



Mr Rob O'Neill
General Manager, Water Licensing and Compliance
Independent Pricing and Regulatory Tribunal
2-24 Rawson Pl,
Sydney NSW 2000

Council Reference: TRIM MIN2010/2
Your Reference: D16/26340

30 November 2016

Dear Mr O'Neill

Subject: Application for Network Operators Licence – Shepherds Bay, Meadowbank

I refer to your correspondence dated 9 November 2016 in respect of the above, and thank you for the opportunity to comment on the proponents network operators licence application submitted by Flow Systems Operators Pty Ltd to construct, maintain and operate a drinking water, recycled water and sewerage scheme for the Shepherds Bay Development.

You have raised 4 complex areas for consideration and this correspondence provides the Council's response to each of the questions in order.

Before proceeding with our responses, I would like to confirm that the subject land is zoned B4 Mixed Use under the Ryde Local Environmental Plan 2014 ('the LEP'). Under the LEP, water recycling facilities are prohibited in the B4 Mixed Use zone.

Therefore for the development to proceed, the proponent would need to pursue one of the following 2 alternative planning pathways, either:

- (a) Submit a Planning Proposal to enable the use to be permitted in the zoning or on the site; or
- (b) Submit a modification to the concept approval issued by the Department of Planning and Environment for that area of Shepherds Bay.

The owners have been advised of this and, after obtaining their own legal advice, it is understood that the proponent is unsure of which course of action to take. The planning proposal route will take from 9-12 months to complete and the modification of concept approval route is likely to take a little less time, estimate from 4-6 months.

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The following responses are therefore provided with this context in mind.

Response to Question 1:

Council believes that your understanding of the existing consents is incorrect. They do not allow recycled water reticulation.

Also, as you are now aware, water recycling facilities are prohibited in the B4 Mixed Use zone under the Ryde Local Environmental Plan 2014. This will require a change to the LEP or concept approval in the first instance if the application is to proceed.

In either scenario, development consent would still need to be obtained from Council under the Environmental Planning and Assessment Act 1979 for the proposed water recycling facility.

There is also a specific condition on the development consent for Stage 2-3 of the development requiring connection to the sewer by gravity flow. This would mean that if the application was to proceed, a section 96 application would routinely need to be submitted to Council to modify the consent,

Furthermore, under Clause 48 of the Local Government (General) Regulation 2005, if the activity is carried out;

(a) under the authority of a licence issued under the Protection of the Environment Operations Act 1997; or

(b) under the authority of a licence issued under the Water Industry Competition Act 2006.

no separate approval would be required under section 68 of the Local Government Act 1993.

The activity is also not scheduled under the Protection of the Environment Operations Act 1997 and will not require a separate licence under that Act.

Response to Question 2:

No planning proposal has been submitted to amend the B4 Mixed Use zoning at this stage.

If a planning proposal is submitted, the process is likely to take 9-12 months.

Clause 106 of State Environmental Planning Policy (Infrastructure) 2007 does not apply in this instance.

Response to Question 3:

Council does not believe that the activity will pose an unacceptable risk to the environment if the system is appropriately designed and constructed, operated and maintained correctly.

The risks that would need to be appropriately managed will include:

- Inadequate equipment or processes
- Power failure
- Equipment malfunctions
- Supply of inadequately treated water
- Misuse of recycled water
- Cross-connections to drinking water system
- Accidental leaks or spills
- Contamination with trade wastes
- Emission of odours
- Noise from plant and equipment

The documentation submitted with the application contains very little detail about the proposed plant. However, the treatment processes proposed are expected to achieve an adequate log reduction of pathogens, including viruses.

There are concerns that trade waste discharges from the retail and commercial premises could have an adverse impact on the proposed treatment system. All trade wastewater should by-pass the LWC and be discharged directly to Sydney Water's sewerage system.

The 3 key impact risks namely odour, noise and leaks/overflows do appear to have been appropriately highlighted by way of:

1. An Odour Impact Assessment was carried out by Pacific Environments Limited and it appears that this was done in accordance with the Approved Methods and Guidance for the Modelling of Air Pollutants in NSW (EPA, 2005) and was based on odour measurements at a similar facility at Central Park, Sydney.

2. An Acoustic Assessment was carried out by Wilkinson Murray Pty Limited and this has concluded that the noise from the plant inside the facility will be inaudible at the surrounding residences. However, there may be some noise from the ventilation systems and the design would need to ensure that the noise levels comply with the NSW Industrial Noise Policy.

3. In the event of equipment failure any overflow or leak should be discharged directly to Sydney Water's sewerage system by gravity flow or by other suitable means.

Response to Question 4:

Any licence granted should ensure that the requirements for the management of private recycled water schemes as set out in the Interim NSW Guidelines for Management of Private Recycled Water Schemes (2008) are complied with and that any approval should include to the following conditions:

1. **Construction hours** - All construction work must be carried out between the hours of 7.00am and 6.00pm Monday to Friday and 8.00am and 1.00pm Saturday. No construction work is to be carried out on Sundays or public holidays.
2. **Plumbing and drainage work** - All plumbing and drainage work must be carried out in accordance with the requirements of NSW Fair Trading.
3. **Trade wastewater from retail and commercial premises** - All trade wastewater from the retail and commercial premises must be discharged to Sydney Water's sewerage system.
4. **Quality of recycled water** - All recycled water supplied to customers must be suitable for its intended use.
5. **Labelling of recycled water infrastructure** - All recycled water storage tanks and supply outlets must be appropriately labelled to prevent accidental misuse.
6. **Air pollution** - The operation of the system must not result in the emission of odours or other air impurities that are a nuisance or danger to health.
7. **Offensive noise** - The operation of the system must not result in the emission of 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*.
8. **Noise and vibration from plant or equipment** - The operation of any plant or equipment installed on the premises must not cause:
 - (a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or

intermittent noise in accordance with the *New South Wales Industrial Noise Policy* (EPA, 2000).

- (b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*.
 - (c) The transmission of vibration to any place of different occupancy.
9. **Storage of hazardous substances** - The storage of hazardous substances must comply with the requirements of the *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011*.
10. **Bundling of above ground storage tanks** - All above ground liquid storage tanks must be banded to prevent the escape of spills or leaks.
11. **Construction of tank bunds** - All tank bunds must be designed and constructed in accordance with the following requirements:
- (a) The bund must have a capacity of at least 110% of the largest tank plus the volume displaced by any additional tanks within the banded area.
 - (b) The walls and floor of the bund must be constructed of materials impervious to the contents of any container within the bund and be structurally adequate to contain any liquid spilled within the bund.
 - (c) A collection sump must be provided in the floor of the bund to facilitate the removal of liquids and the floor of the bund graded to the sump.
 - (d) Drain valves must not be provided in the bund.
 - (e) Pipe-work from the enclosed tanks and any associated pumps must pass over the bund walls.
 - (f) Hose couplings for tanks enclosed within the bund must be located so that leaks or spills are contained within the bund.
 - (g) The bund must be covered to prevent the entry of rainwater.
12. **Storage and disposal of wastes** - All wastes generated on the premises must be stored and disposed of in an environmentally acceptable manner.
13. **Disposal of liquid wastes** - All liquid wastes generated on the premises must be treated and discharged to the sewerage system in accordance with the requirements of Sydney Water or be transported to a liquid waste facility for recycling or disposal.

14. **Disposal of excess sewage or recycled water** - All excess sewage or recycled water must be discharged to Sydney Water's sewerage system by gravity flow.
15. **Clean water only to stormwater system** - Only clean unpolluted water is permitted to enter Council's stormwater drainage system.
16. **Clean-up materials to be kept on premises** - An adequate supply of suitable clean up materials must be kept on the premises for cleaning up accidental spills.
17. **Cleaning wastes and spills** - All cleaning wastes and spills must be collected and disposed of in an environmentally acceptable manner.
18. **Duty to notify pollution incidents** - Pollution incidents causing or threatening harm to the environment must be reported immediately to all relevant authorities in accordance with Section 148 of the Protection of the Environment Operations Act 1997.

In conclusion, the proposed water recycling facility has the potential to conserve significant quantities of drinking water and is supported in principle. Based on the information provided, it appears that there will be no adverse impact if the system is appropriately designed and constructed, operated and maintained correctly.

However there are some significant planning hurdles relating to the zoning that will need to be addressed before the application is determined. The proponent will need to determine the most appropriate planning pathway to take and obtain the relevant consents and approvals before any network operator's licence is granted.

Council hopes that the comments provided in this letter are of assistance in determining the application. Should require any further information please contact Sam Cappelli, Manager Environment, Health and Building on [REDACTED] during normal business hours

Yours sincerely

[REDACTED]

Liz Coad
Acting Director, City Strategy and Planning