

25 August 2020

**HPS Reference: 2017147**

The Panel Secretariat  
NSW Department of Planning Industry & Environment  
Locked Bag 5022  
PARRMATTA NSW 2124

Dear Sir,

**DA 57/19/ PLANNING PANEL REFERENCE PPS – 2019SNH021**

**6 JOHN STREET, MCMAHONS POINT**

We refer to the abovementioned development application (DA) which has been listed for determination on 1 September 2020.

This DA was lodged with North Sydney Council (the Council) on 5 March 2019.

During the course of assessment of the DA, this has been referred to various authorities in accordance with the integrated development provisions contained in the Environmental Planning & Assessment Act 1979 (EP & A Act). Most importantly, is the role of the NSW Environment Protection Authority (EPA) in providing General Terms of Approval (GTA) to enable any consent authority to grant approval.

Detailed Requests for Additional Information (RFI) were supplied by the NSW EPA on the following dates:

- 3 April 2019
- 8 May 2019
- 8 May 2020, and
- 5 June 2020.

A Zoom meeting was also held with the NSW EPA on 14 April 2020 to discuss the addendum EIS response that was lodged by the Applicant on 21 February 2020, which was a consolidated addendum of all previous RFIs that had been requested by the Council subsequent upon lodgement of the DA.

The fourth request, dated 5 June 2020, advised that a number of matters that the NSW EPA had previously been concerned about were now resolved and, where necessary, provided recommendations for further post-development monitoring.

In addition, the NSW EPA sought further additional information in relation to a number of matters, including but not limited to the following:

1. Proposed air filtration system, including:
  - a. Statements of compliance for the proposed filtration unit to ensure that best practice could be achieved for the treatment of VOCs and odours associated with the FDD
  - b. Confirmation of sound power levels as a result of the proposed unit
  - c. Monitoring procedures for the change of out carbon material



- d. Validation of meteorological data
  - e. Treatment of emissions from the premises, including concurrent operation with other activities such as use of the wet scrubbers, at the same time as operation of the FDD
2. Noise impacts, including:
- a. Adjustment to the noise model which includes existing maintenance facilities as well as the proposed operations
  - b. Confirmation that sound power levels are achievable
  - c. Extent of possible noise leakage associated with the proposed Flexshield curtains.

Subsequent upon the Council receiving the fourth RFI, this was supplied to the Applicant, along with the enclosed letter from the Council.

This letter states as follows:

*The matters raised in the EPA letter are extensive in scope and a number of the matters raised are likely to take a substantial amount of time to satisfactorily address. The additional information requested is also very likely to require the application to be renotified as the additional information relates in part to concerns raised by objectors.*

*With particular regard to the age of the DA and the likely timeframes to satisfactorily respond to the EPA matters and subsequently renotify the application prior to independent assessment and determination by the SNPP, you are advised that the application should be withdrawn and a new DA lodged after all EPA matters have been resolved.*

The letter then goes on to suggest the following:

*It is recommended that you consult extensively with the EPA prior to lodging a new DA and include specific details of that consultation and evidence that the issues raised have been or are able to be resolved to the satisfaction of the EPA. It is noted that as this is the second DA for the FDD, noise and air quality issues as raised by the EPA should have been partly or entirely resolved prior to lodgement of the DA.*

A response was provided by Hamptons Property Services Pty Ltd (Hamptons) in response to this letter, seeking that the Council provide the applicant until 31 August 2020, to respond to the additional information requested by the NSW EPA.

This additional information has been commissioned by the Applicant, is almost complete and will be ready by 31 August 2020.

To our knowledge there are no other requests for additional information and all other referral agencies have issued GTA's.

As advised in our correspondence to the Council dated 1 July 2020 and reaffirmed here:



*While we appreciate the suggestion by the Council of working with the EPA prior to lodging a new DA, the EPA does not offer a pre-lodgement service. Thus, the only means by which to resolve matters raised is once an application is lodged. Therefore, in no uncertain terms the Application is between a rock and a hard place in trying to resolve these matters.*

*In reviewing the correspondence from the EPA, it is clear that there is a way forward from an environmental perspective with the installation of the carbon filtration system representing improvements for the site not only in terms of the dock itself, but the operation of the site as whole. The indication of this being facilitated through GTAs is a sensible response and will further assist the concerns raised that are ongoing by local residents in terms of current operations.*

*In seeking to establish a way forward for the site, withdrawal of the application will serve no purpose other than the NSW LEC, which will be an unnecessary expense and outcome for all concerned when there is a reasonable way forward with the application, albeit that the application is yet to be assessed by the Council.*

*We acknowledge that Council may seek to renotify the application and there are additional fees payable for that to occur. However, given the EPA correspondence, we believe that the matters can be attended to.*

Further, the request from the NSW EPA seeks to ensure that not only are the proposed practices, but also the current practices of the site, to be addressed in relation to the key concerns that the community has raised, being noise and air pollution. In doing so will provide a holistic approach to the operation of the site, resulting in a far better outcome than the current circumstances, where air and noise issues are raised by the community on a daily basis. The best outcome, in environmental planning terms and having regard to the public interest, is to enable the assessment of this application to continue.

On the basis that:

1. the EPA will not negotiate with an applicant prior to lodgement of a development application
2. the Applicant has further commissioned studies to respond to the additional information requested
3. the application is not representative of a 'traditional' DA where there is a 'text book' approach to addressing environmental concerns, as evident from the requests for information from the EPA
4. improvements will be made to the overall operation of the site such that community concerns with the existing and proposed operations can be adequately addressed, controlled and mitigated, as required,

we would respectfully request that the application is deferred from consideration by the Sydney North Planning Panel on 1 September 2020 to enable the Applicant to submit the additional information that has



been requested by the NSW EPA, and consider this accordingly. This would result in the most beneficial outcome for the community in accordance with the public interest test of s.4.15 of the EP & A Act.

Should you have any further queries, please do not hesitate to contact the undersigned.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K Hodgkinson', with a large, loopy initial 'K'.

**Kristy Hodgkinson**  
**Director**

