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By email: palitja.woodruff@planning.nsw.gov.au

Dear Ms Woodruff

Blackwattle Bay State Significant Precinct

Thank you for providing the NSW Environment Protection Authority (**EPA**) an opportunity to comment on the Blackwattle Bay State Significant Precinct (**Blackwattle Bay SSP**) Response to Submissions (**RtS**).

The EPA understands a new State Environmental Planning Policy (**SEPP**) is proposed to be prepared to amend Sydney LEP which will contain the main planning controls to guide development in the Blackwattle Bay Precinct. The SEPP will also amend the Biodiversity and Conservation SEPP, the Transport and Infrastructure SEPP, the Planning Systems SEPP, the Eastern Harbour City Precinct SEPP and the Codes SEPP.

The EPA also understands changes have been made to the Blackwattle Bay SSP Study proposal in response to the public, organisation and government agency comments and submissions received. Amendments are reflected in a Revised Precinct Plan, updated planning framework and revised Draft Design Code for the proposed Blackwattle Bay SSP.

The EPA has reviewed the RtS documents and has provided comments in **Annexure A**. Comments relate to air, noise, water, contamination, and waste and resource recovery elements of the RtS. The EPA has particular concerns regarding noise impacts arising from potential land use conflict issues in the Blackwattle Bay SSP.

Please contact Anthony Knox on (02) 8837 6046 if you require further information or wish to discuss any of the comments.

Yours Sincerely,

A handwritten signature in blue ink that reads 'J. Pulkkinen'.

JACQUELINE PULKKINEN
Unit Head
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26/8/2022

Enclosure: Annexure A

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Annexure A

General Context

The EPA notes that the Blackwattle SSP Proposal seeks to increase development adjacent to existing industrial areas and major road corridors, which will increase the potential risk of land use conflict by introducing more sensitive land uses such as residential and mixed-use development. There are already existing sources of land use conflict between residential receivers and the operation of Hymix concrete batching plant and marina facilities for cruise operators in Blackwattle Bay; and 24/7 port activities within the Glebe Island and White Bay Port area. Additional sources of land use conflict include the proposed construction and operation of Glebe Island Aggregate Handling & Concrete Facility and the Multi-User Facility at Glebe Island. There are also a number of major infrastructure construction projects which are being constructed or are planned to be constructed within the vicinity of Blackwattle Bay, including West Connex, Metro West and Western Sydney Harbour Tunnel. Whilst these construction projects are temporary the construction phase may take several years and can have significant noise impacts on the surrounding noise sensitive receivers.

The precinct generates considerable noise and air emissions, and often there are limited mitigation options available to operators. As a result, the EPA receives a significant number of complaints from the residents of Pyrmont and Rozelle regarding the impacts of noise and air emissions. Complainants often report sleep disturbance and irritation, in particular when there is a ship at berth.

As both residential development and the working harbour development are proposed to increase, existing and prospective residents will be exposed to the related noise and air impacts of these surrounding port and construction activities unless these issues are adequately acknowledged and addressed upfront in the planning phase of the Blackwattle SSP Proposal.

Air Quality

The EPA acknowledges the updates made to the Draft Design Code. The EPA appreciates that comments from its previous submission concerning air quality have been included in these updates under Section 8.2.

The EPA would like to draw attention to Section 8.2 (2a) which states the Air Quality Impact Assessment is to “be prepared by a suitably qualified person in accordance with the Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales, published by the Department of Environment and Climate Change in 2005.” This reference should be updated to the 2016 version of the Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales, which replaced the 2005 version. This updated 2016 version was published by the NSW Environment Protection Authority.

Noise

The EPA recommends that the Department of Planning and Environment (**DPE**) carefully consider if the Study and the RtS has satisfied the Study Requirements for noise and vibration impacts and management, and if the level of assessment and information is sufficient to inform their determination. The EPA considers that there are a number of outstanding issues that still require addressing. These concerns are outlined below.

Noise measurements

RtS Chapter 1.6 and Table 1 provides a response to the EPA’s concerns regarding the background noise monitoring used to inform the assessment and performance objectives.

Given the scale of the development proposed, it is considered reasonable that accurate and representative data that set long term performance objectives and design criteria for this large-scale development is collected and presented as part of the Study. Monitoring of existing noise levels was also part of Study Requirement 22.6.

Based on the information provided in the Study and the RtS, the EPA is not satisfied that the noise monitoring data presented in the Study meets the standards required by NSW policy and does not consider it suitable to inform performance objectives as currently presented.

The EPA recommends that DPE carefully consider the validity of the groupings of receivers, the background noise monitoring, and performance targets and/or objectives derived from them in the Study and if additional information is required in their determination.

Specific outstanding matters associated with the noise measurements are discussed in the below dot points:

- The justification for using noise monitoring from another State Significant Development (**SSD**) that was subsequently approved for this Study is not appropriate, particularly when the specific matters raised by the EPA on this Study have not been adequately addressed. Whilst EPA appreciates that there may be difficulties in the practicalities of the measurements, this does not preclude the responsibility of the proponent from obtaining appropriate data which sets performance targets as required by NSW policy and the Study Requirements.
- The response relating to the amount of valid data collected at the monitoring locations is not sufficient to satisfy the EPA that the monitoring data satisfied NSW policy requirements and is acceptable for use in setting performance objectives.
- The response to the matters raised about Location L01 being applied to NCA 1 is not accepted by the EPA. Insufficient evidence or justification has been supplied in both the Study and RtS to provide the EPA confidence that Location L01 is able to represent receivers noise environment in NCA 1.
- The response to matters raised regarding Location L04 representing receivers in NCA 3 is not accepted as residential receivers in NCA 3 do not have direct frontage at similar offset distances to Location L04, so it is difficult to understand how it can be representative as claimed by the RtS. Furthermore, the proponent's response appears to rely on information which has not been supplied.
- The response to matters raised regarding Location L07 representing NCA 4 is not considered acceptable as it does not provide sufficient justification that Location L07 is representative of receivers in NCA 4, and it appears to have relied on assumptions and information not supplied.

Setting Amenity Levels for Project Noise Trigger Levels

The EPA does not consider the response in the RtS adequate regarding setting amenity levels by not accounting for existing and future industrial noise sources (aside from the Sydney Fish market and Hymix). There are receivers in NCA 1, 2 and 3 that appear to have the potential influence from existing and future industrial noise sources from commercial or similar type developments. Therefore, the EPA consider it appropriate to adjust the amenity criteria to account for this or provide appropriate evidence that it should not apply. The Study and RtS do not currently provide sufficient information to support the proponent's position.

The EPA recommends that DPE consider how the proponent has accounted for existing and future commercial and industrial noise sources may affect existing receivers potentially affected by the precinct.

Precinct traffic generation noise impacts

The proponent's response to the matters raised by the EPA on the Precinct's traffic generation and potential impacts on existing and proposed roads at existing receivers does not appear sufficient.

The response appears to reference noise modelling which was not presented in the Study, nor does it appear to have been included in the RtS. As a result, the EPA cannot provide further comment. The EPA recommends that DPE satisfy themselves that the Study has adequately address Study Requirement 22.2 including identifying noise impacts related to the precinct's traffic generation and providing practical measures to control and minimise impacts where relevant.

Noise impacts from proposed Ferry Wharf

The RtS has not adequately addressed the potential impact from the proposed ferry wharf at the precinct. It is not clear why it is relevant for the RtS to mention unloading activities at the new Sydney Fish Market, particularly when there are potentially different noise sources involved at different locations. The EPA recommends that DPE consider if any potential noise impacts from the proposed ferry wharf have been adequately addressed by the Study.

Glebe Island and White Bay Port Noise Impacts

The potential impacts from port activities are not limited to the planned Glebe Island concrete batching plant as implied in the RtS. Glebe Island and White Bay is currently used for a range of port activities including the bulk shipping of salt, gypsum, cement and tallow. Port Authority of New South Wales has published extensive information regarding potential impacts from the use of the Bays Port, including existing port activities both from berthed vessels and landside operations within the Glebe Island and White Bay Port precinct which does not appear to have been considered in the Study.

The EPA recommends that DPE consider if the Study has adequately addressed the potential noise from port activities within Glebe Island and White Bay and any necessary controls.

Infrastructure SEPP Requirements

RtS Table 1 appears to suggest that the Infrastructure SEPP does not apply to roads that carry 20,000 to 40,000 annual average daily traffic. However, the EPA understands that Clause 2.120 of the Transport and Infrastructure SEPP applies to noise sensitive development which is adjacent to roads that carry annual average daily road traffic volumes of 20,000 or above. The repealed Infrastructure SEPP 2007 changed the application of the clause from 40,000 to 20,000 annual average daily traffic in 2018.

Road traffic noise model

The RtS response to the EPA's comments on the validation of the road noise model appears to rely on data not presented as part of the application and is not readily available to the EPA. The EPA recommends that DPE consider the noise modelling and its predicted impacts presented in the application in light of the reference to additional information presented in the RtS.

Draft Design Code

In regard to the Draft Design Code, the EPA suggests that Section 8.3 could be strengthened by including the following provisions:

- The Noise and Vibration Impact Assessment is to consider and respond to noise and vibration impacts from the surrounding road network, harbour activity, port operations, and the future activation of the precinct and other potential noise sources.
- Noise and vibration Assessment shall include, but not be limited to the following (or where updated or superseded), as relevant to the proposed use:
 - a) NSW State Environmental Planning Policy (Transport and Infrastructure) 2021,
 - b) Development Near Rail Corridors and Busy Roads – Interim Guideline 2008
 - c) Glebe Island and White Bay Port Noise Policy 2020
 - d) NSW Noise Policy for Industry 2017
 - e) NSW Assessing Vibration: A Technical Guideline 2006.

Water Quality

The EPA acknowledges that the proposed precinct will include a range of Water Sensitive Urban Design (**WSUD**) elements, which aim to contribute to improved water quality of the Blackwattle Bay area. The EPA encourages the WSUD strategy to be further developed during subsequent design stages. The EPA acknowledges that it is expected that further investigations will ensure that the NSW Water Quality Objectives are met as highlighted in the EPA's previous submission.

Contamination

The EPA acknowledges that the Draft Design Code requires the proposed precinct to adhere to the *Site Wide Remedial Concept Plan* developed by JBS&G in January 2021. The EPA suggests that an additional contamination condition (Section 4.8) could be included that states the requirement for the

continued engagement of a NSW EPA accredited site auditor/s, where necessary, to help any consent authority be satisfied that the specific parcels of land are suitable for all the purposes for which it is permitted to be used.

The EPA reiterates that the Blackwattle Bay Precinct may benefit from taking a precinct-based approach for land contamination and its management to help prevent risks to human health and the environment. Such holistic consideration of contaminated land management including remediation options can lead to benefits in terms of remediation costs, improved planning and layout of facilities and services, and efficient ongoing management of any residual contamination. It is recommended that DPE ensure that there are mechanisms to manage contaminated land areas that are located in public open space and to consider staging of developments to prevent land use conflicts as parcels of land are remediated.

Waste and Resource Recovery

EPA acknowledges the response and updates to the Draft Design Code in relation to waste management and resource recovery. It is noted that the Draft Design Code requires developments to be in accordance with the EPA's *Better practice guide for resource recovery in residential developments*. The Draft Design Codes may also benefit from including reference to the NSW Government's *Waste and Sustainable Materials Strategy 2041 (WaSM)* where appropriate.

The WaSM provides the roadmap for NSW to help transition to a circular economy over the next 20 years. It also includes measures to reduce waste, increase recycling, plan for future infrastructure and create new markets for recycled products. It also highlights new directions for the management of waste including time frames for their implementation including the need for source separation of food and garden waste for residential and targeted commercial uses.