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SSD 8344

12/1/18

Ms Iona Cameron  
Department of Planning and Environment  
GPO BOX 39  
SYDNEY NSW 2001

Dear Ms Cameron

**SSD 8344 – KELLYVILLE NORTH PUBLIC SCHOOL – RESPONSE TO SUBMISSIONS (RtS) REPORT**

I am writing in reply to your invitation to the Environment Protection Authority (EPA) to comment on the RtS report (the Report) of the above project.

The EPA provided in Attachment A to its EIS submission detailed advice and recommendations concerning a range of construction and operational phase environmental issues.

The EPA further notes that the proponent is a 'public authority' within the meaning of the *Protection of the Environment Administration Act 1991*. Further, the EPA has general responsibility under that Act for amongst other things:

- (a) ensuring that the best practicable measures are taken for environment protection in accordance with the environment protection legislation and other legislation, and
- (b) coordinating the activities of all public authorities in respect of those measures.

The EPA considers that the Report does not adequately address all the environment protection measures recommended by the EPA in its EIS submission. Please find the EPA's detailed comments at Attachment 1.

More broadly, the EPA is concerned that section 1 of the Report indicates that the proponent is seeking development consent from the local council on the basis of expediting certain 'early works'. The EPA is concerned that 'early works' are proposed to include dam de-watering and bulk earthworks which necessarily includes site remediation. Further, the Table to section 4 of the Report proposes that the oversight of an accredited site auditor is not warranted.

Similarly, the EPA does not accept the statement in section 12.7 to the Report Appendix D that site remediation work "... should be conducted within the hours specified by the Hills Shire Council." unless those hours coincide with the standard hours of construction recommended in the Interim Construction Noise Guideline.

Should you require clarification of any of the above please contact John Goodwin on 9995 - 6838.

Yours sincerely

A handwritten signature in blue ink that reads "Sarah Thomson". The signature is written in a cursive, flowing style.

**SARAH THOMSON**  
**Unit Head, Metropolitan Infrastructure**  
**Environment Protection Authority**

## **EPA comments on the Response to Submission Report for Kellyville North Public School SSD8344**

### **1. Early works**

Should so-called 'early works' be approved under a separate consent process, the EPA anticipates that the proponent as a public authority would nevertheless take full account of the EPA's EIS submission and recommendations, including those in respect of:

- (a) dam de-watering; and
- (b) hours during which works are undertaken (i.e. 7.00 am to 6.00 pm Monday to Friday and 8.00 am to 1.00 pm Saturdays).

The EPA emphasises the importance of ensuring:

- (a) a seamless transition and hand over of environmental control and management measures (e.g. site remediation, erosion and sediment controls, dust minimisation and mitigation measures) provided during the 'early works' phase, particularly if those works are to be undertaken by a contractor other than the contractor undertaking the works the subject of this proposal; and
- (b) 'early works' activities would be carried on by such practicable means as may be necessary to prevent, control or minimise pollution, the emission of any noise and the generation of waste. Further, those means would include the environment protection measures outlined in the EPA's advice and recommendations in respect of this project.

### **2. Farm dam sediments**

The Table to the Report in section 4 suggests that the EPA's submission was limited to site contamination concerns about accumulated farm dam sediments. The EPA's view is that the Report also downplays those concerns by suggesting that the site investigations "... identified limited contamination associated with the previous rural uses of the property."

The EPA confirms its EIS submission that the detailed site investigation reported in Appendix S did not appear to address potential contamination associated with the historic use of fungicides in conjunction previous horticultural and poultry farming on nearby sites. The EPA understands that sites upstream of the farm dams on the development site were used for horticulture and intensive animal husbandry (i.e. poultry farming). The EPA further understands that horticulture and poultry farming involve the use of fungicides.

Accordingly, the EPA further noted in its EIS submission that Section 14 to Appendix S recommended amongst other things "... sampling and analysis of disused farm dam sediments "... to inform the requirements for specific management and/or remediation".

The Report is unclear whether the proponent undertook detailed investigation of –

- (a) potential contamination of sediments accumulated in disused farm dams on the site, including investigation of any fungicide contamination, and
- (b) potential fungicide contamination of soils along natural drainage lines leading into the disused farm dams.

## Recommendation

The EPA reiterates its recommendations concerning farm dam sediments and potential fungicide contamination of those sediments and the natural drainage lines leading to those farm dams.

### 3. On-site 're-use' of asbestos impacted soils

Section 8.1.4 to Appendix D to the Report inappropriately uses the term 're-use' in regard to the excavation, placement and cover of asbestos impacted soils beneath a physical barrier.

However, clause 81 to the Protection of the Environment Operations (Waste) Regulation 2014 states that *"a person must not cause or permit asbestos waste in any form to be re-used or recycled."* Whilst, the EPA does not consider the excavation, placement and cover of asbestos impacted soils beneath a physical barrier constitutes 're-use' (for the avoidance of doubt) that term should not be applied to the proposed remediation method.

Nevertheless, the EPA favours removal of asbestos impacted soils from sites proposed to be used for schools in preference to the proposed on site containment of those soils.

## Recommendation

Should the proposed on-site containment of asbestos contaminated soils be approved, the EPA recommends that:

- (a) a long term environmental management plan is developed and used to identify the location and the requirements for ongoing management of asbestos impacted soil and other contaminated soil to be contained on the site;
- (b) an asbestos works management plan with stringent requirements for dust and water should be prepared and implemented upon confirmation from the auditor that the asbestos works management plan is considered to be appropriate.
- (c) all services lie above the marker layer to minimise any risks to workers undertaking future maintenance work in service trenches;

### 4. Land farming

Appendix D to the Report proposes on-site 'land farming' of hydrocarbon impacted soil and re-use of farmed soil.

## Recommendation

That the proponent be required to ensure that any landfarming is undertaken on site in accordance with the EPA's 'Best Practice Note: Landfarming, 2014' and using appropriate environmental control measures, including control of volatile emissions during the landfarming.

### 5. Site auditor

The Table to Report section 4 suggests that a site auditor is not warranted given "... minor levels of site contamination and noting the extensive earthworks proposed."

Given the sensitivity of the proposed use of the development site as a school and the preferred remediation options of on-site landfarming as well as on-site containment of asbestos impacted soils, the EPA reaffirms its recommendation concerning a site auditor.

## Recommendation

The proponent be required to engage a site auditor accredited under the *Contaminated Land Management Act* 1997 to undertake an audit to assess whether the site is suitable for the proposed use.

### 6. Remedial action plan (references)

The EPA notes that the remedial action plan should be amended to reference the current versions of EPA Guidelines, as follows:

- (a) The NSW Site Auditor Scheme, 3<sup>rd</sup> edition, 2017, and
- (b) Consultants Reporting on Contaminated Sites, re-print, 2000.

### 7. Construction phase – noise

Section 4.1.1 to the Report Appendix E indicates “[c]onstruction activities would generally be carried out during recommended standard construction working hours ...” but appears to ignore the EPA’s other advice and recommendations in respect of construction phase noise and vibration impacts.

The EPA emphasises the importance of properly managing noise and vibration impacts during site preparation, bulk earthworks, construction and construction-related activities, especially in regard to high noise impact activities, such as grinding, jack hammering, pile driving, rock breaking and hammering, saw cutting and vibratory rolling.

The EPA reaffirms its advice and recommendations in respect of construction phase noise and vibration impacts, including impacts during ‘early works’.

### 8. Construction phase – environmental management

In section 4 of the Report the ‘Agency Response Table’ does not address the EPA’s advice and recommendation on key construction phase environmental management issues, including:

- farm dam de-watering (see above),
- dust control and management,
- erosion and sediment control, and
- waste management.

The EPA emphasises the importance of properly minimising and managing dust, sediment and waste during site preparation, bulk earthworks, construction and construction-related activities.

### 9. Operational noise

The Table in section 4 of the to Report indicates that the proponent has adopted EPA nominated noise objectives as an alternative to re-measuring the background noise levels in accordance with guidance material in the New South Wales Industrial Noise Policy.

- (a) community use (general)

The 'Agency Response Table' suggests that in light of the government policy encouraging community use of school facilities and noise predictions accompanying the EIS, the EPA's EIS advice and recommendations concerning responsible community use should be ignored.

The EPA's EIS submission explicitly acknowledged government policy encouraging community use of school facilities whilst recommending measures that are warranted to ensure that such use does not result in the emission of 'offensive noise'. The EPA regulates all public authorities, including the Department of Education, and has been obliged on numerous occasions to investigate complaints about offensive noise emitted during community use of Departmental school facilities.

Accordingly, the EPA recommended initial limits on community use pending noise compliance monitoring to determine whether noise during representative community use of school facilities would exceed the relevant noise criteria and EIS noise impact predictions.

The EPA reaffirms its advice and recommendations concerning community use of school facilities on the development site.

(b) school hall

Section 5.2 to the Report Appendix D recommends that:

- (a) the school hall not be used after 10.00 pm, and
- (b) if noisy events are proposed in the school hall that would generate internal noise levels in excess of 90 dBA additional acoustic treatments should be considered.

**Recommendation**

The proponent be required to ensure that the school hall is not used after 10.00 pm and that all such measures as may be necessary are adopted such that the school hall is not used for activities likely to generate internal noise levels in excess of 90 dBA.