

Our ref: Clean Energy Precinct Concept DA (SSD-62423490)

Mrs Wendy West
Senior Manager Engineering (Energy)
The Trustee for the Port of Newcastle Unit Trust
251 Wharf Road
NEWCASTLE NSW 2300

13 October 2023

Subject: Planning Secretary's Environmental Assessment Requirements

Dear Mrs West

Please find attached a copy of the Planning Secretary's environmental assessment requirements (SEARs) for the Clean Energy Precinct Concept Development Application (DA) (SSD-62423490) (**Attachment 1**).

The SEARs have been prepared in consultation with relevant public authorities (see **Attachment 2**) and are based on the information you have provided to date. Please note that advice has not yet been received from Safework NSW, Ausgrid, Hunter Water Corporation, NSW Health and the Rural Fire Service. Responses from these agencies will be forwarded to you upon receipt and you will be required to consider their advice when preparing the Environmental Impact Statement (EIS) for the Concept DA. Where relevant, the Planning Secretary may modify the SEARs to ensure the environmental assessment of the project covers all relevant matters and is consistent with contemporary assessment practice.

Your SEARs will expire two years from the date of issue (or the date they were last modified) unless the Planning Secretary has granted an extension. If you would like to seek an extension, you should contact the Department at least three months prior to the expiry date.

If your application is not submitted within two years (or by the agreed extension date), you will need to make a new application for SEARs to progress your project.

Project Scope

The Department notes the proposal involves the production and storage of hydrogen and ammonia and potentially other clean energy products at a scale not seen anywhere else in NSW. The Department recommends the Applicant carefully consider the proposed scale of the development given the complexities and risks associated with the production and storage of these chemicals in close proximity to each other and other existing chemical industries within the Port of Newcastle. This is particularly relevant to Stages 2 and 3 of the Concept DA for which the scope of proposed uses and activities have not been clearly defined and as such, associated risks may be uncertain.

The Department also wishes to emphasise the importance of appropriately assessing the impacts and cumulative risks to public safety in the Environmental Impact Statement (EIS). We encourage you to consult with the Department's hazard experts and Safework NSW throughout preparation of the quantitative risk assessment for the Concept DA.

Preparing your EIS

Your EIS must be prepared having regard to the Department's *State Significant Development Guidelines*, including the *Preparing an Environmental Impact Statement Guideline*. All relevant guides for State significant projects that are referenced in the SEARs are available at www.planning.nsw.gov.au/Policy-and-Legislation/Planning-reforms/Rapid-Assessment-Framework.

During the preparation of your EIS, you are required to consult with various parties, including the Department and relevant agencies, in accordance with *the Undertaking Engagement Guidelines for State Significant Projects*. For more information, please visit the [Prepare EIS page](#) on the NSW planning portal.

Agency contact details can be found at <https://www.planningportal.nsw.gov.au/major-projects/assessment/guide-agency-directory>.

You will need a Registered Environmental Assessment Practitioner (REAP) to declare that your EIS meets certain standards in relation to its completeness, accuracy, quality and clarity before it is submitted to the Department, as per Division 5 of Part 8 of the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation). A pro forma declaration can be found in [Appendix B](#) of the *Preparing an Environmental Impact Statement Guideline*.

Lodging your DA

Once you submit your EIS, we will check it for completeness to confirm it addresses the requirements in Part 8 of the EP&A Regulation. **The EIS must include a comprehensive description and assessment of the likely impact of all stages, infrastructure and activities that form part of the development, as required under section 192 of the EP&A Regulation.**

To minimise delays, **please contact the Department at least two weeks before you submit your EIS** to confirm the DA fee payment arrangements.

Please note that your DA is not taken to be lodged until the DA fee has been paid.

Information needed to determine the DA fee

Your application will need to be accompanied by a Quantity Surveyor's Report supporting the estimated cost of development for your project. You must ensure that the information in the report is consistent with the information provided in your DA form and the Department's Planning Circular on the [Calculation of capital investment value](#).

If your project involves marinas, extractive industries or any subdivision of land, you must also ensure that your report includes a breakdown of estimated costs for any other component of your project.

Public exhibition requirements

When you contact us regarding the applicable DA fee, we will also confirm the consultation and public exhibition arrangements and will advise whether hard and/or electronic copies of the DA and EIS will be required for public exhibition.

Community Consultation

The Department wishes to emphasise the importance of effective and genuine community consultation. A comprehensive open and transparent community consultation engagement process must be undertaken during the preparation of the EIS. This process must ensure that the community is provided with a good understanding of what is proposed (including a description of any potential impacts) and they are actively engaged in issues of concern to them.

Please note, your EIS must include clear evidence that this consultation has been undertaken and justification for the proposed consultation method(s) used.

Matters of National Environmental Significance

Any development likely to have a significant impact on matters of National Environmental Significance will require approval under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). This approval is in addition to approvals required under NSW legislation.

It is your responsibility to contact the Commonwealth Department of Climate Change, Energy, the Environment and Water to determine if you need approval under the EPBC Act (<https://www.dcceew.gov.au/> or 6274 1111).

Should any referral to the Commonwealth result in the development being considered a 'controlled action' under the EPBC Act, please contact the Department for any additional requirements.

If you have any questions, please contact Sally Munk on 9274 6431 or via email at sally.munk@planning.nsw.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read "C. Ritchie".

Chris Ritchie
Director
Industry Assessments

as delegate for the Planning Secretary

Enclosed:

- **Attachment 1** – Planning Secretary's Environmental Assessment Requirements
- **Attachment 2** – Government Authority Advice