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02 December 2016

Director - EIA Improvement Project
NSW Department of Planning & Environment
GPO Box 39
Sydney NSW 2001

Dear Sir / Madam,

EIA IMPROVEMENT PROJECT - SUBMISSION

This submission has been prepared on behalf of Goodman Limited to the EIA Improvement Project discussion paper, October 2016.

Goodman Limited supports the Department's current review of the EIA process. Goodman is Australia's largest owner of industrial land and is a key partner with the NSW Government in the successful delivery of employment precincts in the Western Sydney Employment Area as well as greater metropolitan Sydney. Many Goodman projects trigger the SSDA assessment pathway.

Having reviewed the Discussion Paper, some comments are provided in this submission for the Department's consideration in the next phase of the Review. These comments are informed by Goodman's experience with the SSDA process.

Initiative 1: Develop a consistent framework for scoping within the EIA process

Goodman supports an initial scoping phase to identify the key issues for consideration and assessment. Early identification and agreement of key issues and the level of examination required for each issue will refine and streamline the EIA preparation and assessment process.

Identification of key issues will set the expectations of the project for all parties – proponent, stakeholders and the Department.

This will help to focus the application preparation and assessment on those critical issues rather than delay both the preparation and assessment phase by excessive focus on issues of minor importance.

Initiative 2: Earlier and better engagement

Goodman firmly agrees that consultation with stakeholders in the application preparation phase is crucial to the successful delivery of a project.

- There is benefit in an early meeting between the proponent and Department to identify key issues (per above), stakeholders and to scope a tailored community/agency engagement process.

- The Department should act as a facilitator for engagement on key or contentious issues. It is important, however, that this involves active mediation that results in decision making/direction

from the Department that sets the course and expectation for the application preparation and assessment phase. Early engagement on key issues that does not result in a clear direction will further delay the EIA process.

- It is Goodman's view that issues raised in pre-lodgement consultation should be addressed collectively in the EIA documentation. This will enable all issues to be addressed and reasons for decision making seen as part of the wider context, ensuring greater transparency. Providing direct feedback to stakeholders on their specific issue/s prior to lodgement may in fact reduce the opportunity for transparency and narrow the focus to one or two issues rather than allowing the stakeholder to see a response that is balanced to address all the project objectives and requirements.

- Goodman is of the view that only documentation lodged with the 'final' application should be made publicly available. There is a risk that public review of earlier revisions of the documentation may cause confusion with stakeholders and unnecessary delay especially if some issues are not completely addressed.

  If pre-lodgement consultation is undertaken thoroughly in response to the key issues (through initiatives 1&2), this will enable refinement of the application documents for public exhibition. It is considered that any publicly available information should present the entire project for which consent is sought, having regard to and addressing all issues, and providing the public with all relevant reports for their consideration and review.

Initiative 3: Improve the consistency and quality of EIA documents

Goodman agrees with the proposed improvements detailed in this initiative.

Initiative 4: Set a standard framework for conditioning projects

From Goodman's experience, the current practice of imposing operational conditions as well as a requirement for approval of management plans is overly onerous.

- Operational parameters for a project should be set by the conditions of consent. Any further management plans should then be finalised within the framework of the consent conditions and therefore not require further approval by the Department. In most cases, final sign-off of management plans should be undertaken by PCAs having regard to the consent conditions.

- The implications on construction staging and timing should be considered in the drafting of conditions. As such, draft conditions should be made available for proponent review prior to finalisation. This will reduce the need for administrative changes to the consent post approval.

Initiative 5: Improve the accountability of EIA professionals

- Goodman believes that a technical guideline on methodology and content of technical reports could assist in providing consistency across these inputs, ensuring that the key required matters are addressed from the outset.

- Compulsory peer review of reports should be limited to selected contentious issues only (if at all). A thorough peer review of all documentation will impose an added cost and additional time to the application preparation stage. Any comprehensive peer review of a proposal should be at the proponent's discretion to ensure matters are comprehensively addressed, should they wish to provide additional rigour to the application.

Initiative 6: Provide greater certainty on EIA timeframes

Additional certainty for assessment timeframes could be achieved through the following mechanisms:

- Departmental assistance in negotiations with agencies both during the pre-lodgement, assessment and post-consent phase would assist in improving response times. Agencies are often reluctant to deal directly with applicants on matters, which can lead to delays in correspondence and issue resolution between the parties.

- For post approval phase – nominate a 'deemed acceptance' period for Departmental or agency review of information required by the consent. After that timeframe the proponent can assume the Department or agency has no comment, if no response has been received.

In addition to the above, greater focus could be given by Departmental assessment staff on issue resolution, rather than issue identification. A clear direction from the assessment team on contentious matters will shorten overall application preparation and assessment timeframes.

Initiative 7: Strengthen the monitoring, auditing and reporting of compliance

Goodman supports the provision of public access to post approval documents. This will provide greater transparency the public and encourage accountability by the proponent in the delivery of the project.

A consolidated instrument of approval should also be made available following any modifications to the consent. This will ensure that the Department, public and proponent have access to the most recent consent framework, further increasing transparency. This may include a 'track-change' version of the consent, as well as a 'clean' copy.

Initiative 8: Project change processes following approval

Communication to stakeholders about project modifications is already captured through the MOD process. It is expected that this will be further refined in accordance with Initiatives 1 & 2 for early stakeholder engagement, which would also apply to modification proposals.

The timing of project delivery, within the bounds of the consent, is at the discretion of the proponent. Opportunities for further constraints on the delivery or staging of a project should not be availed to third parties.

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Conclusion

Thank you for the opportunity to review and provide feedback on the EIA Improvement Project Discussion Paper. Goodman would be happy to meet with the Department to discuss the above views, or to contribute to any future consultation on this project.

If you have any questions please don't hesitate to contact me at jparker@urbis.com.au.

Yours sincerely,

Jacqueline Parker
Associate Director