. Aboriginal Heritage Impact Permit (AHIP) application has been approved for the South Dunheved Precinct (AHIP #2937). The increase in development area of the haulage road is not located within the vicinity or curtilage of any Aboriginal sites and the AHIP permits works to occur without further site investigations.

4.3 Traffic Impacts

It is considered that the proposed modifications represent a reasonable and practical approach to maintaining the existing traffic flows along Links Road. The proposed modifications will not impact the traffic impacts of this proposed development, but aim to improve traffic flows under DA14/1228 currently under assessment by PCC.

The existing traffic flow along Links Road will not experience any adverse impacts as a result of this development.

4.4 Acoustic Impacts

The proposed modifications will not alter the acoustic impacts of construction and operation of the road on the residential noise receivers. The additional waiting area will provide an area for trucks under the Bulk Earthworks development application currently being assessed by PCC (DA14/1228) to wait, without idling, should delays within the Central Precinct occur. This will reduce potential impacts from vehicles.

Condition 6 of DA 14/0766 will continue to apply and the recommendations within the Noise and Dust Review (Report No. 1415 Version A) prepared by Wilkinson Murray dated June 2014 will remain unchanged.

4.5 Public Interest

The proposal will continue to be in the public interest as it will enable development of the Central Precinct in accordance with SREP 30 and the CPP, which have been subject to public exhibition and comment and subsequently adopted. These plans therefore represent Council's planning objectives which have been subject to review by the community.

The proposed modifications are in the public interest as it will facilitate more efficient construction management and reduced noise and traffic impacts as a result of the use of the road.

5.0 CONCLUSION

The modifications relate to temporary changes to the Links Road intersection with the haulage road including:

- widening of Links Road and construction of a 100m right turn bay;
- construction of a roundabout 150m north of the Links Road intersection;
- construction of a holding area for entering trucks to wait adjacent to the roadway at the entrance of the haulage road within the Dunheved Precinct site area; and
- construction of an elevated gate house at the entrance of the haulage road.

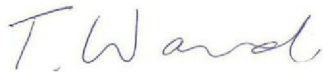
In accordance with section 96(2) of the EP&A Act, Council may modify the consent as:

- the consent, as proposed to be modified, is substantially the same development as that originally approved;
- the proposed modification will have no additional environmental impacts to that assessed under the original development consent; and
- the proposed development will continue to comply with the statutory controls applying to the site.

In light of the above, we therefore recommend that the proposed modification is supported by Council.

We trust that this information is sufficient to enable a prompt assessment of the proposed modification. Should you have any queries in relation to the above, please do not hesitate to contact me or Rebecca Lockart on 9956 6962 or rlockart@jbaurban.com.au or tward@jbaurban.com.au.

Yours faithfully



Tim Ward
Associate