



DOC19/930431

13 November 2019

Mr Rodger Roppolo  
Key Sites and Industry  
Department of Planning, Industry and Environment  
GPO Box 39,  
Sydney NSW 2001

Dear Mr Roppolo

**The New Sydney Fish Market – Concept and Stage 1 (SSD 8924)  
Advice on the Environmental Impact Statement**

I am writing to you in reply to the invitation to the Environment Protection Authority (EPA) to provide advice on the Environmental Impact Statement (EIS), including recommendations for Conditions of Approval for the above proposal.

The EPA understands that the project involves the demolition of land and water-based structures, removal of old marine piles and installation of new marine piles, and any required repairs to the existing sea wall, to enable a development over a footprint of approximately 4 hectares that includes land and water. The site is currently occupied by a concrete batching plant, wharves and a jetty, waterfront industry related structures, a coal loader and associated infrastructure, and part of the existing Fish Markets wharf and outdoor dining area.

The EPA has reviewed the EIS provided by the Department of Planning, Industry and Environment (DPIE) and provides the following comments with regards to noise, water, and contaminated lands:

**1. Noise**

The EPA reviewed the *Noise Impact Assessment* (Appendix 19 of the EIS) (NIA report) and notes that this assessment was also submitted for Stage 2 project (SSD 8925). The EPA advises the following:

- The NIA does not include an assessment of noise from construction activities potentially impacting upon Ultimo Public School, which is a requirement of the Secretary's Environmental Assessment Requirements (SEARs). The "Worst Case predicted" noise levels for NCA02, where Ultimo Public School is currently located, are likely to be over the 65 dBA "noise affected" levels according to Table 17 of the NIA. As such, reasonable and feasible mitigation and management measures are required to be investigated for Ultimo Public School.
- The NIA lists potential reasonable and feasible remediation measures to reduce the residual noise impacts at Sydney Secondary College (SSC). These recommendations are to form part of a Construction Noise and Vibration Management Plan for the site, which will be crucial in assuring that SSC is not adversely affected by construction noise. This does not outline the procedures for noise monitoring, as required in the SEARs.

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- There are residual noise impacts predicted for the use of the loading dock at the receiver identified as 84 Wentworth Park Road. All reasonable and feasible mitigation options have been adequately assessed for this location, however the NIA indicates that there will still be a 4 dBA “moderate” exceedance of the project trigger noise levels at the receiver. The report states that receivers with “moderate” residual noise levels, as assessed per the *Noise Policy for Industry* (NPfI), should be offered reasonable façade mitigation and mechanical ventilation to enable the control of noise through the shutting of windows and doors. However, the NIA report states that given the siting of the development near a main road, it is likely that these measures are already in place to cope with the traffic noise. The EPA advises that this should be confirmed to assist with decisions about suitable rectification for residual noise impacts.
- The EPA notes that several logging locations utilised by SLR when determining the ambient background noise level for the purposes of generating project specific noise levels were not ideal. Specifically, it is noted that the unattended noise loggers at locations L.01, L.02, L.04 and possibly L.07 appear to be placed in highly reverberant noise environments (ie. under cover or near a façade). This is likely to raise the noise levels at the microphone, and as a result raise the project trigger noise levels. The NIA has not identified this as an issue and has not addressed the likely increase in recorded noise levels at these receivers. It is requested that clarification on the selection of monitoring locations and the effect the surrounding area had on the measured noise levels be sought.

#### Recommended conditions of consent for noise:

##### Construction:

- C1.** Construction activities associated with the project must only be undertaken during the following standard construction hours:
- (a) 7:00 am to 6:00 pm Mondays to Fridays, inclusive; and
  - (b) 8:00 am to 1:00 pm Saturdays;
  - (c) at no time on Sundays or public holidays.
- C2** Notwithstanding condition **C1**, construction works associated with the project may be undertaken outside the hours specified under **C1** conditions where the following are satisfied:
- (a) construction works that cause LAeq (15 minute) noise levels that are
    - i. no more than 5 dB(A) above rating background level at any residence in accordance with the *Interim Construction Noise Guideline* (DECC, 2009), and
    - ii. no more than the noise management levels specified in Table 3 of the *Interim Construction Noise Guideline* (DECC, 2009) at other sensitive land uses, and
    - iii. continuous or impulsive vibration values, measured at the most affected residence are no more than those for human exposure to vibration, specified in Table 2.2 of *Assessing vibration: a technical guideline* (DEC, 2006), and
    - iv. intermittent vibration values measured at the most affected residence are no more than those for human exposure to vibration, specified in Table 2.4 of *Assessing vibration: a technical guideline* (DEC, 2006); or
  - (b) where a negotiated agreement has been reached with affected receivers, where the prescribed noise and/or vibration levels cannot be achieved;
  - (c) for the delivery of materials required by the police or other authorities for safety reasons; or
  - (d) where it is required in an emergency to avoid the loss of lives, property and/or to prevent environmental harm; or
  - (e) construction works approved through an **Out-Of-Hours Work Protocol** prepared as part of the Construction Noise and Vibration Management Plan (CNVMP), provided the relevant council, local residents and other affected stakeholders and sensitive receivers are informed of the timing and duration at least 5 days prior to the commencement of the works. The impacts of the out of hours work should be quantified prior to the works with a **Construction Noise and Vibration Impact Statement (CNVIS)**;
  - (f) to ensure public and construction worker safety;

- (g) where works involve the need for a road occupancy licence and the relevant authority will not grant a licence for standards hours or the works involve utility service adjustments and the relevant utility provider requires the works to be undertaken outside of standard construction hours;
- (h) the relevant utility service operator has advised in writing that carrying out the works and activities during the hours specified in Condition **C1** would result in a high risk to the operation and integrity of the utility networks;

### **C3**

Prior to the commencement of any construction works, an appropriately qualified person must prepare a detailed **Construction Noise and Vibration Management Plan (CNVMP)** based on detailed project design that includes, but is not necessarily limited to:

- (a) Identification of each work area, site compound and access route (both private and public).
- (b) Identification of the specific activities that will be carried out and associated noise sources at the premises and access routes.
- (c) Identification of all potentially affected sensitive receivers using the construction noise objectives identified in accordance with the *Interim Construction Noise Guideline* (DECC 2009), vibration objectives as identified in accordance with the document *Assessing Vibration: A Technical Guideline* (DEC 2006), and the road traffic noise objectives as identified in accordance with the *NSW Road Noise Policy* (DECCW 2011).
- (d) Identification of non-project related construction activities in the area that may be undertaken concurrently or contiguously with the project and may have the potential for cumulative noise impacts on sensitive receiver locations.
- (e) Assessment of noise and vibration from the construction methods (including noise from construction traffic) against the objectives identified in (c) above.
- (f) Where the noise objectives are predicted to be exceeded, an analysis of feasible and reasonable noise mitigation measures be implemented to minimise construction noise and vibration.
- (g) Description of management methods and procedures and specific noise mitigation measures that will be implemented to control noise and vibration during construction, including the early erection of operational noise where they may be effective in mitigating construction noise, and means to coordinate with construction activities identified under (d) above to reduce impacts on the community.
- (h) Procedures to engage with and notifying residents of construction and vibration activities that are likely to affect their noise and vibration amenity.
- (i) Procedures to assess and manage noise impacts associated with essential out of standard hours works performed in accordance with **C1**.
- (j) Measures to monitor noise performance and respond to complaints.

## **2. Water Quality**

The *Remedial Action Plan* (Appendix 5 of the EIS) states that metals, hydrocarbons and polychlorinated biphenyls (PCBs) contaminated sediments were identified within the site, and sediments throughout Blackwattle Bay had metal and nutrient contamination. All sediments on site are expected to be acid sulphate soils. Therefore, any activities that disturb sediments require careful management of water quality risks.

The *Construction Environmental Management Plan* (Appendix 13 of the EIS) – incorporating both SSD 8924 and SSD 8925 – indicates that a silt curtain will be used to control turbidity during initial demolition activities, including removal of existing piles. A sheet-pile cofferdam will be constructed within the silt curtain prior to commencement of piling (226 piles will be installed). A gap will be maintained for barge access, with a silt curtain covering the gap, until the piling is completed. Appendix 13 states, “The silt curtain should not be removed until the risk of sediment contamination is negligible.” It is unclear how the operator will determine that the risk of sediment contamination is negligible.

### Recommended condition of consent for water:

1. Prior to commencement of demolition activities and installation of the sheet-pile cofferdam and new piles, the applicant must develop a water quality management plan, setting out monitoring and associated management triggers and actions to address water quality risks. Consideration should be given to including continuous turbidity monitoring at a site immediately outside the silt curtain and at a nearby background site (unaffected by the project) to allow management triggers to be defined based on an increase in turbidity above background levels. The program should include monitoring of turbidity near the gap in (and within) the cofferdam to confirm appropriate levels prior to opening the silt curtain.

### **3. Contaminated Lands**

The EPA reviewed the applicant's *Geotechnical Report* (Appendix 3), *Environmental Site Assessment* (Appendix 4), *Remedial Action Plan* (Appendix 5) and *Acid Sulphate Soil Management Plan* (Appendix 6). The environmental site assessment determined that potential contaminants of concern include (but not limited to) metals, asbestos, total petroleum hydrocarbons and volatile organic carbons, that would require remediation to make the site suitable for the proposed use.

The environmental site assessment report mentioned that the sampling density within the land-based portion of the site, with approximate area of 0.72 hectares (ha) is less than the recommended number of sampling locations. For a 0.72 ha site, the EPA (1995) sampling guidelines recommend a minimum of 19 sampling points. The report mentioned that only eight sample points have been completed within the land portion of the site. On this basis, the density of investigation completed for statistical assessment of certain contaminants of potential concern has not been adequately addressed. Unless justification is provided for this insufficient sampling density, the EPA considers that the site has not been sufficiently characterised to determine that the proposed remediation and management measures are appropriate. The EPA requires the additional investigation to address the data gaps regarding sediments, acid sulphate soils, and inadequate sampling identified in Section 6.5 of the *Environmental Site Assessment* report, as part of the applicant's Response to Submissions, to properly characterise the site and refine the management measures proposed in the remedial action plan.

Characterisation of fill materials is recommended for the presence of asbestos via quantification, in accordance with the procedures included in the *National Environment Protection (Assessment of Site Contamination) Measure 1999*, Amendment No. 1 (NEPC, 2013) as derived from *Guidelines for the Assessment Remediation and Management of Asbestos Contaminated Sites in Western Australia* (WA DOH, 2009). This was identified as data gap in the assessment report and is required to evaluate potential asbestos management requirements (if any) during the site development works. This characterisation is required to be completed to fulfil the SEARs which specified that the proponent should provide detail on how the existing structures will be decommissioned and any hazardous materials likely to be encountered during demolition and site preparation and, how any de-contaminating processes are to be managed during this process.

The EPA notes that asbestos is a potential contaminant of concern and the EPA requires the preparation of an Asbestos Management Plan, as part of the applicant's Response to Submissions, to address the management of asbestos during demolition of existing structures as well as excavation at the site.

### Recommended conditions of consent for contamination:

1. The proponent to prepare an unexpected finds protocol. The protocol should include detailed procedure for identifying and dealing with unexpected contamination, asbestos and other unexpected finds. The proponent should ensure that the procedure includes details of who will be responsible for implementing the unexpected finds procedure and the roles and responsibilities of all parties involved.
2. The proponent must engage an EPA accredited site auditor to prepare a section B site audit statement that confirms that the remediation action plan is appropriate for the site and that the site can be made suitable for the proposed use.

3. The proponent must adhere to the management measures accepted by the auditor.
4. The processes outlined in *State Environmental Planning Policy 55 - Remediation of Land (SEPP55)* be followed in order to assess the suitability of the land and any remediation required in relation to the proposed use.
5. The proponent must ensure the proposed development does not result in a change of risk in relation to any pre-existing contamination on the site so as to result in significant contamination [note that this would render the proponent the 'person responsible' for the contamination under section 6(2) of the *Contaminated Land Management Act 1997*].
6. The EPA is to be notified under section 60 of the *Contaminated Land Management Act 1997* for any contamination identified which meets the triggers in the *Guidelines for the Duty to Report Contamination* ([www.epa.nsw.gov.au/resources/clm/150164-report-land-contamination-guidelines.pdf](http://www.epa.nsw.gov.au/resources/clm/150164-report-land-contamination-guidelines.pdf))
7. The EPA recommends the use of "certified consultants". Please note that the EPA's *Contaminated Land Consultant Certification Policy*, Version 2, November 2017, (<http://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/clm/18520-contaminated-land-consultant-certification-policy.pdf?la=en>) supports the development and implementation of nationally consistent certification schemes in Australia, and encourages the use of certified consultants by the community and industry. Note that the EPA requires all reports submitted to the EPA to comply with the requirements of the *Contaminated Land Management Act 1997* to be prepared, or reviewed and approved, by a certified consultant.

#### **4. Waste and Air Quality**

The consent conditions should ensure that the development complies with standard requirements regarding waste management and appropriate site management to minimise air quality impacts, particularly dust.

Should you require clarification of any of the above please contact Anna Timbrell on 9274 6345 or email [anna.timbrell@epa.nsw.gov.au](mailto:anna.timbrell@epa.nsw.gov.au).

Yours sincerely



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