

Your Reference : DA09/2077
Our reference : DOC10/3414

Shoalhaven City Council
Received

24 FEB 2010

The General Manager
Shoalhaven City Council
PO Box 42
NOWRA NSW 2541

File No. _____
Referred to: E. Baird

Attention: Mr Steve McDiarmid – Senior Development Planner

REGISTERED POST

Dear Mr McDiarmid

**General Terms of Approval (Refusal) – Development Application DA09/2077
Proposed Tomerong Landfill – 146 Parnell Road, Tomerong**

Reference is made to the Development Application and accompanying information provided for the proposed Tomerong Landfill, located at 146 Parnell Road, Tomerong, Lot 4 DP 775296, received by the Department of Environment, Climate Change and Water (DECCW) on 28 August 2009.

Please note that, although the Environment Protection Authority (EPA) is now part of DECCW, certain statutory functions and powers continue to be exercised in the name of the EPA.

The EPA has reviewed the information provided in the Development Application and Environmental Impact Statement, and has determined that it will be unable to issue an Environment Protection Licence for the proposal as currently presented on the basis that the noise impacts will not meet the required criteria. Specific information relating to the noise assessment and impacts is outlined in **Attachment A** to this letter.

In addition, there are a number of other issues which have been identified as being either inadequately assessed or insufficient detail provided. These issues include:

- Lack of information regarding potential impacts on Green and Golden Bell Frogs;
- Flora and Fauna surveys are inadequate;
- Lack of detail for landfill design and construction;
- No odour survey has been completed.

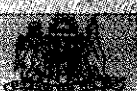
Specific comments in relation to each of the above issues are provided in **Attachment B** to this letter.

The EPA would however be prepared to review its determination should the applicant provide the additional information specified.

The Department of Environment and Climate Change NSW is now known as
the Department of Environment, Climate Change and Water NSW


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If you have any questions, or wish to discuss this matter further please contact Cate Woods on 02 4224 4114.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Lamberton', followed by the date '19/2/10'.

CRAIG LAMBERTON
Director Specialised Regulation
Environment Protection and Regulation

Attachment A

Noise Impacts:

- The proponent has submitted that the appropriate noise criteria for the receivers located at Lot 3 DP 775296 (Bayly Road, Tomerong) is 50 dB(A), and that the predicted noise level at this location during neutral conditions is 49 dB(A). DECCW notes that the land use at this location comprises tourist cabins and a residential dwelling, and therefore should be subject to a noise criteria of 35 dB(A).
- In addition to the above, the existing Environment Protection Licence for the quarrying operations being carried out at the proposed landfill premises specifies a noise limit of 40 dB(A) at the location of Lot 3 DP 775296. The predicted noise level of 49 dB(A) clearly exceeds this licence limit.
- There is insufficient day time background noise Assessment Background Levels (ABL's) presented in the EIS to determine a Rating Background Level (RBL) with confidence. DECCW expects that 7 ABL data points be provided to determine a median value for the determination of the RBL. This has not been satisfied by the proponent and additional work would be required to acquire the appropriate amount of data.
- Table 5-1 in Section 5 of the EIS lists a large number of mobile plant and equipment to be used for landfilling and quarrying activities, however no discussion is provided as to how the proponent is planning to minimise reversing alarms and motion alarm noise from this list of plant and equipment. DECCW understands that the reversing and movement alarms are of a tonal type however no tonality or predicted noise impact assessment has been provided.
- The proponent has used the air pollution model (TAPM) to aid in the meteorological assessment to determine prevailing winds. DECCW does not accept the use of TAPM in the determination of meteorological conditions for an Industrial Noise Policy (2000) Assessment. The proponent would need to address this issue and review the occurrence of the light winds assessment provided in Table 5-2 of the EIS, without the use of TAPM.
- A condition of the Director-General Requirements is for graphs of the daily measured noise levels to be provided. These are not present in the EIS and would need to be provided before DECCW could review its assessment.
- The EIS contains an inadequate consideration of feasible and reasonable noise mitigation measures which might be implemented to reduce noise emissions. Noise reductions associated with bunds and landform structures should be provided and any reflective noise propagation associated with quarrying high walls should be accounted for as described in the Director-General Requirements.
- No blasting impact assessment for ongoing quarrying operations or vibration assessment for quarrying and/or landfilling has been provided. The existing licence allows for blasting activities to occur, however DECCW would assume from the EIS that no blasting will occur and the licence would be varied to reflect this change.

Attachment B

Flora and Fauna:

- No targeted surveys for Green and Golden Bell Frogs were undertaken within either the landfill site or at the Tomerong Creek Bridge site, even though habitat is available and will be impacted by the proposed development. DECCW considers that surveys for the Green and Golden Bell frog should be completed to adequately assess impact of the development. The surveys should be conducted in accordance with DECCW's *"Threatened Species Survey and Assessment Guidelines: Field Survey Methods for Fauna"*.
- The surveys which were undertaken were conducted at the wrong time of year to detect most species, and should be conducted at the appropriate time of year and weather conditions.
- DECCW notes that hollow bearing trees may be impacted by the proposed development within the landfill site, however surveys were conducted at the wrong time of year to detect any nesting species. Further survey work for hollow dependent fauna would need to be completed for DECCW to review its assessment.
- The information provided in the Flora and Fauna (F & F) Assessment and EIS, for the Tomerong Creek Bridge site is unclear. The F & F Assessment indicates that only a small amount of the Endangered Ecological Community (EEC) River Flat Eucalypt Forest will be impacted by the proposed development, however the EIS indicates that 21 metres either side of the impact zone will be disturbed. This difference in area and therefore subsequent impact needs to be clarified and assessed appropriately. The potential clearing of 21 metres either side of the proposed bridge works will create a 40 metre gap in the overstorey and may inhibit the ability of some species to move through the landscape. These indirect impacts should be addressed in documentation, together with disturbance of the creek vegetation and associated habitats which need additional assessment.
- The F & F Assessment indicates the removal of the causeway on Tomerong Creek may be a positive impact of the proposed development, however the assessment fails to address the potential impact on the *Melaleuca biconvexa* population which occurs upstream from the causeway. Altered flow regimes are known to be a threatening process for this species. The indirect impacts of removing the causeway and altering the flow regimes of Tomerong Creek need to be addressed.
- DECCW notes that the proposed development will have an impact on both the *Melaleuca biconvexa* population known to occur on the site and an amount of the EEC River Flat Eucalypt Forest. DECCW would therefore require the proponent to offset the impacts of the proposed development in the threatened species and endangered ecological communities which occur onsite. The use of the Biobanking Calculator is needed to determine the amount of offset required for this development. Further details can be found in DECCW's policy *"Principles for the use of Biodiversity Offsets in NSW"*.

Odour:

- Although the proposed development does not anticipate the acceptance of any putrescible waste types, the EIS does not include any assessment of odour impacts. Any further consideration or review of this application would need to include an odour assessment.

Landfill Design

- The Development Application and EIS do not provide a sufficient level of information regarding the proposed landfill design and operation. Any further consideration or review of this application would need to include information on the following:
 - A groundwater monitoring program which details a monitoring network and program for the facility, and demonstration that the proposed measures would be suitable to detect leachate pollution of groundwater.
 - A report by a suitable qualified and experienced consultant which demonstrates that blasting at the quarry will not damage the landfill or leachate storage dam liners (please note the comment in Attachment A which states that no on-going blasting will be permitted at the premises due to lack of blasting and vibration assessments in the noise reports).
 - A soil and water management plan prepared in accordance with the publication: *Managing Urban Stormwater – Soils and Construction – Volume 2B Waste Landfills* (DECC June 2008).
- Notwithstanding the above comments, DECCW has reviewed the proposed landfill design, construction and operational elements set out in the Development Application and EIS. Should the application for a landfill be approved at any time, DECCW has a number of additional comments and conditions in relation to landfill design which would need to be included in any approval and would be applied to an Environment Protection Licence.