

Attention: Director Industry Assessments, Planning and Assessment
Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Dear Sir/Madam,

Re: Submission on SSD-10395 Cleanaway's Western Sydney Energy & Resource Recovery Centre

Council welcomes the opportunity to provide comments on the above State Significant Development. It is noted that the development site is in the Blacktown Local Government Area, hence Council's comments have been split into potential regional impacts and general comments.

1. Potential Regional Impacts

Air Quality and Odour Impact Assessment

According to WSROC, the shape of the Sydney Basin and prevailing wind directions mean that air quality in Western Sydney is worse on almost all measures when compared to other parts of Sydney.

Pre-existing air quality issues in Western Sydney were widely reported in 2019, with the Liverpool LGA exceeding annual national air quality standards for exposure to particulate pollution. These concerns were also highlighted by the NSW Environment Protection Authority which recognised that South-western and North-western Sydney typically experience more 'poor or worse' air quality days due to both ozone and particle pollution.

Air quality impacts in Western Sydney are exacerbated by population growth, increasing population density and large-scale urban development. It is important to recognise that Western Sydney will be potentially subjected to additional environmental impacts in the future associated with the Moorebank Intermodal, Western Sydney Airport, Western Sydney Aerotropolis, M12 Motorway (and other Designated Development), State Significant Development and State Significant Infrastructure projects. This is disturbing as planned growth centres in South-western Sydney will locate large populations in areas where pollution is expected to concentrate. Impacts on local air quality and human health will persist if heavy industry is permitted to occupy the Western Sydney region.

The *Air Quality and Odour Impact Assessment* confirmed that existing particulate concentrations (PM_{2.5} and PM₁₀) already exceed the nominated criteria. In accordance with the NSW EPA's 'Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales' (2016), the licensee must demonstrate that no additional exceedances of the impact assessment criteria will occur as a result of the proposed activity and that best management practices will be implemented to minimise emissions of air pollutants as far as practical.

Whilst the Applicant indicated that the proposed development will not result in any further exceedances of the 24 hour average PM_{2.5} and PM₁₀ criteria, the Department must consider the appropriateness of the Project given existing air quality conditions in Western Sydney.

Health Risk Assessment

The Human Health Risk Assessment (prepared by Environmental Risk Sciences - 21 September 2020) stated that there are no unacceptable adverse health effects expected from short-term and long-term exposure to key air pollutants associated with the operation of the proposed development.

It is noted that the proposal would be located within close proximity to Prospect Reservoir which remains an integral part of Sydney's drinking water supply.

Recommendations

1. The Health Risk Assessment is reviewed by NSW Health to determine the accuracy of the consultant's conclusions.
2. The Department engages a suitably qualified consultant to undertake an independent peer review of the Air Quality and Odour Impact Assessment and Health Risk Assessment for the proposal.
3. Sydney Water should be requested to confirm that the proposed development would have any adverse impacts on Prospect Reservoir.

2. General Comments

The Secretary's Environmental Assessment Requirements (issued on 12 December 2019) required specific matters to be addressed in the Environmental Impact Statement for the Project. When assessing the application, it will be important to consider pre-existing environmental conditions, risk factors associated with the Project and their potential impact on the environment and human health.

To improve environmental health outcomes and efficiency during the development assessment process, Liverpool Council requires development applications to be supported by technical reports prepared by suitably qualified and industry certified environmental consultants. The Department should adopt a similar approach in the assessment of the Application.

Further information is available on Council's website at <https://www.liverpool.nsw.gov.au/development/development-and-building>.

Appropriate Regulatory Authority

Section 4.4.2 of the Environmental Impact Statement (EIS) confirms that an Environment Protection Licence would be required under the *Protection of the Environment Operations Act 1997* for scheduled activities including: energy recovery from waste (Clause 18); thermal treatment of general waste (Clause 40); and waste storage (Clause 42).

In the case of Integrated Development, approval must be obtained from the NSW EPA before consent can be granted. The consent authority must refer the Development Application to the relevant public authority and incorporate the public authority's general terms of approval.

State Environmental Planning Policy No. 55- Remediation of Land

In accordance with Clause 7(1) of *State Environmental Planning Policy (SEPP) No. 55- Remediation of Land*, the consent authority is required to consider contamination and the need for remediation when determining an application. If the land requires remediation, it must be satisfied that the land will be remediated before the land is used for that purpose. Furthermore, Clause 7(2) of *SEPP 55 – Remediation of Land* requires the consent authority to consider a report specifying the findings of a preliminary investigation of land if the proposed development involves a change of use on any land specified in subclause 4.

It is the responsibility of the consent authority to consider the requirements of Clause 7 of *SEPP No. 55 - Remediation of Land* prior to granting consent to any development on the land. Page 5 of the EIS confirms that the existing southern portion of the site includes sheds and ancillary buildings associated with a disused poultry facility and storage of wrecked vehicles.

Table 1 of the contaminated land planning guidelines identify agricultural/horticultural activities, engine works, landfill sites, scrap yards, waste storage and treatment as potentially contaminating activities. Based upon this information, it is known that the proposed development involves a change of use on land that has been used for purposes referred to in Table 1 of the contaminated land planning guidelines.

Before determining an Application for consent to carry out development that would involve a change of use for the land referred to above, the Consent Authority must consider a report specifying the findings of a preliminary investigation of the land carried out in accordance with the contaminated land planning guidelines.

Site (Contamination) Investigation

The Application was supported by a document titled '*Report on Detailed Site (Contamination) Investigation Proposed Redevelopment 339 Wallgrove Road Eastern Creek*' prepared by Douglas Partners Pty Ltd, which does not fulfil all requirements of a preliminary investigation of the land (Stage 1 Preliminary Site Investigation) as outlined within guidelines made and approved by the NSW EPA under the *Contaminated Land Management Act 1997* and the contaminated land planning guidelines referenced in *State Environmental Planning Policy (SEPP) No. 55- Remediation of Land*.

According to the aforementioned Guidelines, a preliminary investigation must contain a detailed appraisal of the site's history and a report based on a visual site inspection and assessment. Based upon the available information, it appears that the site history review did not include an appraisal of Land Titles records and NSW EPA records held under Sections 58 and 60 of the *Contaminated Land Management Act 1997*. The NSW EPA's document titled '*Consultants Reporting on Contaminated Land - Contaminated Land Guidelines*' (2020) explains that an appraisal of the site history is fundamental to the preliminary investigation and may be used to assess the likelihood of site contamination.

The NSW EPA specifically underlines the importance of reviewing and assessing all relevant information about the site, including information available from planning authorities and the NSW EPA and information obtained during site inspections.

To address the requirements of Clause 7 of *SEPP No. 55- Remediation of Land*, it is believed that the Applicant must engage the services of a suitably qualified environmental consultant to prepare a Stage 1- Preliminary Site Investigation for the Land. The Preliminary Site Investigation shall comply with applicable guidelines made or approved by the NSW EPA under the *Contaminated Land Management Act 1997* and identify all past and present potentially contaminating activities; identify potential contamination types; discuss the site condition; provide a preliminary assessment of site contamination; and assess the need for further investigations.

With consideration for the findings of the Stage 1 Preliminary Site Investigation, it may be necessary to revise the Stage 2- Detailed Site Investigation. This investigation shall give regard to the potential effects of any contaminants on public health, the environment and building structures and shall meet the sampling density outlined in the NSW EPA 'Sampling Design Guidelines' (1995).

If the Stage 2-Detailed Site Investigation indicates that the site poses unacceptable risks to human health or the environment, a revised Remedial Action Plan (RAP) shall be prepared by a suitably qualified environmental consultant in accordance with applicable guidelines made or approved by

the NSW EPA under the *Contaminated Land Management Act 1997*. In these circumstances, the Remedial Action Plan shall be referred to the consent authority for review.

Remediation Action Plan

The Remediation Action Plan prepared by Douglas Partners Pty Ltd (dated 14 August 2020) confirms that the site is contaminated and requires remediation to be made suitable for the proposed development. However, the submitted Remediation Action Plan does not provide the certainty required by *SEPP No. 55- Remediation of Land* as the preferred remediation strategy was not finalised. Douglas Partners Pty Ltd indicated that site remediation may include options for treatment and a physical barrier system.

Although not outlined in the Remediation Action Plan, a Long-Term Environmental Management Plan would be required if a capping and containment approach to site remediation was adopted. Council's Environmental Health Section generally discourages the on-site containment and encapsulation of contamination. In addition to the Long-Term Environmental Management Plan, this approach would result in a notation on the planning certificate for the property.

In these circumstances, it is advised that a Section B1 and B2 Site Audit Statement be prepared by an NSW EPA Accredited Site Auditor to determine the nature and extent of contamination and the appropriateness of the management plan. This requirement would ultimately lead to the preparation of a Section A2 Site Audit Statement by a NSW EPA Accredited Site Auditor to determine land use suitability subject to compliance with either an active or passive environmental management plan.

Contaminated site reports shall be prepared by a suitably qualified environmental consultant who is certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme.

Should you wish to discuss the submission, please contact Murray Wilson, Principal Strategic Planner on 8711 7427 or 0439 712 561.

Your sincerely



Charles Wiafe

Acting Manager Planning and Transport Strategy