NSW EPA

Our reference: EF14/6056:DOC14/156506-01:PW
Contact: Paul Wearne (02) 4224 4100

NSW Department of Planning & Environment
Major Projects Assessment
(Attention: Mark Brown)
GPO Box 39
SYDNEY NSW 2001

Dear Sir

M2 SITE WITHIN THE NORTH RYDE STATION URBAN ACTIVATION PRECINCT (SSD 6256)

I am writing in reply to your letter dated 6 August 2014 to the Environment Protection Authority (EPA) seeking comments on the above State Significant Development (SSD) application.

Please find attached to this letter (**Attachment A**) some matters for Department of Planning & Environment (DPE) to consider as part of its assessment of the proposed development. These matters relate to the following:

- EPA Licensing and Regulation
- Water Quality
- Construction Noise
- Contaminated Land Management
- Waste Management
- Construction Environmental Management Plan; and
- Future Development of Land.

In general, the proponent should ensure that the proposed development complies with the requirements of the *Protection of the Environment Operations (POEO) Act 1997* and its associated regulations.

The EPA is able to meet with DPE at a mutually convenient time to discuss any of the above issues. If you have any comments regarding this letter, please contact Mr Paul Wearne on (02) 4224 4100.

Yours sincerely

23/9/14

PETER BLOEM
Manager Illawarra
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ATTACHMENT A

1. EPA Licensing and Regulation

The Environmental Impact Statement (EIS) does not appear to indicate whether the activities associated with the State Significant Development (SSD) Application will require any licensing under the *Protection of the Environment Operations (POEO) Act 1979*. The proponent also does not appear to have consulted with the Environment Protection Authority (EPA) as per the Director General Requirements (DGR).

The EPA recommends the proponent undertake a review of all activities associated with the development and document whether licensing is required. The Appropriate Regulatory Authority (ARA) for these activities under the POEO Act (if approved) should also be identified.

Section 47 of the POEO Act defines scheduled development work as *'work at any premises at which scheduled activities are not carried on that is designed to enable scheduled activities to be carried on at the premises'*. Under Section 47 of the POEO Act it is an offence for scheduled development work to be undertaken without an Environment Protection Licence (EPL).

If the sewage reticulation installed as part of the proposed development will be connected to the existing sewage system licensed under the POEO Act when completed, then the proposed reticulation will form part of that licensed system and will be considered to be a scheduled activity. Construction of the proposed reticulation would therefore constitute scheduled development work under the POEO Act and must not be undertaken without an EPL in place prior to the commencement of construction. The proponent should investigate the requirement for construction of the proposed sewage reticulation to determine if licensing is required under the POEO Act.

Further information on EPA licencing requirements can be found in the *EPA Guide to Licensing.* A copy of this guideline is available at: www.environment.nsw.gov.au/licensing/licenceguide.htm.

If EPA licensing is not required under the POEO Act, the proponent still has a responsibility to ensure all activities undertaken at the site comply with the requirements of the POEO Act and its associated regulations. This must include but not necessarily be limited to the following:

- Prevent pollution of waters
- Prevent land pollution
- Ensure activities are not carried out in an environmentally unsatisfactory manner. "Environmentally unsatisfactory manner" is defined in Section 95 of POEO Act; and
- Ensure the EPA is notified of any pollution incidents that may cause or threaten material harm to the environment. Any notification must be reported to Environment Line on 131 555.

2. Water Quality

2.1 Stormwater Management

The proposed development is located in the Porters Creek catchment which flows into the Lane Cove River. The Draft Lane Cove River Coastal Management Plan (Final Draft 2013) states that currently the health of the Lane Cove River is affected by high bacterial counts during wet weather periods. It experiences problems with eutrophication from urban stormwater and other sources of nutrients such as sewage effluent discharges. In general its ecological health is poor and has not changed significantly for almost the past decade. The Management Plan also states that ongoing urbanisation of the catchment in the future will increase catchment runoff and pollutant loads if development controls and diverse water quality improvement measures are not put in place and maintained.

The EIS does not state the relevant Water Quality Objectives and environmental values for the receiving waters of the project or any indicators and associated trigger values for these environmental values.

It is noted that the DGRs states that the EIS must:

> *"Demonstrate that water discharged from the site will not adversely impact on the watercourses, riparian corridors and groundwater dependent ecosystems located in the vicinity of the Mixed Use and High Residential Density Sub-Precincts as a result of the proposed development, with particular regard to Porters Creek and Lane Cove River."*

The EIS has not provided any predicted water quality discharge concentrations/loads during the construction phase; from the whole site, or during the post construction phase; from the high density residential and mixed use sub-precincts. The Stormwater Management Plan (Appendix H of the EIS) does provide predicted residual annual loads that will be discharged from the public domain portion of the site for gross pollutants, total suspended solids, total phosphorous and total nitrogen. The EIS has not however provided a description and assessment of the nature and degree of impact that any proposed discharges (construction and post construction) will have on the receiving environment.

The EPA recommends that additional information be sought from the proponent on the following matters to assist DPE in its assessment of the proposal:

- *Statement of the ambient Water Quality Objectives (WQO) and the environmental values for the receiving waters relevant to the proposal. These refer to the community's agreed environmental values and human uses endorsed by the NSW Government as goals for ambient waters: (http://www.environment.nsw.gov.au/ieo/index.htm).*
- *Statement of the indicators and associated trigger values or criteria for the identified environmental values.*
- *Identification and estimation of the quality and quantity of all pollutants that may be introduced into the water cycle by source and discharge point, including residual discharges after mitigation measures are implemented. This should be undertaken for construction and post development phases for the whole site.*
- *Description of the nature and degree of impact that any proposed discharges (construction and post construction) will have on the receiving environment, with particular regard to Porters Creek and Lane Cove River.*
- *Assessment of the significance of any identified impacts including consideration of the relevant ambient water quality outcomes. Demonstration of how the proposal will be designed and operated to:*
  - *protect the WQOs for receiving waters where they are currently being achieved; and*
  - *contribute towards achievement of the WQOs over time where they are not currently being achieved.*
- *A Monitoring Program to ensure that any mitigation measures are performing as predicted during construction and post development and to validate that the relevant water quality objectives are being met, and if not, what actions would be undertaken by the proponent to ensure they are met.*

Integrated Water Management Plan

The DGRs include a requirement for the development of an Integrated Water Management Plan (IWMP) in accordance with Section 4.4 of the *North Ryde Station Precinct (NRSP) DCP 2013.* An IWMP has been developed (Appendix H of the EIS), however it does not adequately meet all the objectives of Section 4.4 of the NRSP DCP 2013. This includes how the project proposes to reduce stormwater discharges from the site and minimise water consumption through implementation of water sensitive urban design measures. The plan also does not outline opportunities for the use of integrated water cycle management practices and principles to optimise opportunities for sustainable water supply, wastewater and stormwater management across the development. The EPA recommends that DPE seek further information from the proponent to ensure the IWMP provisions in the DCP are satisfied.

The proposal includes a Stormwater Management System which includes a stormwater treatment train approach. The proposed treatment train devices require regular maintenance (for example, every six months with filter media replacement every five to seven years). The submitted EIS recognises the importance of these actions to ensure their effective ongoing performance. However, the submitted information does not provide any information on who will be responsible for the management of these stormwater management features post development.

The EPA recommends DPE seek additional information from the proponent on who will be undertaking these roles post development, including any in perpetuity funding arrangements. The EPA suggests that the proponent may wish to seek environmental commitments as part of a Voluntary Planning Agreements (VPA) process which could also be linked to developer contributions.

A Soil and Water Management Plan should also be developed and implemented prior to construction in accordance with the *Managing Urban Stormwater: Soils and Construction, Vol. 1 (Landcom 2004) and Vol. 2 (A. Installation of services; B Waste landfills; C. Unsealed roads; D. Main Roads; E. Mines and quarries)* (DECC 2008).

3. Construction Noise Management

Potential noise impacts associated with construction should be assessed and any appropriate noise mitigation measures identified and implemented. Any local residents or noise sensitive receivers should be considered. In this regard, we recommend the proponent consult the *Interim Construction Noise Guideline (DECC 2009)*. A copy of this guideline is available at:
http://www.environment.nsw.gov.au/noise/constructnoise.htm.

4. Contaminated Land Management

The investigation of land contamination is an important consideration as the proposal involves urban renewal/consolidation. A range of activities can result in land contamination and significant environmental and health risks can arise if the land is not appropriately investigated, remediated and validated for its proposed land use. In cases where land is potentially contaminated, the investigation and any remediation and validation work must be carried out in accordance with the guidelines made or approved by the EPA under Section 105 of the *Contaminated Land Management Act 1997.* In addition they should also be in accordance with the requirements and procedures in the following:

- *Contaminated Land Management Act 1997*
- *Contaminated Land Management Regulation 2013; and*
- *State Environmental Planning Policy 55 – Remediation of Land.*

The EIS states that a Phase 1 and Phase 2 Assessment have been undertaken for the site including the preparation of a Remediation Action Plan (RAP). These investigations reveal that there is generally low to moderate potential for contamination on the site.

As the development will be within approximately 400 metres of the former Porters Creek landfill, there is a potential risk for landfill gas to migrate through the ground to the development site. In this regard, the EPA recommends that this matter be addressed as part of the contaminated site assessment and the RAP be appropriately updated to address the need for any mitigation measures if required.

The EPA also recommends that DPE should consider the involvement of an EPA-accredited Site Auditor to assess the adequacy of the investigations to date and the adequacy of the proposed RAP. This includes the provision of a Site Audit Statement certifying that the land is suitable for the proposed use(s).

5. Waste Management

The EIS states that a Waste Management Plan will be prepared during the construction works and will provide detailed waste management practices and procedures. The EPA recommends that this plan be prepared prior to construction and provide information on any waste generated during demolition/remediation/construction.

All waste must be classified and managed in accordance with relevant legislative requirements and the *EPA Waste Classification Guidelines* (DECCW 2009). DPE should also consult the *Waste Not Development Control Plan Guideline* (EPA 2008) to assist in guiding the development of suitable waste conditions.

6. Construction Environmental Management Plan

The EIS states that a Construction Environmental Management Plan (CEMP) will be prepared during construction. The EPA recommends that this plan be prepared prior to construction and also address the following matters.

- *Contingency plan to manage any unintended or unpredicted impacts*
- *Measures to address any environmental emergencies*
- *Awareness training of employees and contractors of their environmental obligations*
- *Communication strategies that involves reporting of any incidents and outcomes of monitoring to appropriate regulatory authorities (ARA) and the local community*
- *Compliance strategies to conditions and management plan requirements are being satisfied; and*
- *Complaint handling systems that provides a 24 hour contact for the community and ARAs.*

7. Future Development of Land

The proposal is seeking approval for subdivision of land that will deliver future high density residential apartment, retail and commercial uses and open space and public domain. The EPA recommends that following matters should be considered as part of any future development applications.

Road Traffic Noise and Air Quality

As the subdivision proposal will involve an increase in residential densities in conjunction with commercial activities it will be a major traffic generating development. In this regard, the impacts from road traffic noise need to be assessed to determine whether any noise mitigation measures are required in order to satisfy the *NSW Road Noise Policy* (DECCW 2011).

The proposed development is in close proximity to the M2 Motorway and the Epping Highway. Residential development next to busy roads should be required to meet the internal noise goals in the *Infrastructure SEPP* 2007. For example, the Infrastructure *SEPP 2007* states that where proposed residential development is in close proximity to busy roads (with an annual traffic volume of over 40,000 vehicles per day) and rail corridors, the following internal noise goals should be met.

> *The LAeq levels must not exceed:*
> *(a) in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am; and*
> *(b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

The *Development Near Rail Corridors and Busy Roads—Interim Guideline* should also be consulted. This guideline includes goals for internal noise levels based on World Health Organisation guidelines for residential and other sensitive developments along busy road corridors to protect heath and amenity. This guideline recognises judicious land use planning, architectural design, building orientation and good internal layout that can achieve acceptable acoustic amenity and minimise exposure to poor air quality in close proximity to busy transport corridors.

The EPA recommends that the NRSP DCP 2013 should include appropriate noise provisions including specific noise criteria for a range of sensitive land uses which is consistent with the requirements in the Infrastructure *SEPP 2007* and *Development Near Rail Corridors and Busy Roads–Interim Guideline.*

In addition, the EPA also recommends the inclusion of a provision that validates achievement of the criteria. This process could include detailed acoustic design input into the Subdivision Plans, Construction Certificate Plans and Specifications. Validation could also be undertaken prior to the issue of an Occupation Certificate to ensure any acoustic design measures have been satisfactorily incorporated into the development as a further check and balance.

Potential Land Use Conflicts - Macquarie Business Park

Land use conflicts may arise if environmental issues are not appropriately managed as part of the planning process for residential growth. Sustainable land use planning and careful design and location of new activities will lead to the best outcomes, as the potential to address noise and odour issues retrospectively is usually limited and more expensive.

The Macquarie Business Park contains a range of employment activities which have the potential to produce noise and odours emissions. These include pharmaceutical, biotechnology and waste activities. For example, Sita Australia Pty Ltd's Composting and Resource Recovery Facility, Ryde City Council's Porters Creek Waste Depot and the ANL Nursery Supply Yard. All of these activities are located on Wicks Road which adjoins the site. These activities are regulated either by the EPA or Ryde Council under the POEO Act.

As indicated in the submitted Construction Assessment Acoustic and Air Quality Report, the Sita Australia Pty Ltd's facility is licensed by the EPA (EPL 4527) and is required to comply with a range of conditions including the management of potentially offensive odours. However, its operation is such that even with the best environmental control and management environmental incidents can still occur on occasions. In particular, previous incidents involving emissions of odour from the Sita operation has been the subject of past community complaint.

It will be important to ensure as a part of any future development outcome that mechanisms are identified and implemented to prevent potential land use conflict issues. In this regard, the EPA recommends the inclusion of the following provisions in the NRSP DCP 2013 to ensure any future development will achieve the following:

- *Provides measures to ensure noise emissions do not cause adverse impacts upon human health and amenity*
- *To provide an audit or inventory of adjacent development types and their potential noise emission or sensitivities (for example, Hotel/live music event noise; school bells/sirens; shopping centre night time cleaning/ blowers/truck movements)*
- *Provides measures and approaches that can minimise household and commercial emissions of air pollutants (particles, NOx and VOC); and*
- *Details approaches to ensure land use conflict is prevented.*

Section 149 Certificates may also be used to include information to alert any future property owners regarding potential noise and odour impacts associated with nearby road and commercial activities. In addition, processes could also be required to alert body corporates and tenancies of these issues.

Future Water Quality and Management

With a significant intensification of activities being proposed for the site, it is recommended that an integrated approach for water management at the site should be developed and implemented. In particular, with considerable areas of sealed area, the need for management of polluted stormwater runoff and the collection of roofed rainwater, water sensitive urban design principles should be applied to any new development. In this regard, the EPA recommends that any future development demonstrate that these principles will be met.

Sewage Management

The EIS states that the site will be connected to the existing Sydney Water sewage system with a section of the reticulation main upsized to allow for future growth. Information should be sought from the proponent on whether any additional load will impact the systems environmental performance. This includes sewage overflows from any existing sewage pumping stations and discharges from any associated Sewage Treatment Plant. The EPA's policy is that for new systems there should be no pollution of waters as a result of overflows during dry weather and that overflows during wet weather should be minimised. Sewage overflows have been identified as one of the major contributors to diffuse source water pollution in urban environments.

Future Waste Management

The EPA has developed information to improve waste management associated with new residential development. In this regard, the *Waste Not Development Control Plan Guideline* (EPA 2008) should be consulted. This guideline provides suggested planning approaches and conditions for determining authorities to consider at the Development Application phase in relation to waste minimisation and resource recovery. This includes consideration of demolition and construction waste and the provision of facilities and services to allow the ongoing separation, storage and removal of waste and recyclables. In particular, these provisions should include but not necessarily be limited to:

- *Any waste generated during demolition and construction needs to be classified in accordance with the EPA's Waste Classification Guidelines and managed in accordance with that classification; and*
- *Waste management planning for the new development needs to consider the State Plan targets for waste reduction and resource recovery, along with any regional waste management strategy in place for the Ryde LGA.*

A key component of the above guideline includes the requirement of developers to submit a plan showing estimates of waste generation during demolition, construction and ongoing use of the site; as well as details on how these wastes will be sorted, stored and removed for recycling and/or disposal. A copy of this guideline can be obtained at the following site:
http://www.epa.nsw.gov.au/resources/warr/08353SiteWasteMin2.pdf).

The EPA has also developed information to assist in the development of local strategies including the NSW EPA's *Better Practice Guidelines for Waste Management and Recycling in Commercial Facilities* (DEC 2012) and the *Better Practice for Public Place Recycling* (DEC 2005). The latter guideline helps to set up standard recycling systems in public places, such as parks, shopping centres, footpaths, bus-stops, etc. These guidelines should also be consulted for new development.