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	assess the adequacy of the system to handle expected volumes of leachate including its capacity to deal with major storm events. Acceptance of the leachate management system and its ability to operate to the required standard to prevent harm to the receiving environment will be a major consideration in the EPA's decision whether or not to issue a licence for the facility. Further discussion on leachate management is provided in the EPA response at attachment 1.
27. Waste classifications, • Cover material, • Chemical composition • Contaminated waste	Waste materials covered by the proposal are classified in accordance with EPA requirements as General Solid Waste (Non-Putrescible) and as such are materials suitable for landfill. Cover material has been previously dealt with in the existing landfill development. The material known as dregs and grits had been approved for daily cover material following a trial. While currently acceptable as cover, the material is classified as waste and must form part of the proposed 60,000 t/pa volume. While this material was approved as cover for the existing development, its approval for cover in the expanded development now proposed will be a matter to be considered by the EPA if they were issuing an Environment Protection Licence for the proposal. Chemical composition of wastes has been the subject of laboratory analysis and the range of chemical substances examined have all shown test results well below the threshold values applicable to the General Solid Waste (Non-putrescible) classification. It has been noted that the approved increase in paper production at the Visy plant will include an increase in chemical usage of 50%, however it is not envisaged that this increase would put any chemical content above threshold values. This will be a matter subject to ongoing analysis and testing as part of any approval/licence that may be issued. Issues raised about contaminated waste, were generally non-specific and as such no further comment is considered necessary at this time. Any licence conditions would include ongoing monitoring of wastes to verify that waste material remains within the classification guidelines and suitable for landfilling.
28. Compliance	Questions were raised in submissions regarding who will be responsible for compliance. In the event that a consent is given for the proposal there will be a number of conditions applied, both within the Council's consent and within the Environment Protection Licence and Controlled Activity Approvals. These documents will set out the various responsibilities

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	to be adhered to and for such a development, the operator will be responsible for ensuring compliance with the conditions specified. Other responsibilities for monitoring and administration of compliance issues will be shared between the Council and the EPA.
29. Impacts on tourism	A number of submitters raised concerns about the impact the proposal may have on tourism. These concerns seemed to be related more to the potential for significant impacts on waterways that might be affected should the landfill cause deleterious leaching into the nearby creeks and groundwater table and eventually into the Murrumbidgee River. The concerns about tourism impacts were therefore fairly non-specific in terms of how the development would have a direct effect on tourism. There is no evidence to suggest that the existing landfill operation or the Council managed landfill in close proximity have had any measurable effect on tourism. The other issues dealing with impact on waterways have been dealt with on other parts of this report.
30. Potential for wastes to come from other sources.	Some submissions have indicated that waste may be brought to the site from sources other than the nominated source. Any consent that may be given would be very specific in what wastes could be disposed of at the facility and from where they were sourced. The proposal as submitted is for the above described waste materials to be sourced solely from the Visy Pulp Mill at Tumut. EPA Licencing conditions would also be very prescriptive in the type of waste and source of that waste.
31. Consideration of Alternatives	Some submissions have indicated that there has not been proper consideration of alternatives to the proposed site. The EIS has provided discussion on alternatives to the proposal. This discussion describes various options that would be available to deal with the waste material and compares these options in Table 5 in the EIS, thereby giving each a score to determine the most preferred option. The four (4) options considered include: • Do nothing • Redirect waste to another existing facility • Develop a new facility offsite • Expand the existing facility The criteria considered in arriving at the score includes: • Ability to satisfy project objectives • Ability to satisfy waste management & recycling strategies/guides • Acceptability of environmental impacts • Acceptability of any environmental risks/uncertainties • Ability to handle abnormal events (natural/accidental) • Efficiency to meet present demand

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	• Flexibility to meet future demand • Efficient use of land & natural resources • Relative environmental, economic and social costs • Proximity to source • Access to suitable road network • Availability of essential/operational services 1. Do nothing. This option would be available to the proponent on the basis that the proponent company is not the generator of the waste material and as such the decision to do nothing would simply place the responsibility of disposal back to the generator. However, on the basis that the waste is being produced and requires some form of disposal, the do nothing option is not a realistic consideration from the point of view of the generator. Further to this, the EIS indicates that this option would lead to the potential closure of the current landfill and job losses with subsequent social and economic impacts. This argument needs to be balanced by the fact that the existing facility was only ever intended to operate for a period of 3 to 5 years and as such employees at the facility should have never had any reasonable expectation that employment would extend beyond its closure, with the exception of site maintenance / monitoring activities. 2. Redirect waste to another facility. This option has been considered by looking at three other existing facilities, being: • Bellette's landfill (Tumut) • Bald Hill Landfill (Jugiong) • Woodlawn Landfill (Tarago) Of the three, the EIS has determined these facilities to be less preferred than the proposal to expand the existing facility. It is noted here that the consideration of this option did not take into account a fourth facility capable of accepting the waste material. This additional facility is the Windellama (Hi Quality) landfill located near Goulburn and has been identified by Visy as being capable of receiving the Visy waste material and is currently receiving waste from Visy. Refer to comments in 32 below. 3. Develop a new waste disposal facility offsite. This option was considered with some investigations being carried out at nominated sites. There is discussion on these sites within the EIS document. It was concluded that the sites considered were either not available for a variety of reasons or had significant environmental and cost implications not to warrant any further investigation.

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	4. Expand the existing waste disposal facility. This is the preferred option of the four considered, subsequently the subject of the current application. Table 5 of the EIS provides a summary of the site assessment considerations, whereby a numerical score was given to each of the options to determine the most suitable. The scores given in Table 5 would not be supported, as while being a very subjective method of assessment, it would be conceivable that different scores could easily be arrived at, particularly for option 2, redirect waste to another site, which in effect would give it a better score than the preferred option. The consideration of alternatives is closely aligned with the requirement to provide a justification for the carrying out of such a development as detailed in Schedule 2 of the Regulation. Justification for such a proposal is based on establishing and validating a need. The need for a landfill would be dependent on there not being any feasible options available for the disposal of the subject wastes and as demonstrated in 32 below there are feasible options available in this particular case. The other main consideration to be balanced against the need is the potential risks to the environment. It is considered that the proposed development has the potential to cause unacceptable risk to the receiving environment and when this is weighted against the overall lack of need for the construction of an additional landfill to dispose of wastes that may be disposed of at other facilities, the conclusion would be that the proposal does not have sufficient justification to proceed.
32. Visy – application for expansion	An issue raised in submissions was reference to an application by Visy for the expansion of the paper production at the Tumut mill to take annual production from 700,000 tonnes to 800,000 tonnes. This application has subsequently been approved by the Department of Planning and Environment. As part of the assessment process for this application, Visy were required to provide more information about their plans to manage waste from the paper production process. In the Response to Submissions dated May 2017, prepared by GHD, Visy provided further information regarding their intended activities to find alternate uses for waste materials, improved separation of contaminants from the cardboard and paper waste streams and identified a number of landfilling options available for the disposal of solid waste. This included arrangements for the disposal of waste for the remainder of the 2017 financial year while the Burra Road landfill was not operational.

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	A summary of the facilities identified in the Visy response and their capacity to receive waste is provided below. 1. MHE (Burra Rd landfill, Gundagai)(45km). This is the facility currently being used and has approximately 6-7 months available space from 4 July 2017. (This would be subject to the final capping and closure plan). Future use of this facility will be subject to the success of the proposed expansion, which would allow 60,000 t/pa to be landfilled with an expected life of 12 – 15 yrs. 2. Bellette's Landfill, Tumut (9.5km). This facility currently has capacity to accept up to 3,000 t/pa. It has been suggested that the site is currently seeking approval for an increase in yearly disposal volume to 15,000 t/pa, however at the time of preparing this report there does not appear to have been any formal applications lodged for this. For the purpose of this assessment it would be assumed that the available capacity would be up to 3,000 t/pa. This site would not represent a long term option. 3. Bald Hill Landfill, Jugiong (90km). This facility has capacity to accept 40,000 t/pa with 25,000 t/pa being reserved for use by the council members of the South West Region Waste Management Group. The operators have confirmed that this facility can take a maximum of 15,000 t/pa of waste from Visy. NOTE: There is some opportunity for this 15,000 t/pa figure to increase if the waste group members determine prior to the end of their reporting period that they will not reach their reserved 25,000 t/pa level for the year, in which case the landfill operator could receive the balance to make up the annual 40,000 t/pa volume from other sources within the group area. This facility has accepted Visy waste while the current Burra Road facility was not operational. For the purpose of this assessment it would be assumed that this site could only receive up to 15,000 t/pa, which may include other private waste from within the group area. 4. Woodlawn Landfill, Goulburn (Veolia) (260km). This facility is licenced to accept over 1,000,000 t/pa and currently may accept up to 50,000 t/pa of regional waste by road. This may be increased to 130,000 t/pa subject to the site meeting some conditions of the Woodlawn Project Approval, thereby providing the capacity to take all the Visy waste. Visy has indicated that the Woodlawn facility is interested in a long term arrangement and has the capacity to accept all the waste from Visy.

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	5. Hi Quality Landfill, Goulburn (260km). This facility is licenced to accept up to 120,000 t/pa until 2046 (further 29 years). This facility currently has a draft contract in place with Visy with a guarantee to provide 15,000 t/pa. Visy has utilised this facility to dispose of waste while the current Burra Road facility was not operational. This facility has indicated that it has the capacity to accept all of the Visy waste. The Visy response has indicated that the requirement for offsite reuse or disposal will increase from 71,245 t/pa to 84,515 t/pa. The proposal for the Burra Road landfill expansion, if approved, would provide an annual disposal rate of 60,000 t/pa and as such would leave approximately up to 24,500 t/pa to be disposed of at other sites. The EIS provided at attachment #5 a letter of support from Visy management in which it states that: <i>"The Burra Road Landfill site completely supports Visy's landfill requirements and is also more environmentally sustainable and cost effective than alternate landfills with much greater haulage distances"</i>. This statement appears to be inconsistent with Visy's own figures regarding waste tonnages to be disposed of in light of the fact that at this point in time no other waste reduction or alternate uses have been identified that would significantly reduce the amount of waste going to landfill. In addition to this, the statement that the Burra Road facility would be more environmentally sustainable than the other facilities identified would not be supported, given that the other major alternate landfill facilities have already obtained all necessary approvals/licences based on their ability to demonstrate acceptable environmental performance. The Burra Road facility would however be a more cost effective location with regard to transport costs when compared to all but the Bellette facility at Tumut. It is noted here that the pricing structure of the individual facilities is outside the scope of this report and does not form part of any comparative environmental assessment between facilities.
33. Spillage from trucks	Some submissions have raised concerns regarding leakage/spillage from trucks. The bodies of the trucks used to transport the waste materials are a fully sealed construction and are fitted with covers to protect from any windblown material leaving the vehicles.

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	With regard to leakage (liquid spills) proper maintenance of the truck bodies (door seals) should prevent this, however there has been one recent event where liquid has been detected leaking from a truck. There were comments in relation to a black substance (dust) emanating from the trucks and being deposited on private property along the haul route through the town area. No specific evidence of this has been witnessed by Council at this time.

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34. Material is not toxic	One submission simply stated that the material is not toxic. The material to be placed at the facility will be the same as is currently being disposed. The material is classified as General Solid Waste (Non-Putrescible). The term "toxic" is not used to describe wastes under the NSW EPA Waste Classification Guidelines. Any waste materials that may have a toxic nature would be specifically classified as Special Wastes. Comments about waste composition are also included at 27 previously in this table.
35. Job security for current employees	A number of submissions have highlighted the benefit the proposal would provide for the continued employment of the existing employees. The proposed facility is estimated to provide continued employment for a further 12-15 years for current employees. While this is a consideration and a likely outcome of the proposed expansion, it should be noted that the existing facility was only approved as a short term measure and employees engaged at the facility could have only had reasonable expectations that this work would be for the life of the facility, which was a period of 3 – 5 years, with some post closure monitoring/maintenance activities to continue beyond that period. It has been identified in documentation from the applicant that there may be additional employment opportunities. The construction phase of the facility would create work for either employees or contractors for a period of sixty (60) business days over a four (4) month period. Ongoing operations may provide some additional employment, with an additional two (2) being suggested, although as the rate of filling will remain similar it is not clear where the additional jobs will be post construction. It could be reasonably assumed that if the proposed expansion did not proceed and the waste material needed to be transported to other locations, then MHE would be in a position to tender for the loading and transport of the waste materials, given the fact that the vehicles used are specifically designed for transporting the waste material.

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	While there may be some jobs not retained at the landfill site, the additional waste tonnages and haul distances may create the potential for additional jobs involved in transport, if this was pursued. The potential for alternate employment opportunity has not been recognised or discussed in the EIS documentation.
36. Economic benefits to local businesses	Several submissions identified the positive economic flow on from the proposal by way of providing activity for local businesses. The applicant has provided an addendum to the EIS which identifies a number of local and regional businesses that provide / perform various goods and services for the operation of the facility. This addendum however, does not provide any comment in relation to the possibilities of continued employment / service delivery in the circumstance of the waste material being transported to other locations as identified in 35 above. A submission from the owner of the site has identified that royalties from the current operation have provided the finances to expand his business (Gundagai Bee Farms) and employ an additional four people. The submission also states that if the proposed facility does not go ahead then these people will need to be retrenched. There was no discussion as to why the already expanded business could not continue to support the additional employees, who would be involved with processing and transport of the honey product, which is unrelated to the operation of the landfill.
37. Operation only in daylight hours	One submission has indicated that the activity would only be operating in daylight hours, thereby reducing impacts associated with traffic safety and noise impacts. This statement is correct, as the hours of operation are matters that would be covered both in conditions of consent and EPA licencing of the facility and would be restricted to reasonable daytime hours.
38. OK if approved by EPA	One submission states that if it is approved by the EPA then it will not cause any undue environmental impacts. This statement is self-explanatory. The facility may only operate if it is granted a consent and issued with a pollution licence from the EPA. If General Terms of Approval and a subsequent licence were issued in conjunction with a development consent, it could reasonably be considered that the proposal has the capacity to operate within an acceptable level of potential for environmental risk or harm.
39. No concerns of environmental harm	Some submitters stated that they had no concerns of environmental harm as a result of the project. While this statement was made in submissions there was no supporting evidence or discussion provided as to why the conclusion was reached.
40. Proponent supports local	Several submissions were received from representatives/members of various sporting organisations within the area identifying the good level of support that has been given by MHE.

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sporting clubs / organisations	While this is a matter for consideration under the realm of social considerations and public interest, the information provided is more associated with past operations. The current proposal does not identify any ongoing support for local organisations, however the submissions make a clear inference that if it is not approved then support for local organisations may reduce or cease.
41. Suitable location	A number of submissions raised the following two issues in relation to the proposed site: i) That it makes sense to use a former quarry site for a landfill; and ii) The location is suitable because it is in close proximity to the Council waste facility. With regard to the first matter, this response would tend to indicate that a number of people supporting the proposal did not have an understanding of what the proposal consisted of and therefore not of relevance to the application being assessed. With regard to the second issue, while the Council waste facility is close by, that facility is now more concentrated on being a transfer facility for the bulk of wastes, including domestic wastes and recycling materials, which is consistent with regional waste strategies to reduce the number of landfills.
42. Proponent runs a legitimate business	Some submissions stated that the proponent runs a legitimate business and as such there should be no issues with the new proposal. This would primarily be in reference to the existing operation, which is not the subject of this assessment. It would however be taken as a vote of support that any future operation would also be a legitimate undertaking.
43. Malicious campaign	One submission provided a statement that a malicious campaign by some did not represent the views of the wider community. It is assumed that this statement is perhaps more directed to issues raised in a previous application. The assessment process for the application under consideration has given the opportunity for members of the community to provide input and raise any matters both for and against the proposal. The purpose of the assessment process is to identify and investigate issues raised in determining whether or not a development proposal meets acceptable standards and mitigates the risk of environmental impacts to an acceptable level. As to whether or not issues raised are within the views of the wider community would be very difficult to quantify and outside the scope of this report.
44. Current facility is of World Class standard	Some submissions commented that the current and proposed facilities will have no impact on the environment and that the current facility is of world class standard. With regard to environmental impact, these submissions did not provide any discussion as to why this was the case, or reference to any technical reports.

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	As identified previously the current facility is not the matter under consideration, however it can be taken that this represents an endorsement for the operator of the facility and that any future facility would be operated to a similar standard.
45. Will improve environment of degraded lands and gully	This matter was raised in submissions and would generally relate to the proposed work involving the diversion of the gully. It is noted that the gully upstream of the proposed diversion is relatively degraded as a result of historical uses for grazing and land clearing. The technical specifications for the gully diversion, including slope, rock stabilisation of banks and the bed, as well as revegetation and fencing out of the riparian corridor should result in improved conditions with regard to erosion potential. There would also be improvements expected in habitat creation due to revegetation works along the riparian corridor. The requirements for this work would be specified in any General Terms of Approval issued by the DPI-Water and would be subject to conditions of approval to ensure ongoing maintenance of the riparian corridor of the gully as well as Sprillbry Creek downstream of the gully intersection.
46. Waste is only a small portion of the Visy recycling process.	This issue was raised in submissions in the context that the waste material to be landfilled only forms a small component of the overall cardboard and paper recycling process undertaken by Visy. The submission provided no discussion or comparative measures to support the statement and therefore it would be necessary to consider this point in the context of the newly approved expansion application for the Tumut facility and the figures provided in the Response to Submissions document prepared by GHD dated May 2017. With regard to the future operations, with the input of materials to be approximately 2,280,000 t/pa with a solid waste volume of 84,515 t/pa or a waste volume representing approximately 3.7% of inputs. With an intended production of 800,000 t/pa the waste stream represents approximately 10.5% of production. While these percentage values of the waste component are relatively low, the disposal of 84,515 t/pa represents a significant volume of material to go to landfill. As a way of providing a comparison, the general domestic waste landfilling requirements for the local government areas of Cootamundra-Gundagai, Hilltops, Snowy Valleys and Yass Valley, being the members of the South West Region Waste Management Group using the Bald Hill facility at Jugiong, is 25,000 t/pa. This provides the needs of a population of approximately 61,400 people, based on 2016 census figures. Therefore the 60,000 t/pa disposal rate for the Burra Road expansion proposal represents by volume comparison, the general landfilling

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	needs of a population of approximately 140,000 people and as such in the local context, is a significant volume of waste to be dealt with in a small community.
47. Support for integrity of operator	One submission stated that the landfill proponent will operate in accordance with the rules. This would be taken as a personal reference for the integrity of the operator and most likely based on personal knowledge of the proponent. The rules as such would be in the form of conditions of consent and any other licence or controlled activity conditions and a breach of these would be subject to various enforcement actions.
48. Improvements to access road and former quarry	One submission highlighted the improvements to the access road and the rehabilitation of the former quarry as being a benefit of the proposal. These comments would be more directed to the existing development.
49. Traffic	Some submissions commented that trucks have caused no problems. A submission by a school bus operator along Burra Road stated that there has never been any issues regarding safety of passengers as a result of the trucks entering and leaving the landfill.
50. Expert knowledge	A number of submissions identified that if the proposal was not approved then this would result in the loss of expert knowledge in waste management systems. This is not necessarily the case as this knowledge could be applied in various locations. Also a significant proportion of expert knowledge as such is obtained from consultants etc. from outside of the local area.
51. Support for consultants' reports	Some submissions indicated support for the reports from consultants, indicating that their recommendations would assure the prevention of any environmental harm. Also Council should disregard any false information put forward by those opposing the development. The veracity of consultants' reports is obviously one of the main considerations in the overall assessment process. As well, the assessment process is charged with identifying incorrect information from any party.
52. Endorsed by Council	One submission contained a statement that <i>"the landfill on Burra Road is the proposed landfill for the Gundagai community and therefore endorsed by the Council on its website"</i> . This statement is incorrect and there is no such endorsement by the council.
53. No issues by an adjoining owner	One submission from an adjoining land owner provided support for the proposal and indicated that no impacts had been experienced on his land. It should be noted that the land in question adjoins other land under the same ownership as the landfill site. The adjoining owner's land does not directly adjoin the landfill site, is grazing land with no dwelling and is separated by a natural ridgeline and distance of approximately 930 metres to the proposed new landfill cell and as such is well screened from the landfill site.
54. Closure of the site	A number of submissions made references to the closing of the existing site being the outcome if the current proposal did not proceed. These comments were obviously the result of some

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	submitters not understanding the purpose or scope of the proposal. The expansion proposal is a separate issue to the closure of the existing facility and is being assessed individually. The existing facility is subject to a closure plan and that will continue independently of the outcome of the new proposal.
55. Compliance with Guidelines	A few submissions state that the proposal meets siting criteria of the EPA Guidelines 2016. One submitter has also stated that the proposal goes beyond EPA guideline requirements. The issue of siting and site suitability has been assessed previously in the report and the outcome of that assessment would not support these statements.
56. Potential to jeopardise Visy operation	One submission stated that If Visy cannot find a viable option then the recycling process will become unfeasible causing 220,000 t/pa to go to landfill. It would be taken that this submitter is indicating that the Burra Road proposal would be the only viable option for the disposal of the waste. This would not be supported for reasons set out at 31 & 32 above.
57. Value of recycling to region.	One submission stated that the recycling at Visy is vital for the environmental sustainability of the Riverina region and surrounds. This statement would not be fully supported, as while the location of this industry (Visy) provides significant economic benefit to the region, the population with the overall benefit from the recycling industry is far greater than the Riverina region. Further to this, this assessment would conclude that the proposed location of the landfill would not result in a sustainable environmental outcome given the inherent risks to the receiving environment.

79C (e) The Public interest

The public interest in relation to a development application can cover a broad range of issues, some beneficial, some detrimental. It is noted that “public interest” is not a defined planning term and as such the issues that may be considered will be different for various development proposals. The EIS provides comment on this issue at Cl. 12.1.8 and states that:-

“The public interest has been acknowledged, supported and upheld in proposing the subject development”.

The EIS identifies three steps commonly referred to for the consideration of the public interest.

1. Identify the public whose interests are to be considered.

Comment: The EIS, in this consideration, identifies the public as being the “wider local community”, however there is a strong inference in the EIS documentation that the proposal supports National, State and Regional waste management strategies, which demonstrates that the proposal is not necessarily serving any specific local community interest or needs, with regard to waste management/recycling, other than the relatively minor proportion of the overall paper recycling volumes that may be attributed to the local area. Therefore it is considered that the main public benefit

from the proposal would be enjoyed predominantly and indirectly by the larger population centres of New South Wales as well as other recipients outside of New South Wales.

It should be noted here that the proposed landfill expansion is primarily a private commercial undertaking and is therefore not considered to be for a public purpose as its core function.

In the local context the proposed activity does have some capacity to provide employment for members of the local community and wider local community along with some support of local businesses in the provision of goods and services.

In summary, the public whose interests are to be considered will include to varying degrees, the local community, regional community, state and national community.

2. Identify the public interests applicable to the issue, either beneficial or detrimental.

Comment: Identification of the main public interests to be considered can be largely informed by the content of submissions provided both in support and against the proposal. The predominant beneficial interests would include:

- *Employment;*
- *Support for local and regional businesses; and*
- *Support for an established waste paper recycling process of national, state and regional significance.*

The predominant detrimental interests would include;

- *Loss of amenity for adjacent properties and the local area;*
- *Possible loss of value of adjacent properties;*
- *Risk of harm to the receiving environment, with particular regard to surface and groundwater impacts.*

The EIS, under this consideration, identifies that the disposal of non-recyclable materials from a resource recovery process (Visy) "that has been put in place to deal with regional recyclable waste" is in the public interest. It would not be considered that the Visy mill at Tumut was put in place to deal with regional recyclable waste and as such, while that operation does have a public interest component, the public whose interest is being served by the resource recovery process is far greater than that of the regional area.

3. Consider the weighting of each public interest, including balancing competing interests.

Comment: The weighting of each public interest is difficult to represent on a purely numerical basis in all cases as it involves various considerations such as social and amenity impacts, which are prone to be considered on a more subjective level.

The EIS, under this consideration, basically eludes to the proposal being conducted in accordance with all planning, environmental and economic policies and strategies, with a statement that the public interest has been given considerable weight, without providing any particular weighting to the competing interests as partly identified at point 2 above.

It is acknowledged that if the proposed development was to proceed then there would be definite flow on benefits in relation to continued employment for existing employees, contractors and local service providers, with these forming the basis of economic impacts for the local area. However, the information provided to support this point has not provided any comparative information to discuss

other likely impacts should the proposal not proceed, other than to simply state that if the proposal is not supported then all plant and transport vehicles will have to be liquidated/sold immediately.

This point of view does not investigate the alternate opportunities that would be available for existing employees and service providers. As indicated in the addendum material, the transport vehicles are specially designed for the transport of the subject waste material and as such it would be reasonable to assume they could still be utilized for that purpose. The material would still need to be loaded at the source and with this in mind it is considered that while there may be less employment at the Burra Road site, there would still be employment involved with the loading and transport of the waste material as well as provision of support/maintenance services for the transport vehicles.

With regard to these activities it should also be recognized that the volumes of waste material to be transported from the source will increase and therefore create a greater demand for transport related activities, be they local or regional.

Environmental impacts need to be considered in relation to risk versus public benefit. The proposed development is not intended to meet any essential public or community need. Its purpose is primarily to provide a private commercial opportunity and therefore the degree of environmental risk for such a proposal should be weighted in relation to the justification of the proposal, in order to meet public expectations. In this particular case it is considered that the degree of environmental risk is not acceptable when considered against the public benefit it may bring to the local community.

It is considered that a predominant public interest issue in relation to this development proposal is the equity issue regarding the disparity between the population with the main benefit from the proposal and the population with the main burden in the form of environmental risk and loss of amenity.

The weighting of public interest considerations may be further informed by consideration of the four principles of ecologically sustainable development (ESD).

- (a) The Precautionary Principle** – namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:
- (i) Careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and
 - (j) An assessment of the risk-weighted consequences of various options.

Comment: With regard to the precautionary principle it is considered that the assessment and investigation of the proposed development has raised doubts as to the adequacy of the proposal to prevent risks of environmental harm. While this matter may be disputed by the Applicant there would appear to be reasonable grounds to suggest that proceeding with the development would be counter to this principle. In addition, the assessment concludes that there are other practical options for the disposal of the subject waste, such that any consequences and risks of proceeding with the proposal can be avoided.

- (b) Inter-generational equity** - namely, that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.

Comment: As detailed in other sections of this report there are other options available for the disposal of this waste stream and as such to construct a new landfill in a site subject to potential for

environmental risk would not be considered to meet the objective of inter-generational equity with regard to the maintenance or enhancement of the environment.

(c) Conservation of biological diversity and ecological integrity – namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration.

Comment: Due to its material nature the construction of the landfill, including the proposed gully diversion will have the capacity to impact on this consideration. Given the issue of GTAs for the proposed gully diversion by the NSW DPI-Water, it may be considered that these parameters may be met, subject to strict adherence to any approval conditions with the requisite degree of ongoing site monitoring.

(d) Improved valuation and pricing of environmental resources – namely, that environmental factors should be included in the valuation of assets and services, such as:

- (i) Polluter pays, that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement.

Comment: In this particular case the generator of the waste is the Visy Pulp and Paper Mill and the intention would obviously be that the company would be paying a market rate for the disposal (containment) of the waste.

- (ii) The users of goods and services should pay prices based on full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste.

Comment: It would be assumed that the paper/cardboard products produced by the waste generator (Visy) are sold for amounts commensurate with the cost of production, including the cost of waste disposal.

- (iii) Environmental goals having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms that enable those best placed to maximize benefits or minimize costs to develop their own structures and responses to environmental problems.

Comment: There are many environmental goals established within the context of local and state planning instruments, policies, guidelines and community expectations. With regard to incentive structures and market mechanisms, it is considered that these are more in the realm of government and industry to pursue on behalf of communities, although communities should have input into the form of these structures.

In this particular circumstance where the waste is generated by a single industrial source it would be considered that the company (Visy) would be far better placed to develop their own structures and responses to the environmental problem of waste disposal as opposed to seeking other short term remedies.

In conclusion it is considered with regard to public interest that while the proposal provides a net positive outcome to the broader population of the state, with particular emphasis on metropolitan areas, it provides a lesser benefit to the local population of Gundagai, when weighing potential risks / impacts of the proposed development against any net benefit.

CONCLUSION

After consideration of all relevant matters this planning assessment concludes that the proposed development presents an unacceptable risk to the receiving environment.

That the EIS accompanying the application has not properly considered feasible alternatives to the proposal nor provided adequate justification for the proposed site and that the development should not proceed as detailed in the reasons for refusal.

RECOMMENDATION

It is recommended that the proposed development on land described as Lots 472 & 502 DP 751421 and Lot 2 DP 111917, located at 303 Burra Road, Gundagai, be refused for the following reasons:

Reasons for Refusal

1. The proposed development does not meet the objectives of Clause 6.3 of the Gundagai Local Environmental Plan 2011 for Water Sensitivity, which are “to maintain the hydrological functions of riparian land, waterways and aquifers”, with particular regard to groundwater aquifers;
2. The proposed development is inconsistent with the provisions of the EIS Guideline Landfilling Department of Urban Affairs and Planning September 1996, in relation to site selection procedures, which identifies the site as being fundamentally unsuitable for landfilling due to environmental constraints;
3. The case for feasible alternatives to the proposal has not been adequately assessed in the EIS as required by Clause 7(1)(c) of Schedule 2 of the Environmental Planning and Assessment Regulation 2000, thereby failing to provide adequate justification for the construction of a landfill in the proposed site; and
4. The NSW EPA is unable to support the proposal or provide General Terms of Approval.

Attachments:

- Attachment 1. Response from NSW Environment Protection Authority
- Attachment 2. Response from Department of Primary Industries – Water
- Attachment 3. Response from Office of Environment & Heritage
- Attachment 4. Response from Roads & Maritime Services
- Attachment 5. Response from NSW Food Authority
- Attachment 6. Applicant submission to EPA Response



ATTACHMENT 1

DOC17/488915-15

The General Manager
Cootamundra-Gundagai Regional Council
PO Box 420
COOTAMUNDRA NSW 2590

By email: mail@cgrc.nsw.gov.au

Attention: Brent Livermore

Dear Mr Dwyer

Re Development application 242/2017

I refer to the letter dated 1 May 2017 to the Environment Protection Authority (EPA) from Cootamundra-Gundagai Regional Council providing a copy of Development Application (DA) 242/2017 and an Environmental Impact Statement (EIS) for the proposed expansion of the landfill and waste management facility at Lots 472 and 502 DP 751421 and Lot 2 DP 111917, 303 Burra Road, Gundagai.

Background

The EPA's letter dated 30 August 2016 responded to the Department of Planning and Environment's request for the Secretary's Environmental Assessment Requirements (SEARS 1076) for this proposal, and detailed a range of environmental assessment requirements. The EPA made specific reference to the NSW EPA *Environmental Guidelines: Solid waste landfills, Second edition 2016* (EPA Landfill Guidelines) and the NSW Department of Planning and Environment's *EIS Practice Guideline: Landfilling*, (NSW Department of Urban Affairs and Planning, 1996) in identifying the selected site as being inappropriate for landfilling.

On 4 November 2016, the EPA's Regional Director South & West, Mr Gary Whytcross, met with the proponent and their consultants. Mr Whytcross reiterated the EPA's position that sites should only be developed for landfilling where there is minimum risk to the environment. He also reiterated the EPA's written advice that appropriate siting of a landfill is the primary environmental control and that the EPA considered the proposed expanded site at Burra Road as being inappropriate for landfilling.

Site selection

The EPA Landfill Guidelines list several recognised environmentally sensitive and inappropriate areas for landfilling consistent with Table 1 in the NSW Department of Planning and Environment's *EIS Practice Guideline: Landfilling*, (NSW Department of Urban Affairs and Planning, 1996).

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Griffith NSW southwest.region@epa.nsw.gov.au
2680 Australia

The EPA notes the list of inappropriate areas for landfilling includes –

sites located in or within 40 metres of a permanent or intermittent water body or in an area overlying an aquifer that contains drinking water quality groundwater that is vulnerable to pollution.

The EPA also notes section 4.4 of the NSW Department of Planning and Environment's *EIS Practice Guideline: Landfilling*, (NSW Department of Urban Affairs and Planning, 1996) states amongst other things.

It is inappropriate to locate landfills in areas of high environmental value, or in areas subject to a significant environmental constraint with associated high environmental risks.

On environmental grounds, areas in Table 1 should be excluded from further consideration from the outset.

The EPA's position remains unchanged, in that the proposal being considered, is within 40 metres of an intermittent water body, given the proposed landfill expansion is to occur within an unnamed third order intermittent stream. It is the EPA's view that, consistent with the NSW Department of Planning and Environment's *EIS Practice Guideline: Landfilling*, (NSW Department of Urban Affairs and Planning, 1996) this expanded site should have been excluded from further consideration from the outset.

Assessment of the EIS

The EPA has considered the EIS and all supplementary information provided to date by the proponent and reviewed and considered all the environmental matters raised in the public submissions received by Cootamundra-Gundagai Regional Council and provided to the EPA.

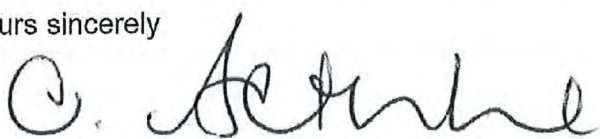
After considering all the available information and in accordance with clause 70(1)(b)(i) of the *Environmental Planning and Assessment Regulation 2000*, the EPA has determined it is unable to provide General Terms of Approval for the proposal.

In addition to the list of inappropriate areas for landfilling outlined above, available data indicates that the site may be fundamentally unsuitable for the proposed development based on the potential for groundwater quality impacts. In assessing the EIS, including the location and the constraints at the proposed site, the EPA considers that the information provided in the EIS does not provide the necessary certainty to the EPA that the potential risks to the environment from the proposed development have been fully and adequately assessed, and that those risks can be adequately prevented, mitigated or managed.

The EPA has a responsibility to ensure that proposed activities that require an environment protection licence can be undertaken in a manner that does not pose unacceptable risks to the environment, the surrounding community or future generations. In this instance the EPA considers that the proposal represents an unacceptable risk to the environment. Further details of our assessment are provided at Attachment A.

If you have any further enquiries about this matter please contact me by telephoning 02 6969 0700.

Yours sincerely



3.11.2017

CRAIG BRETHERTON
Manager Regional Operations South West
Environment Protection Authority

ATTACHMENT A

Site selection - EPA Solid Waste Landfill Guidelines

The appropriate siting of a landfill is the primary environmental control. Location is an important factor in determining the environmental risk posed by a landfill. Judicious selection of a landfill location is the single most effective environmental management tool. The best sites for the potential development of landfills are those sites that pose the minimum risk to the environment. The more suitable sites require fewer engineering and management controls.

Section 4 of the NSW Department of Planning and Environment's *EIS Practice Guideline: Landfilling*, (NSW Department of Urban Affairs and Planning, 1996 available at - <http://www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/~media/200DA87D3DF74E719B5E64D6D7EDD43F.ashx>) lists site selection procedures for landfilling. The principles of site selection for landfill site proposals are listed including –

- environmentally sensitive areas are avoided.

Section 4.1 of the NSW Department of Planning and Environment's *EIS Practice Guideline: Landfilling*, (NSW Department of Urban Affairs and Planning, 1996 states the following –

Site selection is a critical issue for landfill proposals. Appropriate site selection can avoid or reduce many of the environmental problems in landfill proposals, and:

- *reduce the need for technically based environmental mitigation measures and ongoing management measures*
- *result in substantial savings in establishment and operation*
- *reduce levels of public concern, and avoid potential delays in approval processes.*

The NSW EPA *Environmental Guidelines: Solid waste landfills, Second edition 2016* (EPA Landfill Guidelines available at www.epa.nsw.gov.au/resources/waste/solid-waste-landfill-guidelines-160259.pdf) lists several recognised environmentally sensitive and inappropriate areas for landfilling consistent with Table 1 in Section 4 of the NSW Department of Planning and Environment's *EIS Practice Guideline: Landfilling*, (NSW Department of Urban Affairs and Planning, 1996.

The EPA notes the list of inappropriate areas for landfilling includes –

- *sites located in or within 40 metres of a permanent or intermittent water body or in an area overlying an aquifer that contains drinking water quality groundwater that is vulnerable to pollution.*

The EPA Landfill Guidelines recommend that landfills not be sited within 40 metres of a permanent or intermittent water body. The EPA's letter to the Department of Planning and Environment dated 30 August 2016 providing our SEARS requirements for the proposed expansion states that as landfilling will be across an intermittent watercourse the EPA maintained the view that this watercourse is an intermittent waterbody and accordingly this site is in an environmentally sensitive location that is inappropriate for landfilling.

The EIS contends that the diversion of the unnamed stream prior to the landfill site being established will remove its status as an intermittent water body as water will no longer flow in this reach of the stream following the diversion. This unnecessarily disturbs and disrupts the natural environment and hydrology which then requires engineering solutions to attempt to manage the altered surface and groundwater flows. This would create challenges in construction, operation and post-closure phases of the proposed landfill. All of these challenges and potential environmental and amenity impacts could and should be avoided by more appropriate site selection, in accordance with the published Guidelines. Additionally, the EPA considers that site selection for the proposed development should be considered

within the context of the existing environmental conditions at the site rather than those that are proposed after development.

This is supported by the NSW Department of Planning and Environment's *EIS Practice Guideline: Landfilling*, (NSW Department of Urban Affairs and Planning, 1996) section 4.4 that states the following.

4.4 Environmentally sensitive areas

It is inappropriate to locate landfills in areas of high environmental value, or in areas subject to a significant environmental constraint with associated high environmental risks.

On environmental grounds, areas in Table 1 should be excluded from further consideration from the outset. This table may not be exhaustive and there may be other areas of high environmental significance protected under other legislation. As part of the site selection process, early consultation with relevant councils and government authorities will help identify any areas of the type identified in Table 1.

For most sites identified in Table 1, landfills are unlikely to be a permissible land use under existing planning controls. If they are permissible, it is possible that an application for a landfill in these type of areas would be refused on merit grounds. To ensure consistency in the environmental protection of these areas, government authorities responsible for management or regulation of landfill facilities should consider the recommendation of Table 1 in their own landfill policies.

The EPA's position remains unchanged that this proposal is within 40 metres of an intermittent water body as the proposed landfill expansion is to occur within an unnamed third order intermittent stream. Consistent with the NSW Department of Planning and Environment's *EIS Practice Guideline: Landfilling*, (NSW Department of Urban Affairs and Planning, 1996) this site should have been excluded from further consideration from the outset.

EIS - Site suitability assessment

Table 1 of the NSW Department of Planning and Environment's *EIS Practice Guideline: Landfilling*, (NSW Department of Urban Affairs and Planning, 1996) sets out 5 location principles that must be satisfied before determining a landfill development application. This is the assessment of a site's fundamental suitability for a proposed landfill development.

The EPA notes the Gundagai Local Environment Plan (LEP) classifies the development site as Sensitive (e.g. Natural Resources Sensitivity Water Map - Sheet NRW_007). An assessment of the proposed development site under the EPA's UPSS Sensitive Zones Criteria also identifies the development to be within a sensitive zone. The EPA's UPSS environmentally sensitive zone criteria provide a conservative assessment of areas that have the potential to be adversely affected by contaminated groundwater, (e.g. groundwater bores, rivers, lakes etc).

Additionally, as the Gundagai LEP classifies the development area as Sensitive, the LEP requires the consent authority to consider any adverse impact from the proposed development on, amongst others, the flows, capacity and quality of groundwater systems before determining a development application for development on land to which this clause applies.

When evaluating a development application, the primary consideration is the proposed development's potential impact. It has been established that an increase in salinity and major ions has occurred since the construction and operation of the landfill cell within the former quarry. The EIS concludes that, at present, *"there is insufficient data to verify the cause of the change in water quality at P1"*. Despite this data gap, no new lines of evidence are provided in the EIS. Analysis is limited to an updated desktop assessment of monitoring data, which has previously proven inconclusive. No new monitoring points were installed, water quality around P1 was not delineated, and no other, cost-effective, techniques were used to assess the cause of the water quality changes (e.g. geochemical reaction modelling, laboratory benchtop trials, geophysical liner assessments).

In the absence of a sound explanation of the processes controlling groundwater quality at P1, it must reasonably be assumed the changes are the result of existing operations. By extension, it must also be assumed that further development could also impact groundwater quality at the site.

The diversion of the third order stream will have unknown impacts on surface and groundwater quality and these have not been assessed in the EIS.

As the EIS does not propose an alternative mechanism for the water quality changes at P1, the EPA cannot determine what impact the proposed landfill expansion will have on groundwater quality at the site. Therefore, the EPA cannot validate the proponent's statements made in the EIS regarding compliance of the site with the NSW Department of Planning and Environment's *EIS Practice Guideline: Landfilling*, (NSW Department of Urban Affairs and Planning, 1996) location principles or the LEP assessment requirements for sensitive lands.

The EPA considers the EIS is deficient in demonstrating the site's fundamental suitability for the proposed landfill development, or that no further deterioration in the quality of the groundwater will occur, and that no existing or likely future uses of groundwater will be compromised from the proposed development.

EIS - Groundwater impact assessment

The EIS demonstrates the existing development may have had a significant impact on groundwater quality downgradient from the current landfill. Monitoring data shows water quality has progressively degraded at groundwater monitoring point P1 compared to surface water and upgradient groundwater since monitoring began at the site in 2014.

The expansion of the landfill has the potential to further alter the hydrogeochemistry of the area through modifying flow paths for both surface and groundwater. It is uncertain whether the diversion of the unnamed third order non-perennial stream with a catchment area of 75 hectares will further impact upon the water quality.

If the explanation of the increase in salinity in P1 provided in the McMahon report is seen as a contributor to the change in water quality then further development at the site may produce more widespread groundwater mounding as impermeable barriers associated with the expansion of the landfill and associated works are put into place. However, as the water quality changes associated with the disconnection of surface flows in the reach of the unnamed creek downstream of the proposed landfill have not been assessed in the EIS the EPA is unable to determine what impact this will have on groundwater quality at the site.

In addition, the unnamed creek has been reported to have little flow following extensive rainfall. This indicates that most of the rainfall infiltrates to groundwater or occurs as subsurface flow. Therefore, consideration of subsurface flows and changes to water quality through the diversion of surface waters and construction of the landfill should have been assessed in the EIS.

The EIS does not provide discussion on the impacts of channel diversions on the local groundwater flow regime, and its potential impact on groundwater quality at the site.

It is uncertain from the EIS whether the additional proposed works within the third order stream will result in much broader changes to the groundwater quality within the catchment and within Sprilbry Creek. For example, preferential pathways may be formed through the excavation activities and the compacted landfill liner has the potential to form a physical impermeable barrier to subsurface/groundwater flow paths resulting in the dissolution and mobilisation of ions and increasing salinity as evidenced in the water quality changes for monitoring bore P1. Given the changes to the groundwater quality in P1 attributed to the current landfill development the EPA considers there is potential for these changes to be magnified through the proposed expansion and this has not been assessed in the EIS.

The EPA also understands there are five groundwater bores identified as stock and domestic bores within a 1.2 kilometre radius of the proposed expansion to the landfill. These groundwater bores have standing water levels ranging from 9.9 metres through to 68 metres. There has been no assessment in relation to the potential impacts of the proposed development upon the quality and quantity of groundwater in these bores.

EIS - Surface water impact assessment

A number of environmental assessment requirements related to the surface water impact assessment were not adequately addressed in the EIS. The EPA's 'stop the clock' letter of 1 June 2017 (our reference DOC17/254345-13) identified these issues and requested additional information to address these. The additional information provided by the proponent does not adequately address some of these issues. The matters of concern are discussed below.

Assessment of potential impacts of managed overflows from the leachate management system

The EPA's environmental assessment requirements included the following.

Identify and estimate the quantity of all pollutants that may be introduced into the water cycle by source and discharge point including residual discharges after mitigation measures are implemented. Describe the nature and degree of impact that any proposed discharges will have on the receiving environment, including consideration of all pollutants that pose a risk of non-trivial harm to human health or the environment.

To provide further guidance on this requirement, the EPA's 'stop the clock' letter also made the following recommendations:

The proponent should assess the potential impact of managed overflows from the leachate management system. In particular, this assessment should address the following:

- *include a characterisation of the discharge in terms of concentrations and loads of pollutants;*
- *consider the Water Quality Objectives (WQO's) of the receiving environment; and*
- *make reference to relevant ANZECC (2000) trigger values.*

The revised EIS does not adequately address these requirements as it does not provide a characterisation of the discharge in terms of concentrations and loads of pollutants or assess the potential impact of these on the environmental values of the receiving waterways.

Assessment of potential impacts of construction and operation stage stormwater discharges

The EPA's environmental assessment requirements included the following.

Identify and estimate the quantity of all pollutants that may be introduced into the water cycle by source and discharge point including residual discharges after mitigation measures are implemented. Describe the nature and degree of impact that any proposed discharges will have on the receiving environment, including consideration of all pollutants that pose a risk of non-trivial harm to human health or the environment.

To provide further guidance on this requirement, the EPA's 'stop the clock' letter stated the following: *The proponent should characterise construction and operation stage stormwater discharges in terms of the concentrations and loads of pollutants and assess the potential impact on the receiving environment. This should align with the environmental assessment requirements, in particular with regard to consideration of the WQO's for the receiving waters and the relevant ANZECC (2000) trigger values.*

The revised EIS does not adequately address these requirements.

Table 2 of *Addendum 1* to the *Hydrogeological, Hydrological & Land Assessment* provides analysis results of surface water samples collected on 5 July 2017. The revised EIS compares these results to drinking water guidelines, but other relevant guidelines (e.g. aquatic ecological health) are not considered.

A sample collected from the stormwater pond had elevated concentrations of oxides of nitrogen (220 µg/L; NO_x) and ammonia (1,470 µg/L) relative to the ANZECC (2000) trigger values for upland rivers (15 and 13 µg/L respectively). The EPA Landfill Guidelines identifies ammonia as an indicator of landfill leachate.

NO_x and ammonia concentrations at the Sprilbry Creek upstream site were both 10 µg/L, below the ANZECC (2000) trigger values for upland rivers. At the downstream site, NO_x and ammonia concentrations were 160 and 30 µg/L respectively and exceeded the trigger values. These increases indicate potential pollutant inputs to the creek between these sampling sites, but this is not discussed in the EIS.

The EIS indicates the stormwater pond will be designed and managed to be consistent with *Managing Urban Stormwater, Soils and Construction* (Landcom, 2006). The erosion and sediment controls recommended by Landcom (2006) may not be suitable to manage stormwater containing pollutants other than 'clean' sediment at levels that pose a risk of non-trivial harm to human health or the environment. Given that it appears some other pollutants are at non-trivial levels in the stormwater, other measures may be needed to avoid or minimise pollutant discharges but this is not considered.

Water balance for the stormwater management system

The environmental assessment requirements included the following.

Include a water balance plan for the development that includes the following:

- a) *water requirements (quantity, quality and source(s)); and*
- b) *proposed storm and wastewater disposal, including type, volumes, proposed treatment and management methods.*

The EPA's 'stop the clock' letter stated that these requirements had not been adequately addressed and reiterated the following requirement.

The proponent should assess the water balance for the stormwater management system, estimating the frequency and volumes of controlled discharges and managed overflows.

The revised EIS does not include a water balance for the stormwater management system.

Leachate management and disposal

The environmental assessment requirements included the following.

Include a water balance plan for the development that includes the following:

- a) *water requirements (quantity, quality and source(s)); and*
- b) *proposed storm and wastewater disposal, including type, volumes, proposed treatment and management methods.*

The EPA's 'stop the clock' letter requested clarification regarding leachate management and the associated water balance:

As Cell 3 will be constructed over parts of Cells 1 and 2 and would involve partial removal of the cap over these cells, and the existing and new leachate management systems will be interconnected:

- *the leachate water balance should include both the existing and new leachate management systems, demonstrating both the existing and new leachate ponds will be managed to provide capacity to capture direct rainfall up to the 1 in 25 year 24 hour storm.*

The revised EIS does not adequately address these requirements.

Monthly time-step water balance modelling is presented for a 10th percentile, median and 90th percentile rainfall year. The model predicts net leachate generation will range from approximately 1.5 ML in a dry year to approximately 4 ML in a wet year. This indicates the leachate pond is likely to reach capacity in the first 2 to 4 years.

The proponent states that excess leachate will be tankered offsite for disposal "if required". Once the leachate pond is full, approximately 1.5 to 4 ML of leachate will need to be disposed of per year, amounting to a substantial number of tanker loads. However, the revised EIS does not provide an estimate of the typical (over the life of the project) number of tanker loads expected to be required per year to maintain capacity in the leachate pond.

Water Quality Objectives (WQOs)

The environmental assessment requirements included the following.

Assess the significance of any identified impacts including consideration of the relevant ambient water quality outcomes. Assessment for discharge to surface waters should be guided by using the ANZECC Guidelines and Water Quality Objectives in NSW (DEC, 2006) and using local Water Quality Objectives determined from the NSW Water Quality and River Flow Objectives (DEC, 2006).

Demonstrate how the proposal will be designed and operated to achieve the following:

- a) protect the Water Quality Objectives for receiving waters where they are currently being achieved; and*
- b) contribute towards achievement of the Water Quality Objectives over time where they are not currently being achieved.*

The EPA's 'stop the clock' letter requested the following.

The proponent should identify the WQO's of the receiving waters and should consider these when assessing the potential impacts of construction and operation stage discharges.

The revised EIS identifies the WQO's but does not adequately consider these when assessing the potential impacts of discharges (See Point 2 above).

Surface water monitoring

The environmental assessment requirements included the following related to surface water monitoring.

The monitoring program must be able to demonstrate that groundwater or surface water is not being polluted by the landfill. This must include upstream/up-gradient monitoring and downstream/down-gradient monitoring, and background monitoring. Describe how predicted impacts on surface water, groundwater and aquatic ecosystems will be monitored and assessed over time, including monitoring locations, relevant parameters, and sampling frequency.

Include a Trigger Action Response Plan (TARP), or similar response management plan, to identify appropriate trigger values and criteria and provide appropriate response actions if impacts are identified through the monitoring program.

The EPA's 'stop the clock' letter reiterated these.

The proponent should describe how surface water and groundwater will be monitored and assessed to ensure detection of any potential impacts, including monitoring locations, relevant parameters, and sampling frequency. The surface water monitoring program should include monitoring of leachate ponds, sediment retention ponds and upstream and downstream stream sites.

The revised EIS does not adequately address these requirements as it does not provide details of how potential surface water impacts will be assessed or include monitoring of the leachate pond or sediment retention pond(s). In particular, the revised EIS does not identify assessment criteria, derived with reference to the ANZECC (2000) trigger values, or management actions that will be implemented in response to exceedances of assessment criteria.

The proposed downstream monitoring site on Sprilbry Creek is approximately 600 metres downstream of the site. Considering the elevated pollutant concentrations reported at this site, an additional monitoring site, immediately downstream of the landfill on Sprilbry Creek, would be needed to detect potential surface water impacts from the premises.

The revised EIS suggests "reference water quality conditions for each monitoring site" will be determined based on the initial 12 months of monitoring and trigger response levels will be developed based on the variation from the mean. It may be appropriate to compare later monitoring results with those from the first 12 months to track any changes. However, the first 12 months monitoring results will not provide an appropriate reference or baseline for water quality as surface waters could potentially already be impacted and are unlikely to be representative of slightly to moderately disturbed condition.

The inability to adequately address these issues demonstrates that the EIS and all supplementary information provided do not provide certainty that the potential risks to the environment from the proposed development have been adequately considered and assessed, or can be adequately mitigated.

EIS – Air Quality Impact Assessment

The EIS includes a Level 2 contemporaneous assessment as per the *Approved Methods for Modelling and Assessment of Air Pollutants in NSW* (the Approved Methods), for the construction phase of the proposal. The Level 2 assessment predicts the potential for one additional exceedance of the PM₁₀ impact assessment criteria at two of the assessed receptors (Receptor R1, and Receptor R2), for PM₁₀. These are outlined below.

Predicted additional exceedances (24 hour averaging period)

Receptor	Cumulative PM ₁₀ Concentration	Background PM ₁₀ Concentration	Project Increment PM ₁₀ Concentration
R1	54 ug/m ³	34 ug/m ³	20 ug/m ³
R2	53 ug/m ³	39 ug/m ³	14 ug/m ³

The EPA notes the EIS states "Water spray activities and haul road dust suppression can reduce construction phase activity emissions by 50% according to the *Emission Estimation Technique Manual for Mining Version 3.1, 2012*. The inclusion of these mitigation measures would approximately reduce the landfill construction emissions by 50% and the 24-hour PM₁₀ concentration would be below the impact assessment criteria of 50 ug/m³".

Based on this information it is unclear if the assessment has incorporated control factors for wet suppression into the modelled emissions. The EPA understands that wet suppression is proposed for controlling construction particulate emissions but the EIS does not outline what those controls are.

Despite the predicted exceedances the EIS does not clarify the control efficiencies for all emission controls included within the construction phase assessment. Similarly, where controls have not been included and exceedances of the impact assessment criteria are predicted the EPA cannot be certain that these impacts can be adequately prevented or managed.

Assumptions for Construction

The EPA requested further information on the assumptions included for construction noting the 60-day construction timeframe, and the design capacity of 486,000 m³. Initial comments made during exhibition were on the understanding that up to 486,000 m³ may be excavated given the design capacity of the additional cell. We understand –

- that the quantity of material to be excavated for the construction of the additional Cell is approximately 50,000 m³; and
- that the quantity of material to be excavated for the diversion of the gully is approximately 174,000 m³.

The EIS did not demonstrate that the estimated emission rates for the construction phase are based on the maximum intensity (i.e. the maximum quantity of material proposed to be excavated and handled).

EIS - Road Traffic Noise Assessment

As explained in the Surface water impact assessment the EIS states that excess leachate will be tankered offsite for disposal "if required". Once the leachate pond is full, approximately 1.5 to 4 ML of leachate will need to be disposed of per year, amounting to a substantial number of tanker loads. The EPA notes that the Road Traffic Noise Assessment does not appear to include these vehicle movements in the assessment of the potential impacts from road traffic noise.

Other

The *Protection of the Environment Operations Act 1997* Clause 45 also details several matters to be taken into consideration by the EPA in exercising its licensing functions. Clause 45 (b) requires consideration of ecologically sustainable development which includes an assessment of the risk-weighted consequences of various options, inter-generational equity (the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations) and the polluter pays principle (those who generate pollution and waste should bear the cost of containment, avoidance or abatement).

The EPA considers that the proposed development has not made an adequate assessment of the various options to minimise overall risk to the community in that the submitted EIS has neither adequately considered alternatives to landfilling for the waste that will be received at the premises nor has there been an adequate assessment of other sites in less environmentally sensitive areas.

The EPA notes that the proposed expanded landfill will only accept waste generated from the Visy Pulp and Paper Mill at Tumut. In reviewing a recent planning application for an increase in production at the Visy mill the EPA notes that Visy has alternative options for disposal of this waste. This information is outlined in the report titled "*Visy Pulp and Paper Tumut mill maximum production tonnage limit – Section 75W Response to submissions*" dated May 2017 and available on the Department of Planning and Environment website at https://majorprojects.accelo.com/public/2bc83bf61ee73a0a49d6a4736bd6f501/RTS_Visy%20Tumut%20Mill%20Increase%20in%20Production%20Capacity_MP%2006_0159%20MOD%203_May%202017.pdf.

Given the potential risks to the environment the EPA does not believe there is a justifiable need for the further development of this site.

In accordance with the principles of ecologically sustainable development as enshrined in the legislation constituting the EPA, the *Protection of the Environment Administration Act 1991*, the EPA considers a precautionary principal approach to this matter is required to be taken.

ATTACHMENT 2



Department of
Primary Industries
Water

Contact: Bob Britten
Phone: 02 6491 7809
Fax: 02 6492 3019
Email: bob.britten@dpi.nsw.gov.au
Our ref: 40 ERM2017/0462
Our file:
Your ref: DA 242/2017

**Cootamundra Gundagai
Regional Council**
Document Received

02 NOV 2017

File No.....

Initials _____

The General Manager
Gundagai Shire Council
PO Box 34
Gundagai NSW 2722

Attention: Brent Livermore

1 November 2017

Dear Brent,

Re: Integrated Development Referral – General Terms of Approval
Dev Ref: DA 242/2017

Description of proposed activity: Channel diversion and expansion of landfill.
Site location: 303 Burra Road, Gundagai NSW

I refer to your recent letter regarding an integrated Development Application (DA) proposed for the subject property. Attached, please find DPI Water's (formerly the NSW Office of Water) General Terms of Approval (GTA) for works requiring a controlled activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 91A (3) of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, DPI Water requests that these GTA be included (in their entirety) in Council's development consent. Please also note the following:

- DPI Water should be notified if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works on waterfront land (which includes (i) the bed of any river together with any land within 40 metres inland of the highest bank of the river, or (ii) the bed of any lake, together with any land within 40 metres of the shore of the lake, or (iii) the bed of any estuary, together with any land within 40 metres inland of the mean high water mark of the estuary).
- Once notified, DPI Water will ascertain if the amended plans require review or variation/s to the GTA. This requirement applies even if the proposed works are part of Council's proposed consent conditions and do not appear in the original documentation.

- DPI Water should be notified if Council receives an application to modify the development consent and the modifications change any activities on waterfront land.
- DPI Water requests notification of any legal challenge to the consent.

As the controlled activity to be carried out on waterfront land cannot commence before the applicant applies for and obtains a controlled activity approval, DPI Water recommends the following condition be included in the development consent:

"The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council".

The attached GTA are not the controlled activity approval. The applicant must apply (to DPI Water) for a controlled activity approval **after consent** has been issued by Council **and before** the commencement of any work or activity on waterfront land.

Finalisation of a controlled activity approval can take up to eight (8) weeks from the date DPI Water receives all documentation (to its satisfaction). Applicants must complete and submit (to the undersigned) an application form for a controlled activity approval together with any required plans, documents, the appropriate fee and security deposit or bank guarantee (if required by the Office or Water) and proof of Council's development consent.

Application forms for the controlled activity approval are available from the undersigned or from DPI Water's website:

www.water.nsw.gov.au [Water licensing](#) » [Approvals](#) » Controlled activities

DPI Water requests that Council provide a copy of this letter to the applicant.

DPI Water also requests that Council provides DPI Water with a copy of the determination for this development application as required under section 91A (6) of the EPA Act.

Yours Sincerely

R. Britten

Bob Britten
Senior Water Regulation Officer
Water Regulatory Operations, Water Regulatory Operations South
NSW Department of Primary Industries – DPI Water