



Our reference: ECM 4132390
Contact: Gavin Cherry
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22 July 2013

Chris Ritchie
NSW Department of Planning and Infrastructure – Major Projects Assessment
GPO Box 39
Sydney NSW 2000

Re: Proposed Glass Beneficiation Plant (SSD 5267)

Property: No. 126 Andrews Road, Penrith

I refer to the notice of proposed development dated 5 June 2013 seeking Council comment on the proposed Development Application for the construction and operation of a Glass Beneficiation Plant at the above address.

The following comments and / or issues are raised for your consideration in response to a review of the submitted documentation:-

Background

- Development Application 12/0539 was recently approved for the extension of existing hard stand area and associated fill and landscaping works on the subject site. This application originally included the proposed use however assessment of the proposed volume of recycling materials processed on site identified a classification of state significant development requiring lodgement with the Department. This application was then amended to no longer include occupation and use of the site with a condition of consent imposed requiring this be pursued by way of a separate application. The state significant development application currently on exhibition is in response to this condition of consent.

Scope of Proposed Works

- The majority of site and landscape plans submitted with the subject Development Application are the same plans as that submitted in support of Development Application 12/0539 and stamped approved with the issued consent. In this regards, the scope of works of the current application should be confirmed given that a significant portion of works have already been issued consent under a separate application.
- If the proposed works are inclusive of the works approved under the above consent, the above consent should be surrendered or the same conditions of consent imposed by the Department for consistency,
- A copy of the issued consent by Penrith City Council is included in Appendix 12 of the submitted documentation.

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Permissibility

- The Environmental Impact Statement indicates that the proposal could be considered as a permissible use under the definition of 'industry' within the IN1 zone pursuant to Penrith Local Environmental Plan 2010. The industry definition within the LEP is not the most appropriate definition as a 'waste or resource management facility' is specifically elsewhere defined within the LEP. As a result this definition is the applicable definition for consideration.

Pursuant to the LEP a 'waste or resource management facility' is not a permissible land use in the IN1 zone and as such permissibility of the proposal can only be established subject to compliance with another EPI. The classification of 'state significant development' is also dependent upon the proposed use being a permissible form of development under an EPI (Clause 8 of SEPP (State and Regional Development) 2011).

As such the permissibility of the proposal must be established under the provisions of SEPP (Infrastructure) 2007. Division 23 of SEPP (Infrastructure) 2007 does permit such a use within a prescribed zone (being the IN1 zone) and as such the proposal (without reliance on PLEP 2010) is deemed to be a permissible land use subject to consent from the Department.

LEP Considerations

- Clause 5.9 – Preservation of Trees or Vegetation provides that the removal of trees or other DCP prescribed vegetation requires consent from Council (or the applicable determining authority). The application includes the removal of six (6) trees which is considered satisfactory subject to adherence to the proposed landscape plan and the provision of endemic replacement landscaping species.

DCP Considerations

- Clause 4.5 of Penrith Development Control Plan 2010 (Part D – Industrial Development) outlines specific requirements for the storage of materials and chemicals. The proposed external storage bunkers should be appropriately designed to minimise their visual presentation with conditions of consent requested to be imposed regarding external finishes and landscaping treatments.
- It is requested that all lighting be conditioned to comply with Australian Standard AS4282. As the premise is to be used outside daylight hours, the car parks and entrances should be adequately illuminated to address safety issues for entry and exit from the facility.
- Landscaping proposed for the site should also be endemic to the area noting the likely existence of endangered ecological community as outlined in the Biodiversity comments below.
- There is no advertising signage detailed within the application. Any proposed signage should be included within the proposal and should address the requirements of the DCP and SEPP 64 – Advertising Signage.

Environmental Considerations

- The Department is requested to ensure that suitable mechanisms will be put in place to manage any unexpected putrescible waste that may be brought onto the site. This waste may have a significant impact in terms of odour, and this has not been assessed as a part of the application.
- It is noted that the development does not comply with the relevant criteria for

PM₁₀ unless water sprays are utilised. Importantly, even when the use of these sprays has been modelled, there still appears to be a significant impact south of the site, as shown in Figure 5-27. Although there are no identified receivers in this area (and no receivers assessed), it is not clear how far this plume extends to the south (the figure does not show where the area of impact ends), and there are residents and recreational facilities located in this direction. It needs to be considered whether such a large area of affectation is appropriate.

- Although mitigation measures have been recommended to address the acoustic impacts associated with the development, it is recognised that this in part relies on operational measures and this may be difficult to enforce from a compliance perspective. For example, it would be difficult to ensure trucks only travel half the length of the warehouse at night. This is not considered to be an appropriate method of regulating the activities on the site and as such further acoustic mitigation measures should be pursued without reliance on human behaviour.
- The acoustic modelling undertaken has demonstrated that there will be some exceedances in the noise criteria at some of the receiver locations, particularly R3. It needs to be determined whether it is appropriate for residents to potentially experience these noise impacts in the long term as a result of the development.
- The Phase 1 Contamination Assessment concludes that further contamination investigations are not warranted, however it was also identified that this investigation has already historically been undertaken. The report associated with this investigation needs to be reviewed to ensure that the site is suitable for the proposed use.
- The EIS outlines that the historic use of the premises suggests that the site is not contaminated, however Council considers that insufficient information has been provided regarding the use of the premises as a fertiliser storage facility. This use may warrant further investigation (such as to outline types of fertilisers and whether solids or liquids, and identify storage locations in case of spills, for example), and some preliminary sampling may need to be undertaken to confirm that no contamination of soils has occurred.

Biodiversity Considerations

- The level of ecological assessment is not considered to be adequate. A complete flora and fauna survey has not been undertaken on the site. The Director General's Requirements specify the need for a field survey and assessment of threatened species. This was not undertaken for vegetation at the back of the site (southern boundary) and along the western boundary of the site. It is therefore unclear if this remnant vegetation and wetland areas constitute an Endangered Ecological Community (EEC) under the TSC Act. It is expected that the wetland areas at least would fit the description of the EEC: Freshwater Wetlands on Coastal Floodplains.
- Despite the lack of a full ecological assessment, the expected impact of the development on the vegetation on site is considered low. A total of 6 trees will be removed for the development – three of which were planted previously (and are not endemic), and two of which are remnant. The development proposes to replace these with locally endemic species at the rear of the site.
- To mitigate any impacts associated with the development, detailed landscape plans have been prepared identifying areas for planting, weed management and other activities (Figure 5-45: Landscape Concept Plan and Figure 5-46: Landscape Planting plan). These should be adhered to in their entirety. It is recommended that the Department require annual reports on the implementation of the Landscape Plan to be provided at 12 and 24 month intervals.

- Further to the Landscape Plan, it is recommended that the Department require the following be implemented during construction:
 - *No trees or other vegetation (including understory species) should be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the Landscape Plans Figures 5-44, 5-45, 5-46) without prior consent.*
 - *No works should be undertaken outside of the proposed building envelope identified on the plans provided.*
 - *No fill, machinery, or materials should be placed or stored within the drip-line of any tree.*
 - *Where possible all fallen trees, logs, leaf litter, rocks and other debris should be retained on site as habitat and to maintain soil stability and structure.*

Traffic Management Considerations

- It is requested that the Department ensure that all car parking and manoeuvring is in accordance with AS2890.1-2004 and AS2890.6-2009 with all vehicles required to enter and exit in a forward direction.
- The required sight lines around the driveway entrances are not to be compromised by street trees, landscaping or fencing.
- It is expected that the proposal will have moderate additional traffic impact due to a peak increase of some 42 trips per hour on Andrews Road. However due to the number and size of trucks in operation the applicant is required to adequately address heavy vehicle layover and turning manoeuvres on Andrews Road at the access driveway in this regard.
- The traffic report indicates that a 'Rural TYPE C intersection' is to be provided however this would not be sufficient in this regard as Andrews Road is an Urban Regional road with substantial traffic growth from key developments such as Waterside and Jordan Springs taking place. As such it is recommended that a type CHR – Protected Turn treatment be provided in order to adequately store heavy vehicles on Andrews Road. In conjunction with the CHR a deceleration lane and adequate taper should be provided on Andrews Road for the Westbound left turn into the property.

Waterway / Flood Management Considerations

- There is an unnamed waterway adjacent to the western boundary of the site. The EIS states that this waterway is a second order stream. Should any works occur within waterfront land (within 40m of this waterway) a controlled activity approval is required from the NSW Office of Water, prior to the commencement of any works. The integrity of the riparian corridor is to be preserved and maintained in line with the Office of Water's guidelines and objectives for riparian corridor management.
- The development includes a substantial increase to the hard surface area as part of the proposal (including hardstand, driveways, parking areas, loading bays, covered storage areas, etc). A water management plan should be submitted to include an investigation into the feasibility of installing rainwater tanks, and/or stormwater detention systems on the site. Maintaining the natural water balance through such measures, especially for flows to the significant wetland, should be promoted. If any such measures were unable to be implemented the reasons why should be explained and justified. The Environmental Impact Statement (EIS) outlines that potable water


(22,300.3ML) will be used for dust suppression on site through water foggers and water sprays. Harvested rainwater from the site could potentially be used to satisfy this purpose.

- It is noted that all water quality modelling performed assumes that the glass cullet material was sufficiently cleaned prior to storage in the outdoors bunkers. This assumption does not appear to have been suitably justified within the EIS, and will affect the MUSIC modelling results informing the sizing of the wetland and GPTs proposed to be installed to treat the stormwater runoff from the site. In order to be completely satisfied that the pollution reduction targets will be achieved, the MUSIC model needs to include a report clearly identifying catchment breakup, splitting of surface types and all other assumptions that have been made in the model. Modelling parameters for the determination of the size and configuration of WSUD elements must be in accordance with MUSIC Modelling Guidelines for New South Wales. Electronic copies of the modelling should also be submitted to the department for interrogation and review.
- As the development could result in water quality impacts in the nearby regionally significant wetland, the water quality at that wetland should be monitored for pollutants prior to the commencement of works, and at regular intervals during construction and/or operation. Section 5.3.9 of the EIS states that a water monitoring program will be implemented, to ensure that the treatment of stormwater from the site will achieve the desired results in terms of water quality leaving the site, however no details on this program have been provided. A detailed water monitoring program, including procedures and implementation responsibilities, is to be established for the site prior to the commencement of works. All monitoring is to be undertaken in accordance with any relevant guidelines of the Office of Environment and Heritage (or any other applicable guidelines).
- No details have been provided on the design parameters of the constructed wetland, such as depth or where macrophyte zones are located. BioDesign's landscape planting plan shows generic detail only. Best practice wetland design incorporates benching or bands of shallow and deep water macrophytes perpendicular to the direction of flow to guarantee contact time with the vegetation. The wetland layout needs to demonstrate that it is fit for purpose and results in biological treatment as well as physical treatment. A comprehensive monitoring regime must also be developed and implemented for the commissioning and ongoing functioning of the wetland to ensure water quality objectives are achieved.
- Specification and installation details of the GPTs and a comprehensive operation and maintenance manual / schedule for all proposed devices and treatment measures are to be submitted prior to the commencement of construction works. This should include the operational capacity criteria that will trigger clean out, location and access details, and inspection and cleaning responsibilities, frequency schedules and checklists. For example, the fabric filters proposed on the stormwater pits will fill quickly with sediment and require a regular monitoring and cleaning regime.
- Further details on the swales must be provided with regards to their design parameters. The design parameters should be based on the numeric modelling to demonstrate water quality treatment functionality. The swales should incorporate filter media that meets the current specifications of the Bioretention Filter Media Guidelines produced by the Facility for Advancing Water Filtration or demonstrated equivalent and verified by a soil laboratory registered by the National Association of Testing Authorities. The swale design must also consider access for cleaning and maintenance. Access requirements should include hard access to base; ease of access to inlet area and adequate access to reach flush points.

- Outlets from the GPTs, treatment wetland and swales shall be treated with appropriate measures to dissipate stormwater velocity and prevent erosion.
- The level of ecological assessment for the proposal does not appear to have adequately considered the function of the regionally significant wetland, given the likely impacts of the development on the wetland habitat, hydrological regime, water quality regime, and substratum, organic matter cycling or other characteristics. The Director General's Requirements specify the need to describe the state of the receiving waters in relation to relevant water quality and flow objectives. This has not been adequately achieved.
- The flood assessment undertaken has not addressed the flood runner associated with mainstream flooding in the Nepean River where it backs up Boundary Creek, overtops the bank heading northwards toward this site and beyond. The impact of the proposed development on the flood runner needs to be considered for all events up to the PMF. In this regard the consultants assertion that the property is not 'floodway' has not been sufficiently demonstrated.
- The flood assessment has discussed local flooding being directed along the western boundary to the south to Boundary Creek. Information available to Council indicates that part of the local flooding regime will be directed to Farrell's creek to the North along the drainage channel in Andrews Road. The flood assessment will need to be revised accordingly to consider this aspect.
- The Brown Smart Consulting Report has discussed the need to upgrade culverts beneath the driveway to the proposed development to provide flood free access and prevent future flooding of the property. Council agrees with this assessment and notes that as this work is in Council's drainage reserve owners consent and a Section 68 Local Government Act approval will be required before the commencement of any works. It should also be noted that Council holds an outstanding works bond for similar work on the previous owner as a result of the original development of the site.
- The building should be flood proofed up to the flood planning level in accordance with Council's DCP.
- As the storage bunkers are below the 100 year flood level measures must be proposed to ensure that stored glass products or other stored materials are not transported away from the site during the relevant flood events.

Should you require any further information or clarification on the issues raised above, please contact me on (02) 4732 8125

Yours faithfully,



Gavin Cherry
Principal Planner