

Future City.G Mansfield  
Reference: 3951899  
Phone: 02 49742767



29 October 2012

Mr Chris Ritchie  
Manager-Industry  
Mining & Industry Projects  
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Dear Mr Ritchie

**INCITEC PIVOT AMMONIUM NITRATE MANUFACTURING FACILITY,  
KOORAGANG ISLAND (SSD-4986)**

I refer to your letter of 10 September, 2012 inviting Council to make a submission, including any recommended conditions of approval, on the above State Significant Development (SSD) proposed on Lot 3 DP 1117013, 39 Heron Road, Kooragang Island.

Council officers have examined the Environmental Impact Statement (EIS) lodged in support of the application and the following comments are submitted for your consideration in the assessment of the application:

**1.0 Existing and Proposed Development**

**1.1 Shed 5**

According to Chapter 3 – 'Project location and Existing Environment' of the EIS, the subject site is currently used as a primary distribution centre for bulk and bagged agricultural fertiliser (phosphate). The centre includes two Dangerous Goods storage sheds (known as Sheds 4 and 5) having storage capacities of 2,000 tonnes (t) and 2,060t, respectively, of Technical Grade Ammonium Nitrate (TGAN). Figure 3-1 which shows the layout of the existing facility includes Shed 4 but does not identify the location of Shed 5. Furthermore, the supporting Visual Impact Assessment (Appendix K) describes Shed 5 as '*Liquids Storage-Less than 1000 tonne.*'

According to the Preliminary Hazard Analysis (Appendix D), Shed 4 will be retained as part of the proposal to store 1,000t of TGAN; the future of Shed 5, however, is unclear other than it apparently does not form part of the proposed development. Clarification of both the location and future use of Shed 5 is required.

**1.2 Chemtrans**

Part of the subject site is occupied by Scott Corporation Pty Ltd and used as a heavy transport depot by Chemtrans. According to the EIS (Chapter 4), '*the project would require a modification to the truck parking area currently occupied by Chemtrans.*' It is considered the proposed modification will in fact require significant changes to the layout of the Chemtran site. It being noted that part of the truck parking area is currently being used to store a large number of transportable chemical tanks.

The EIS does not include any design details of the 'proposed modification' and an environmental assessment. The EIS is also silent on the planning framework being relied on to undertake such a modification and when such works will be undertaken if consent is granted.

## 2.0 Urban Planning

### 2.1 Newcastle Urban Strategy

The proposed use of the Kooragang Island site for an ammonium nitrate manufacturing facility is consistent with the City-Wide strategies adopted in the Newcastle Urban Strategy for servicing the Port of Newcastle and the future of Newcastle's industrial areas. This Strategy states:

*'The value of land with frontage to the deep water of the Port of Newcastle will be recognised and protected. Land use controls will be developed to ensure this protection and to maintain a land bank for future port related activities.'*

Prior to Kooragang Island being declared a State Significant Site under the provisions of *State Environmental Planning Policy (SEPP) (Major Development)* 2005 it was zoned 4(b) Port and Industry, under the former Newcastle Local Environmental Plan (LEP) 2003, to implement this Strategy. The land use intent was carried over to the planning controls of the above SEPP.

### 2.2 Heritage

There appears to be some confusion in the EIS regarding non-indigenous heritage items. The Heritage Impact Assessment (Appendix M) refers to the following items as previously listed in the former Newcastle LEP 2003 and draft Newcastle LEP 2011:

Reference	Name	Address	Significance
I208	Tongues Tree Fig	Kooragang Nature Reserve	Local
	Palm	Greenleaf Road	Local
I209	131 Radar Igloo (building)	200 Kooragang Street	Local
I210	School Master's House	200 Kooragang Street	Local

In regard to the Palm tree standing on Greenleaf Road, which abuts the eastern boundary of the subject site, the Assessment states *'as the Palm tree has not been identified on the Draft LEP this indicates that it has been removed, and is no longer considered to have heritage significance'*. This statement is not correct. The Palm is now shown listed on the heritage schedule of the Three Ports Site in the SEPP (Major Development) 2005. In addition, the Radar Igloo has been declared an item of State Heritage Significance and is now listed on the State Heritage Register (SHR).

The correct references for heritage items are shown in the following table:

Reference	Name	Address	Significance
I208 LEP 2012	Tongues Tree Fig	Kooragang Nature Reserve	Local
3 Ports SEPP	Palm	2A Heron Road	
SHR	131 Radar Igloo (building)	200 Kooragang Street	State
I210 LEP 2012	School Master's House	200 Kooragang Street	Local

Despite the confusion, the conclusion of the heritage assessment that these items will not be significantly impacted by the proposed development, due to their distance from the site, is accepted.

### 2.3 Development Contributions

The Newcastle Section 94A Development Contributions Plan 2009 is applicable to this development. This Plan authorises the consent authority to grant consent to development subject to a condition requiring the applicant to pay to The City of Newcastle a levy on the proposed cost of the development. Clause 25 J of the *Environmental Planning and Assessment Regulation 2000* sets out how the proposed cost of carrying out development is to be determined. The levy rate is 1.0% of the cost of carrying out the development. At the time of payment the levy is indexed.

It is recommended a condition requiring the payment of the applicable Section 94A levy should be applied to any consent issued by the Minister for this development.

### 3.0 Hazards and Risks

The Director General's environmental assessment requirements for the proposed development included the preparation of a Preliminary Hazardous Analysis (PHA).

The PHA was to address all recommendations of the Department's *Newcastle and Kooragang Island Risk Assessment Study* relevant to the development. The PHA (Appendix D) submitted in support of the application indicates the recommendations of the Study are not relevant to the proposal. The consideration of this matter in the PHA is considered to be inadequate and a more detailed response is required to substantiate the above conclusion.

### 4.0 Stormwater, Flooding and Water Quality

#### 4.1 Stormwater

Where possible, stormwater reuse is to be used on site in accordance with section 7.07 of the Newcastle DCP, 2012. Rainwater collection tanks should be incorporated in the design of the proposal and used for all toilet flushing. The majority of rainwater that falls on the site should be, where possible, captured so as to be used in the industrial process rather than relying on mains portable water.

It is requested that appropriate conditions which address the above matters be imposed on any consent issued by the Minister.

#### 4.2 Flooding

A Surface Water and Wastewater Management Report (Appendix H) prepared by URS Australia has been submitted in support of the application.

The consultant has used flood information sourced from The City of Newcastle and concludes that the risk of flooding is minimal on the development site. They have considered Hunter River flooding and ocean flooding for the Probable Maximum Flood scenarios and the 1 in 100 year flood scenarios, including a 0.9m sea level rise estimate for 2100 as commonly used in NSW, and have noted that the proposed pavement level of 3.5m Australian Height Datum (AHD) is above the most extreme flood level estimate of 3.4m AHD.

There will also be relatively long warning times for both river and ocean flood events which should provide adequate time to evacuate the site. It is considered that the flood risk assessment for the proposed development is satisfactory.

#### **4.3 Water Quality**

Chapter 13 – 'Surface Water and Wastewater' of the EIS indicates that the water quality objective for the discharge of wastewater is to maintain or improve the existing water quality of the Hunter River. However, the EIS states that with the preferred discharge location, background water quality might be exceeded due to a build-up of nutrients. It is noted that further investigation about the impacts of wastewater discharge is being undertaken in consultation with the Environment Protection Authority (EPA), and the results of this work will be reported in the 'Response to Submissions'. The existing 'Total Nitrogen' at the preferred discharge location adjacent to the subject site is 11.45mg/L, which is significantly higher than the ANZECC default trigger value of 0.3mg/L (for an estuary).

It should be ensured that the proposal will not contribute to a decline in water quality in the Hunter River, given the proximity of the site to the internationally important Hunter Estuary Wetlands.

The development should be designed to minimise stormwater pollutants exiting the site. Water sensitive urban design measures are to be in place and water quality targets set in accordance with the section 7.06 –Stormwater of the Newcastle DCP, 2012. Other industry standards and guidelines of the EPA should also be met. Measures should be put in place to improve the water quality discharge from the existing system as well.

Where ever possible water should be reused on the site in the industrial process rather than discharging directly to the Hunter River. Any waste water from the site into to the Hunter River is to be treated is to be of a standard that is safe for human contact.

It is requested that appropriate conditions which address the above matters be imposed on any consent issued by the Minister.

#### **5.0 Car Parking**

The existing car park located on the site is proposed to be used to accommodate the visitor and employee vehicles of both the existing and proposed facilities, as well as the vehicles of 60 contractors during the construction period.

The submitted EIS does not include a detailed assessment of the likely car parking demands of the proposal set against the relevant requirements of either the Newcastle DCP,2012 or the Roads and Maritime Services document –'Guide to traffic generating development'. It is requested that, should consent be granted to the application, an appropriate condition be imposed requiring the provision of on site parking facilities for cars, bikes and motor bikes in accordance with the relevant

requirement of section 7.03 'Traffic, Parking and Access' of the Newcastle DCP, 2012 and the Australian Standards referred to in that document.

### **6.0 Acid Sulfate soils**

The site is identified as having class 2 Acid Sulfate Soils (ASS). Under the Newcastle Local Environmental Plan 2012, any works below the natural ground surface or works by which the watertable is likely to be lowered, requires the submission of an ASS Management Plan prepared in accordance with the ASS Manual prior to the determination of the application.

According to the EIS (Chapter12), the applicant is only going to prepare an ASS Management Plan if Acid Sulfate Soil is encountered during the construction phase of the project. This is not satisfactory and it is recommended prior to the determination of the application the applicant be required to provide a ASS Management Plan, or alternatively a preliminary assessment of the proposed works prepared in accordance with the ASS Manual which demonstrates that such a Plan is not required.

### **7.0 Visual Impact**

Additional consideration needs to be given to the visual impacts of the proposal, and mitigation of these impacts. The Visual Impact Assessment (Appendix k) states that *'existing tree planting should be retained where possible and supplemented to mitigate views towards the lower portions of proposed infrastructure.'* However, the EIS does not include a plan specifically detailing tree loss, or a landscape concept plan providing details of any proposed supplementary screening. Of primary concern, in this regard, are the visual impacts to the eastern arm of the Hunter River and Stockton foreshore areas.

### **8.0 Ecology**

The ecology assessment in Chapter 18- 'Flora & Fauna (Ecology)' of the EIS indicates that a number of feed trees, including Moreton Bay Figs which are a significant feed tree for the threatened Grey-headed Flying-fox., are located on the subject site. The Assessment indicates that as part of the development vegetation will be cleared, including Moreton Bay Figs. However, as indicated above, the EIS does not provide any indication of how much vegetation will be removed (or which areas of vegetation will be removed).

As indicated above, the EIS does not include plan specifically detailing tree loss. Table18-4 of the EIS outlines that a Flora Management Plan will be developed to mitigate impacts on flora, including *'rehabilitation/landscaping works to incorporate native flora species (sourced locally) that have the potential to provide foraging resources for native fauna species'*.

It is recommended that an appropriate condition be imposed which requires the proposed rehabilitation/ landscaping works are to be provided to compensate for the loss of vegetation from the proposed development. In this regard, the applicant be required to undertake rehabilitation/landscaping works (as required in the Flora Management Plan) within the existing vegetation corridors which run along the eastern and western sides of the site – particularly the eastern corridor, which as outlined in section 18.5.2 of the EIS *'has the potential to aid limited fauna movement, and thus act as a habitat corridor/patch for a number of fauna species...'*. Rehabilitation/landscaping works along the eastern corridor would also assist in mitigating visual impacts on Stockton residents.

If you require further explanation or advice regarding the various matters canvassed in this submission, I can be contacted on 02 49742767.

Yours faithfully

A handwritten signature in black ink, appearing to read "G Mansfield". The signature is written in a cursive, slightly slanted style.

Geof Mansfield

**PRINCIPAL PLANNER (DEVELOPMENT)**