



DOC18/89968-2

Ms Rose-Anne Hawkeswood
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Dear Madam,

Port Kembla Gas Terminal (CSSI 9471) – Response to Submissions

I refer to your email of 5 February 2019 to the NSW Environment Protection Authority (EPA) containing the Response to Submissions (RTS) report and updated Hydrodynamic Plume Modelling (HPM). This email invited further comments and advice from the EPA on the project.

The EPA has reviewed this information and provides the following response to Department of Planning and Environment (DPE) to assist in the assessment of this project:

The EPA identified two focus areas requiring further attention by the proponent in our submission (Our reference DOC 18/959125, dated 14 December 2018) on the exhibited Environmental Impact Statement (EIS), namely:

- Water Pollution – including cold water discharges and operation of the antifouling system associated with the Floating Storage and Regasification Unit (FSRU); and
- Contamination Management – including dredging and spoil containment.

In general, whilst the information provided allows the several aspects of the development to be further assessed, several issues appear to require further resolution. Some of these issues may be addressed through detailed approval conditions. Other issues will however require further attention by DPE and the proponent, in discussion with the EPA, to determine a way forward.

The EPA provides further comments on the RTS and HPM in the attachment to this letter (Attachment A). The EPA has also provided some suggested conditions of approval to help guide this project. The EPA has structured these conditions under Dredging and Spoil Containment - Construction phase (Attachment B) and FSRU related conditions - Operational phase (Attachment C).

The EPA will need to work closely with DPE in the drafting of approval conditions as the attached conditions are for discussion purposes and are not intended to be complete. The relationship of any approval conditions to the requirements of EPA environment protection licence, will also need to be clearly understood.

To assist DPE in the interpretation of this response the EPA provides the following advice.

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Cold water discharges and antifouling system associated with the operation of the FSRU

Many of the impact predictions, are dependent on computer models. The EPA has relied on the advice provided in the updated HPM that the model is fit for purpose and able to represent the operation of the FSRU. The EPA has recommended water quality limits, water monitoring programs and a verification processes to help validate predictions and detect any aberration from expected outcomes. Further limits and monitoring may be added pending more detailed information from the proponent and supported by relevant management plans.

Regulation of the operation of the FSRU, including air emissions

If approved, the EPA will regulate the FSRU because it is expected to be a scheduled premise under the Protection of the Environment Operations Act 1997 and require an Environment Protection Licence for carrying out the scheduled activities (chemical storage and petroleum production) and water protection (Section 120 of POEO Act). A vessel falls within the definition of premises for the purposes of the POEO Act. Equally, the premises occupied by the project is expected to be part of that licence, including the berth at which the FSRU is housed.

The Protection of the Environment Operations (Clean Air) Regulation 2010 (Clean Air Regulation) prescribes emission concentration standards for various plant or activities. Information provided by the proponent indicates that plant such as the gas compressor engines may generally comply with Clean Air Regulation requirements. What is not clear and needs to be carefully considered is the effect of other legislative requirements applicable to vessels, including but not limited to Commonwealth legislation and international shipping conventions. These requirements might relate to air pollution (for example sulphur content of fuel oil, as well as gas fuel) and water pollution (including noxious substances, oil, sewage, and garbage).

The EPA could apply NSW legislative requirements, in full, if agreed to by the proponent, as part of a best practice approach. These requirements however could be more onerous than Commonwealth / International shipping requirements. It is also unclear what Commonwealth / International shipping requirements might override NSW Legislative requirements or deem them inoperative.

To resolve this issue further discussions are required based on more precise information from the proponent as well as legal advice from DPE and EPA and possibly Crown Solicitor's Office on the activities.

In the interim, the EPA has proposed air emission limits based on similar projects for land-based activities. These emission limits and monitoring requirements would typically be set in an Environment Protection Licence informed by the Clean Air Regulation.

Contamination Management – including dredging and spoil containment

Commensurate with the scale and nature of the project and sensitivity of the receiving environment, intensive approval conditions will be required to mitigate and manage risks and address detail not already provided in the EIS or RTS.

If approved, the EPA will regulate the dredging/containment activities under an Environment Protection Licence, subject to conditions. This licence is likely to relate to the carrying out the scheduled activities (extractive activities) and water protection (Section 120 of POEO Act).

In providing approval conditions the EPA has drawn upon the types of approval conditions already in place for the dredging, reclamation and containment activities associated with existing Outer Harbour redevelopment project and concept approvals. In discussion with NSW Ports and DPE the EPA understands that there is an expectation that the project would not be inconsistent with this redevelopment project and key conditions in these approvals would also apply to this project. This includes the provision of a detailed Containment Structure and Emplacement Report by a suitably

qualified person prior to dredging, reclamation and emplacement activities as well as other requirements including audits of appropriate stages of their construction by suitably qualified persons and various monitoring programs and management plans.

The EPA has also recommended the proponent engage a NSW EPA accredited Site Auditor to review and endorse remediation and management plans and to issue a Site Audit Statement at the completion of the works,

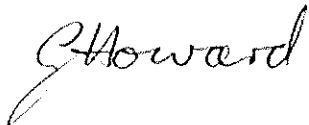
The provision of a detailed Containment Structure and Emplacement Report prior to works commencing is of critical importance. The works must be designed, constructed, operated and maintained to prevent water pollution and the dispersal/generation of contaminants and ensure environmental risks are appropriately mitigated and managed. Any residual uncertainty will require careful attention to avoid clean up action, remediation, pollution reduction programs or compensation for damages resulting from pollution. Potentially uncertain long-term costs and environmental consequences may require the need for contingencies to be secured financially. For example, the EPA could require a financial assurance under the POEO Act as a condition of the Environment Protection Licence. This condition could require an independent assessment of the cost of the relevant work or program for which an assurance is required.

The intent of these detailed requirements is to appropriately address post-dredged spoil which will be mounded in the outer harbour area and rise some metres above sea level. Consequently, the contaminated sediments risk being wind blown in the region or re-entrained into the marine environment, both with potential health and environmental impacts.

The EPA is committed to working with DPE and the proponent to help progress the above matters. The EPA can meet at a mutually convenient time to discuss any of our comments.

Should you require any further information please contact Greg Newman on (02) 4224 4100.

Yours sincerely



15/02/2019

GISELLE HOWARD
Regional Director Metropolitan
Environment Protection Authority

Attachments

- A. EPA Comments on the Response to Submissions Report
- B. Dredging and Spoil Containment - Construction Conditions
- C. FSRU - Operational Phase Conditions

