

Future City: G.Mansfield
Reference: ECM # 3579743

23 December 2011

Ms Felicity Greenway
Team leader - Industry
Mining & Industry Projects
Department of Planning and Infrastructure
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Att: Nick Hall

Dear Ms Greenway

**PORT 3A MAJOR PROJECT (MP08_0130)
MARSTEL BULK LIQUID FUEL STORAGE FACILITY.**

I refer to your letter of 14 November, 2011 concerning the public exhibition of the Environmental Assessment (EA) for the above mentioned project on a portion of the former BHP steelworks site located along the South Arm of the Hunter River.

The above document has been reviewed by Council Officers and the following comments are submitted for your consideration in the assessment of the application:

1. Mayfield Site Port Related Activities concept plan.

According to the EA, the proposed facility is to be located on land which would be leased from Newcastle Point Corporation (NPC) and is currently subject to a concept approval application MP09_0096 currently being assessed by the Department.

It is advised that a meeting held on 20 December 2011, Council resolved to write to The Honourable Duncan Gay MP, Minister for Roads and Ports and The Honourable Brad Hazzard, Minister for Planning and Infrastructure, to impress on both ministers that no decisions should be made regarding the Mayfield Site Port Related Activities Concept Plan lodged by the Newcastle Port Corporation until the following has occurred:

- a) The Council and the local community are fully briefed on the Concept Plan as currently proposed;
- b) The concerns of the Council and the local community are properly addressed;
- c) A proper community consultative process regarding the former BHP Steelworks site at Mayfield has been carried out; and
- d) The Newcastle Port Corporation's overall Strategic Development Plan for the entire Port of Newcastle is released for public comment.

The Council has made two submissions to the Department of Planning and Infrastructure on 10 September 2010 and 3 March 2011 in response to invitations to comment on the proponent's (NPC) Environmental Assessment report and

subsequent 'Response to Submissions' Report, respectively Copies of Council's submissions are attached.

Both of Council's submissions expressed concern over various elements of the proposed Concept Plan; however, the Department has not engaged Council in discussions on the issues raised since Council's letter of 3 March 2011.

More recently, Council officers were unable to comprehensively respond to an invitation from the Department of Planning and Infrastructure to comment on the proposed draft conditions of approval pertaining to the Concept Plan because the scope of the Concept Plan apparently had been modified following discussions with other government agencies and the proponent.

Council represents the residents and ratepayers who live in the suburbs around the Newcastle Port and the situation that Council now finds itself, being excluded from discussions regarding this important site, is considered untenable and a matter of paramount concern to local residents who rely on Council's representations on such matters.

With regard to item d) above, Council was advised by the Public Affairs Officer for the Newcastle Port Corporation on 19 October 2011 that the draft Strategic Development Plan was expected to be released for public comment in February 2012.

In accordance with Council's resolution, it is requested that briefings of the Council and local communities be undertaken in respect of the current Concept Plan for the former BHP lands and the wider Newcastle Port lands before determination of the Mayfield Site Port Related Activities Concept Plan and the Marstel Project occurs.

2. Proposed access roads and street lighting.

It is noted that Marstel's agreement with NPC is such that the Corporation is required to construct the proposed access roads and intersection improvements and that these works form part of MP 09_0096. Marstel's should be required to commit to constructing these works in the event that MP09_0096 is not approved.

Also, it is noted that Marstel's may utilise the proposed construction traffic access road and Selwyn Street for operations beyond commencement if the other roads are not built by NPC. On 3 September 2009 NPC committed to the provision of street lighting to Selwyn Street and the intersection of the construction access road with Selwyn Street in the event that operations on the port land expanded beyond the 'start up' facilities for which NPC built the upgraded road infrastructure. Operations of the Marstel proposal via Selwyn Street would clearly be an intensification of the use of Selwyn Street beyond the NPC start up facility and hence will require NPC to fulfil their commitment to install the necessary street lighting.

3. Stormwater

The proposal should be designed and constructed in accordance with the relevant flood and stormwater requests of the Newcastle Development Control Plan, 2005. In this regard all-proposed building and tanks should be at the flood planning level of 2.5m Australian Height Datum (AHD). It being noted a level of 1.9m AHD is proposed in the EA.

4. Contamination

The subject site was part of the former BHP Steelworks which was subject to extensive contamination investigation and remediation works. This was undertaken through a Voluntary Investigation and Remediation Agreement (VIRA 26025) including installation of a capping layer. Council has concerns that the capping layer may be compromised during earth works in the construction stage of the proposed development.

Section 11.2 of the Environmental Assessment prepared by AECOM states:

'It is anticipated that the capping layer would not be significantly disturbed by the proposal. The tank farm, roadways, building and associated infrastructure would be placed above the capping layer. The foundations for the tanks would be constructed using pile driving techniques'.

It is recommended that the proponent be required to prepare a Construction Management Plan including contingency measures for disposal of potential contamination prior to determination.

5. Onsite Sewage disposal

It is noted that the proposed development includes an office which incorporates amenities. However, the site is currently unsewered. It is recommended further information be sought from the proponent regarding sewer infrastructure to be provided for the proposed development.

6. Section 94A Contribution.

A monetary contribution pursuant to section 94A of the *Environmental Planning and Assessment Act, 1979* is applicable to the project. Under the provisions of Council's S94A Development Contributions Plan 2009 the maximum section 94A levy on the proposal is 1.0% of the proposed cost of the development.

Should you require any further clarification of any of the abovementioned matters, please contact me on telephone 4974 2767.

Yours Faithfully



G. Mansfield
DEVELOPMENT & BUILDING COORDINATOR
DEVELOPMENT ASSESSMENT TEAM