

Patrick Copas

From: Katherine Lafferty <KLafferty@cityofparramatta.nsw.gov.au>
Sent: Thursday, 9 May 2019 5:04 PM
To: Patrick Copas
Cc: Myfanwy McNally
Subject: Council Submission - Viva Energy (formerly Shell) Clyde Terminal (SSD 5147 MOD 1) - Response to Submissions Received

Good afternoon Patrick,

Thank you for the opportunity to review the proponent's response to submissions letter.

Council has reviewed the response and wish to provide the following comments:

Tree Removal

Council officers raise no objection to the tree removal proposed to facilitate the proposal as described in the response.

Protection of Duck River/Wetlands/Riparian Vegetation

As the proposed additional works comprise the demolition of structures that are of a similar scale to previous works, Council officers are satisfied that the implementation of the existing environmental management plans will satisfactorily protect the nearby Duck River riparian corridor.

Potential Presence of Microbats

Council officers note that the likelihood of occurrence of various microbat species is considered to be low; however, in accordance with the precautionary principle, pre-demolition inspections should be undertaken by a suitably experienced ecologist. The following management and mitigation measure provided by the proponent is noted:

Prior to demolition works, inspection of exterior casings and insulations on towers (i.e. potential habitat where microbats have historically been observed) is to be undertaken regularly for signs of microbat occurrence. Regular inspections would also be undertaken of buildings scheduled for demolition.

It is considered that this measure should be expanded to include the inspections be undertaken by an appropriately qualified ecologist and that inspections must be made of buildings and structures. In addition, a mitigation measure should also be included that *should microbats be detected, they are to be relocated by an appropriately qualified ecologist prior to the commencement (or recommencement) of demolition works*. This then covers the appropriate management measure in the events microbats are encountered.

Modification to Conditions

It is considered that conditions should not be deleted as a result of the condition being met (unless the condition is satisfied through a new plan/documentation which is now incorporated into the modified consent). For example, the proponent requests that Condition C15 be removed as a stack demolition management plan was completed and the stacks have been demolished. The condition should remain on

the consent as it was a requirement of the consent. If conditions are deleted then it is as if the condition never existed at all. It is recommended that all of these conditions should remain as they were relevant at the time of the approval.

Council officers do not agree with the proponent's argument that a consent is a live document that is relevant only to the work/or operation taking place at a site at a point in time. Consent notices are not a living evolving document. They are a set of requirements to be adhered to for the approval of a particular development. The conditions will always be relevant because they applied to the approval of that work, the subject of the consent. Conditions do not become redundant just because the works have been done (they become satisfied). They also act as a record of the requirements of that work. If the conditions have been satisfied then the retention of those conditions should not be of concern to the person acting upon the consent.

An alternative process in this instance could be to include the documentation as part of the consent (for example, Condition C15 requiring a stack demolition management plan may be deleted if the approved documents within the consent are modified to include the stack demolition management plan).

Council officers therefore do not support the deletion of conditions just because they have allegedly been satisfied or are considered 'redundant' because the works have been carried out.

Council appreciates the opportunity to comment on the above application.

Should you wish to discuss the above matter, please contact me on the details below.

Kind Regards,

Kate Lafferty

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I acknowledge the Traditional Owners of the land I work on, the Darug Peoples, and pay my respects to their Elders past and present.