

DA19/0036 – Waste Disposal Facility (Non-Putrescible Landfill)
Council Additional Supplementary Report Addressing Panel Request of March 2022 Briefing
Steven Cook, Senior Town Planner, 19/4/22

The Southern Regional Planning Panel (SRPP) deferred determination of DA19/0036 pending the provision of an additional supplementary report addressing the following:

- *The Panel requests Council to provide a supplementary report addressing the following:*
 - *The matters raised by the Panel in the previous Briefing Meeting of 15/12/21 as identified above.*
 - *Further advice on the issue of compatible land uses as outlined in the objectives of the SAP.*
 - *Advice on any additional modifications to the original assessment given the information provided in the Peer Reviews.*
 - *Confirm the Panel has been provided with all responses/further information provided by the applicant to Council.*

Regarding the second sub-bullet point above, the matters from the 15/12/21 briefing were identified by the Panel as follows:

Discussion on the need for further advice from Council on the issue of compatible land uses as set out in the objectives of the SAP in light of the peer review reports as well as the other issues identified by the Panel in the last Council Briefing meeting on 15/12/21, including the impact of proposed blasting, the need for a weighbridge facility and the feasibility of excluding fly ash from landfill deliveries.

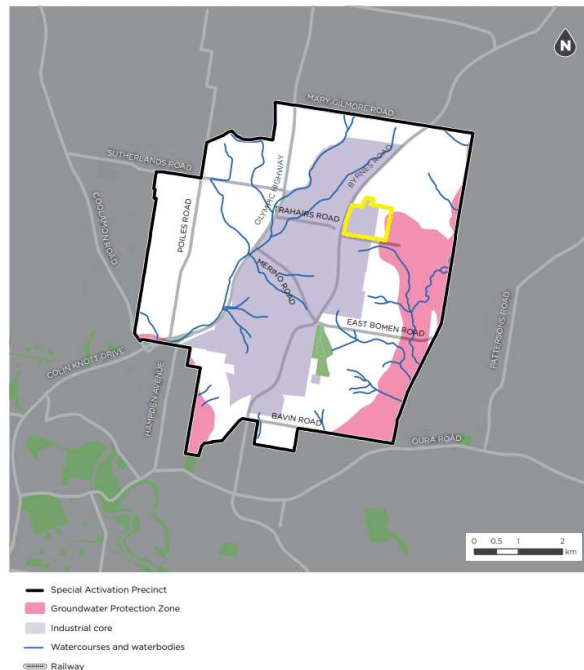
The additional supplementary report follows and updates the previous assessment of the Development Application, taking into consideration issues raised in the groundwater and air quality peer reviews (as discussed in the supplementary report of 8/3/22), as well as other matters that have changed since the initial assessment report was prepared, as listed in the table below:

Issue	Comments
Objectives of IN1 zone of WWLEP 2010	<p>The objectives of the IN1 zone of the WWLEP 2010 include:</p> <ul style="list-style-type: none"> • <i>To minimise any adverse effect of industry on other land uses.</i> • <i>To support and protect industrial land for industrial uses.</i> <p>As noted in the initial assessment report, whilst the facility is not strictly an 'industrial' land use, it is an industrial type uses. The initial assessment concluded that the development "will minimise adverse effects on other land uses as set out in detail in this assessment report". Given the issues raised in air quality peer review set out in the supplementary report of 8/3/22, and in particular with regard to airborne particulate matter impacting on the ROBE facility adjacent to the site, this is no longer considered to be certain, and it cannot be taken that the development is consistent with the objective of minimise adverse effects on other land uses.</p> <p>Following on, the potential impacts of airborne particulate matter could also partially sterilise surrounding industrial land by limiting the types of industrial uses that could be carried out. For example, food industries</p>

	<p>may be restricted in their use of surrounding land. As such, it cannot be considered that the proposed development will “support and protect industrial land for industrial uses”.</p>
<p>State Environmental Planning Policy (Activation Precincts) 2020 – Status and Weighting</p>	<p>The NSW government merged a number of SEPPs in March 2022. SEPP (Activation Precincts) 2020 now forms part of State Environmental Planning Policy (Precincts—Regional) 2021.</p> <p>The Wagga Wagga Special Activation Precinct is now incorporated into this SEPP (Part 3 and Schedule 1A), but its commencement has been delayed by <i>Wagga Wagga Local Environmental Plan 2010 (Amendment No 44)</i> until 30 September 2022.</p> <p>The weighting given to the SEPP remains consistent with the initial assessment – i.e. in a similar manner to if it were a draft environmental planning instrument. It should be given reasonably significant weighting as it should be considered substantially certain, given it has been published. It could not yet be considered imminent, as it does not commence for approximately 6 months.</p>
<p>State Environmental Planning Policy (Precincts—Regional) 2021</p> <p>Clause 3.8(a)</p> <p>Consideration of Wagga Wagga Special Activation Precinct Master Plan</p>	<p>Consideration of the SAP Master Plan remains a matter for consideration under Clause 3.8 (a) of the Precincts SEPP.</p> <p>Assessment of the following components of the SEPP have been modified as follows:</p> <p><i>3.3.4 Water Resources (Stormwater and Groundwater) Performance Criteria</i></p> <p><i>E – Development must:</i></p> <p>...</p> <p><i>iii. be designed to prevent adverse environmental impacts including the risk of contamination to groundwater sources and the town water supply;</i></p> <p>Due to issues noted in the groundwater peer review it is considered that the consent authority cannot now be satisfied that the development has been designed to satisfy this performance criteria.</p> <p><i>G – The following land uses are not permitted within the groundwater protection zone (shown at Figure 15: Groundwater protection zone) unless the Issuing Authority is satisfied that the development is unlikely to adversely impact on existing groundwater sources, is unlikely to adversely impact on future extraction from groundwater sources for domestic and stock water supplies and is designed to prevent adverse environmental impacts, including the risk of contamination of groundwater sources from onsite storage or disposal facilities:</i></p> <ul style="list-style-type: none"> <i>i. industries</i> <i>ii. intensive livestock agriculture</i> <i>iii. rural industries</i> <i>iv. sewerage systems</i> <i>v. turf farming</i> <i>vi. waste or resource management facilities</i> <i>vii. water supply systems</i> <i>viii. works comprising waterbodies (artificial).</i>

The development does not directly impact on the 'groundwater protection zone' as indicated on the figure below, with only the eastern part of the development site coincident with the zone, clear of the actual landfill site, however, matters raised in the groundwater peer have created doubt regarding whether the consent authority can be satisfied of the matters set out in this performance criteria. Given part of the site is impacted by this groundwater protection zone, it could be argued that the performance criteria applies.

Figure 15: Groundwater protection zone



State Environmental Planning Policy (Precincts—Regional) 2021

Clause 3.8(c)

Consideration of Wagga Wagga Special Activation Precinct Draft Delivery Plan

Since the initial assessment report, the Wagga Wagga draft delivery plan has been placed on exhibition, with exhibition commencing on 21/03/22. Exhibition is scheduled to conclude on 20/04/22.

The draft delivery plan is a matter for consideration under the Precincts SEPP.

The evaluation criteria for development proposals is set out in Section 6 of the Delivery Plan. Performance criteria are set, along with merit assessment and unacceptable solutions. Relevant controls are addressed below.

Note 1 – a minor building (60m² shed) is proposed and is assessed as being consistent with the controls. The building is not further addressed in detail in this assessment, with only controls relevant to the landfill use addressed.

Note 2 – where compliance is clearly achieved with either acceptable solutions or the merit assessment (and in most cases otherwise previously assessed) the controls have not been further addressed below. Only noteworthy controls are addressed in detail.

PC38

To minimise the overall environmental impacts of waste by:

a. encouraging development to facilitate ongoing waste avoidance

- b. encouraging development to embed circular economy principles into its planning and operations*
- c. requiring on-site waste separation and other design and siting standards which assist waste collection and management*
- d. encouraging building designs and construction techniques that minimise waste generation*
- e. maximising opportunities to reuse and recycle building and construction materials as well as other waste in the ongoing use of a premise and*
- f. reducing the demand for waste disposal*

The acceptable solutions for PC38 are:

A38.1

Development has:

- a. identified basic resource flows within and outside the precinct that will contribute to reducing waste to landfill and promote the use of recycled and reclaimed materials or*
- b. waste and resource management systems in place which aim to reduce waste to landfill and maximise the use of recycled and reclaimed materials.*

Note: The identification of resource flows is scalable depending on the size and nature of the business i.e. may be simply demonstrated through a diagram.

Note: The issuing authority may require a waste management plan to be prepared which details the waste management and minimisation activities to be carried out during operation of the premises / development.

A38.2

Development incorporates the use of recycled or reclaimed materials in construction where possible. Note: The issuing authority may require a waste management plan to be prepared which details the waste management and minimisation activities to be carried out during demolition and/or construction of the development.

There are no merit assessment options.

Unacceptable solutions states:

U38.1 Development that maximises waste to landfill.

The development does propose measures that would involve a degree of resource recovery which would help the development to meet the performance criteria set out. This includes waste screening and sorting upon receipt. A CEMP is foreshadowed in the EIS to specifically address this issue.

PC45

Minimise the visual impact of development and provide the areas of Brucedale, Cartwrights Hill, North Wagga Wagga and Eunony Valley with an outlook to trees and landscape.

	<p>The relevant acceptable solutions include:</p> <p><i>A45.1 The former wool combing ponds site (as shown in Figure 7: Landscape strategy for minimising visual impact in the master plan) should integrate landscape buffer plantings across the site to maintain a vegetated appearance, screening and softening any built form on the site when viewed from the Eunony Valley and should comprise of:</i></p> <ul style="list-style-type: none"> <i>a. expanding existing vegetation around the perimeter of the site boundary to the same depth to those existing and</i> <i>b. planting of buffer vegetation between bench levels in a north-south direction aligned to the contours of the land.</i> <p>There are no merit assessment options.</p> <p>Unacceptable solutions states:</p> <p><i>U45.1 Development that obstructs views in areas identified as being in a visually sensitive location, as shown in Map 8.2.</i></p> <p>The subject site is specifically referenced in this control and the performance criteria. The issue has been effectively dealt with in the Master Plan assessment. In the event that consent is granted to the development it would be necessary to make specific reference to these acceptable solutions.</p> <p>The development is on a 'visually sensitive location' as shown in Map 8.2 but as set out by the full assessment report, is not considered to be a development that "obstructs views".</p> <p><u>PC50</u></p> <p><i>Protect groundwater quality, flows and drainage patterns during demolition, construction and ongoing operation phases of development.</i></p> <p>The relevant acceptable solutions include:</p> <p><i>A50.1 Development that the issuing authority considers has potential to contaminate groundwater is supported by a Groundwater Management Plan prepared by a suitably qualified person. The Groundwater Management Plan is prepared in accordance with best practice groundwater management requirements in developing site specific usage, drainage, and mitigation measures for the site.</i></p> <p><i>A50.2 Development proposals that will temporarily or permanently interfere with groundwater flows and impacts the water table will require a hydrogeological report to be prepared by a suitably qualified hydrogeological and/or geotechnical engineer</i></p> <p>There are no merit assessment options.</p> <p>Unacceptable solutions states:</p> <p><i>U50.1 Extraction of groundwater.</i></p>
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U50.2 Direct seepage of untreated stormwater or industry liquids into the ground.

Given the matters raised in the peer reviews acceptable solutions A50.1 does not appear to have been satisfied, in that concerns have been raised by the completeness of the groundwater assessment, and by extension, the management of groundwater impacts on the site.

PC51 – PC54

These performance criteria relate to flooding. They are not repeated here, as the matter is comprehensively dealt with in the original assessment of the development in relation to the SAP Master Plan.

PC60

Development that is a scheduled activity listed in Schedule 1 of the POEO Act reduces the risks to human health and the environment by reducing the discharge of substances into the air to harmless levels

Acceptable solutions:

A60.1 Development that requires an environment protection licence under the POEO Act for a scheduled activity:

- a. is designed to achieve the impact assessment criteria contained in the Approved Methods for Modelling and Assessment of Air Pollutants in NSW, 2017 (the Approved Methods) (or as updated);*
- b. complies with the prescribed discharge concentration contained in the Protection of the Environment Operations (Clean Air) Regulation 2010 (the Clean Air Regulation); and*
- c. is designed to include best practice process design and/or emission controls to minimise the emission of principal toxic air pollutants and particles to the maximum extent achievable.*

A60.2 Development implements an ongoing air quality monitoring and reporting regime prepared by a suitably qualified person and commits to providing the corporation an annual statement setting out how the site-based air quality monitoring and reporting regime has been complied with.

There are no merit assessment options.

Unacceptable solutions states:

U60.1 Development is not designed to achieve the impact assessment criteria in the Approved Methods.

U60.2 Development is not designed to achieve the prescribed discharge concentrations contained in the Clean Air Regulation.

U60.3 Toxic air pollutants and particles are not minimised through the implementation of best practice process design and/or emission control.

Given the matters raised in the peer reviews acceptable solution A60.1 does not appear to have been satisfied, in that concerns have been raised by the completeness of the air quality assessment, and that

	there does appear to be a potential for airborne particulate matter to impact on adjoining properties.
<p>State Environmental Planning Policy (Precincts—Regional) 2021</p> <p>Schedule 1A</p> <p>Zone Objectives of Regional Enterprise Zone (REZ)</p>	<p>The objectives of the Regional Enterprise Zone (REZ) include:</p> <ul style="list-style-type: none"> • <i>To encourage regional enterprise and innovation in industry, environmental management and performance and in urban and industrial design.</i> • <i>To effectively manage land uses of varying intensities or environmental sensitivities, and to minimise the risk of conflict associated with incompatible land uses.</i> • <i>To protect and enhance the local character of the precinct and contribute to the surrounding environment and its amenity.</i> <p>Given the issues raised in air quality peer review set out in the supplementary report of 8/3/22, and in particular with regard to airborne particulate matter impacting on the ROBE facility adjacent to the site, it cannot be concluded that the development minimises the risk of conflict associated with incompatible land uses (the second listed objective), as it is identified as possible that airborne particulate matter could impact on sensitive product stored on the ROBE site.</p> <p>The air quality peer review, along with the issues raised in the groundwater peer review indicate that environmental management and protection from the development is uncertain, and consequently, the consent authority cannot be satisfied that the development is consistent with the first and third listed objectives.</p>
<p>State Environmental Planning Policy (Infrastructure) 2007 (now incorporated into State Environmental Planning Policy (Transport and Infrastructure) 2021)</p>	<p>State Environmental Planning Policy (Infrastructure) 2007 (now incorporated into State Environmental Planning Policy (Transport and Infrastructure) 2021) calls up the EIS Guideline: Landfilling (Department of Planning, 1996).</p> <p>The Guideline sets locational principles, and where a landfill is “likely to be incompatible with surrounding zoning/land use considering separation distances”, directs applicants to “seek alternate sites”.</p> <p>Uncertainty identified in the peer reviews, along with acknowledged potential for impacts on ROBE to occur, makes concluding incompatibility with the locational principle as ‘not likely’ difficult.</p> <p>In addition to the above, the Guideline lists environmentally sensitive areas to be avoided as including land that overlays an “aquifer which contains drinking water quality groundwater which is vulnerable to pollution”.</p> <p>Whilst no further information has been provided to suggest the aquifer underlying the site contains drinking water quality groundwater, further consideration of this matter as set out in the groundwater peer review would be required if the vulnerability of the groundwater to pollution is less certain.</p>
Wagga Wagga Development Control Plan 2010	<p><i>C2 It is preferred that the eastern side of Byrnes Road will contain larger lots (> 5Ha) (see Subdivision Design Principles Diagram. Figure 12) and that “cleaner” developments locate in that area.</i></p> <p>The initial assessment determined that the proposed development would not result in substantial emissions, and thus was consistent with</p>

Section 13 – Bomen Urban Release Area 13.5 Distribution of Uses.	this control requiring developments on the eastern side of Byrnes Rd be cleaner. The issues raised in the air quality peer review make this conclusion less certain.
Impacts of the development (4.15(1)(b) of the <i>Environmental Planning and Assessment Act 1979</i>).	As set out in the supplementary report of 8/3/22, both the air quality and groundwater peer reviews identify issues with the reports submitted with the Development Application in regard to these matters. If impacts of the development on these matters are not clear and properly assessed, it is difficult to conclude that the development will not have unreasonable impacts on groundwater, and will not result in unacceptable impacts on adjoining properties from dust and airborne waste particles.
Suitability of the Site (4.15(1)(c) of the <i>Environmental Planning and Assessment Act 1979</i>).	As set out in the supplementary report of 8/3/22, clarity on the potential for dust/airborne contaminate impacts on surrounding properties, and the potential for impacts on groundwater, is required to be able to conclude whether the site is suitable for the proposed development.
Submissions (4.15(1)(d) of the <i>Environmental Planning and Assessment Act 1979</i>).	<p>Submitters raised concerns regarding impacts on groundwater, as well as the potential for airborne particulate matter to impact on adjoining properties.</p> <p>Given the matters raised in the peer reviews, and the uncertainty that now exists surrounding the impacts of the development, these concerns raised in submissions cannot be discounted without further information from the Applicant.</p>
Public Interest (4.15(1)(e) of the <i>Environmental Planning and Assessment Act 1979</i>).	Given the uncertainty raised in the peer reviews, the proposed development raises public interest issues. It is not in the public interest to permit development where the impacts of the proposed development are not fully understood.

Additional matters raised by the Panel on 15/12/21

Blasting

The EIS states that blasting may be required if granite intrusions exist within the construction zone of the proposal and interfere with cell compaction, drainage and lining. Discussions between the Panel and the Applicant revealed that whilst alternatives would be available, the preference of the Applicant is that blasting be retained in the development.

The impacts of blasting were considered in the original assessment of the Development Application and were assessed as acceptable on the basis that the Environmental Protection Licence included conditions controlling the noise and vibration impacts of any blasting.

It is now considered, however, that there is some uncertainty regarding the impacts of the blasting activities on the underlying rock material beneath the landfill area, and consequently the potential for groundwater impacts. It is not clear that this issue has been considered by the groundwater assessments.

Retaining blasting within the development would lead to greater incompatibility issues with surrounding developments, and would leave unresolved the issue of groundwater impacts as

a result of blasting. Given the advice received from the applicant regarding alternatives, it is considered feasible for blasting to be prohibited by condition if the Panel determines to approve the Development Application. Alternatively, additional information could be sought clarifying the matter.

Weighbridge

The original 4.15 assessment report stated that:

The EPA GTAs include a requirement that the operator either install a weighbridge or have an alternative method approved in writing by the EPA. It is noted that further consent would likely be required to install a weighbridge. The EIS suggests that the weighbridge at ROBE may be used.

Whilst the issue remains open, it is considered resolvable post-consent, should a consent be granted. A further Development Application to install a weighbridge on the site is unlikely to result in significant impacts beyond those already assessed. It is considered reasonable to leave open alternative options for addressing this issue.

Exclusion of Fly Ash from Landfill Deliveries

The Applicant has suggested that fly ash could be excluded from deliveries but has not modified the Development Application to give effect to this, nor have they provided any further detail as to how this could be achieved.

Whilst a condition could be imposed excluding fly ash, such an approach would involve a degree of uncertainty. To eliminate this uncertainty further detail would be needed demonstrating how waste streams would be managed to ensure that fly ash is excluded.

Notwithstanding, the exclusion of fly ash does not necessarily mean that the issue of airborne particulate matters impacting on surrounding industries is resolved. While fly ash from Visy is likely to be the major source of potentially problematic airborne particulate matters, it cannot be assumed that this is the only source of such matter.

Therefore, it is considered that any proposal to exclude fly ash should give consideration to all similar matter, and outline how such matter would be excluded from waste transported to the site.

As the development is proposed, and on the basis of information currently supplied, it is not considered feasible to exclude fly ash from the development by condition, as it is uncertain if compliance with the condition could be achieved. As such, it is considered that the development should be assessed as though fly ash forms an indivisible core element of the proposal.

The modified assessment, and the recommendation below, have been prepared on this basis.

Confirmation that Panel has been provided with all responses/further information provided by the applicant to Council

All responses and further information provided by the applicant have been provided to the Panel via previous reports, however, for completeness, original copies of relevant responses are included as Attachment 1 to this report.

Recommendation

That DA19/0036 for a "Waste Disposal Facility (Non-Putrescible Landfill)" at Lots 2 and 4 DP 1249028, 225 Trahairs Rd, Bomen, NSW 2650, be refused for the following reasons:

1. Potential impacts on groundwater are unclear and have been insufficiently established. As such it cannot be concluded that the development:
 - a. is consistent with performance objective (E) and (G) of section 3.3.4 of the Wagga Wagga Special Activation Precinct Master Plan, as required to be considered under *State Environmental Planning Policy (Precincts – Regional) 2021* and Clause 61(7) of the *Environmental Planning and Assessment Regulation 2021*.
 - b. is consistent with the following objectives of the Regional Enterprise Zone of the Wagga Wagga Special Activation Precinct:
 - *To encourage regional enterprise and innovation in industry, environmental management and performance and in urban and industrial design.*
 - *To protect and enhance the local character of the precinct and contribute to the surrounding environment and its amenity.*
 - c. meets acceptable solution A50.1 for performance criteria PC50 of the Wagga Wagga Special Activation Precinct Draft Delivery Plan as called up by Section 3.8(c) of State Environmental Planning Policy (Precincts – Regional) 2021.
 - d. is consistent with the *EIS Guideline: Landfilling (Department of Planning, 1996)*, as called up under Clause 2.156 (1)(c)(ii) of *State Environmental Planning Policy (Transport and Infrastructure) 2021*, which lists environmentally sensitive areas to be avoided as including land that overlays an “aquifer which contains drinking water quality groundwater which is vulnerable to pollution”.
 - e. will not result in unacceptable impacts on groundwater.
 - f. is located on a site suitable for the proposed development.
2. Potential impacts from dust and airborne waste particles are unclear and have been insufficiently established. Potential exists for airborne waste particles to contaminate adjoining properties, including businesses sensitive to such contamination. As such it cannot be concluded that the development:
 - a. is consistent with the following objectives of the Regional Enterprise Zone of the Wagga Wagga Special Activation Precinct:
 - *To encourage regional enterprise and innovation in industry, environmental management and performance and in urban and industrial design.*
 - *To effectively manage land uses of varying intensities or environmental sensitivities, and to minimise the risk of conflict associated with incompatible land uses.*
 - *To protect and enhance the local character of the precinct and contribute to the surrounding environment and its amenity.*
 - b. meets acceptable solution A60.1 for performance criteria PC60 of the Wagga Wagga Special Activation Precinct Draft Delivery Plan as called up by Section 3.8(c) of State Environmental Planning Policy (Precincts – Regional) 2021.

- c. is consistent with the *EIS Guideline: Landfilling (Department of Planning, 1996)*, as called up under Clause 2.156 (1)(c)(ii) of *State Environmental Planning Policy (Transport and Infrastructure) 2021*, which sets locational principles, and where a landfill is “likely to be incompatible with surrounding zoning/land use considering separation distances”, directs applicants to “seek alternate sites”.
 - d. is consistent with the following objectives of the IN1 General Industrial Zone of the Wagga Wagga Local Environmental Plan 2010:
 - *To minimise any adverse effect of industry on other land uses.*
 - *To support and protect industrial land for industrial uses.*
 - e. is consistent with C2 of Section 13.5 of the Wagga Wagga Development Control Plan 2010 as follows:

It is preferred that the eastern side of Byrnes Road will contain larger lots (> 5Ha) (see Subdivision Design Principles Diagram. Figure 12) and that “cleaner” developments locate in that area.
 - f. will not result in unacceptable impacts on adjoining properties from dust and airborne waste particles
 - g. is located on a site suitable for the proposed development.
3. It is not in the public interest to permit development where the impacts of the proposed development are not fully understood.

Attachment 1 – Responses from Applicant (Reverse Chronological Order)

From: "Michial Sutherland" [REDACTED]
Sent: Mon, 21 Mar 2022 16:25:59 +1100
To: "Cook, Steven" [REDACTED]
Cc: "Lizzie Olesen-Jensen" [REDACTED] "Nicola Smith"
[REDACTED] "Chris Egan" [REDACTED]
Subject: 16-276 - EIS Northridge Waste Management Facility Byrnes Road

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Hi Steven,

NGH anticipates the following time frame for the provision of additional information.

It is expected that it would take approximately 4 months to provide the additional information.

The extent of the time frame would be set by three to four rounds of monthly ground water monitoring over winter.

The time frames below are not linear.

Most tasks can be completed concurrently.

Action Item	Outcome	Time frame
Discuss/clarify peer reviews with specialists and subconsultants	Finalise scope of works for additional information	4 weeks.
Undertake additional field work	Ground water monitoring	12 weeks
Allowance for subconsultant capacity	Consultants have capacity to complete additional work	4 weeks
Obtain information for new air quality model	Identify site and receiver factors	3 weeks
Run new air quality model	Provide updated model information and review.	4 weeks
Additional site piezometers works	Identify AHD for all, redevelop as required, install new piezometer as required.	3 weeks
Offsite groundwater monitoring	Obtain information from other bores/wells offsite	12 weeks
Prepare additional groundwater information.	Draft report and review	2 weeks
Update design information for landfill	Update fall requirements.	4

cell		weeks
Peer Review additional work	Peer Review	2 weeks
Submit additional information	JRPP/Council consideration	3 weeks

Piezometer – Groundwater monitoring well.

Kind Regards

Mike

MICHIAL SUTHERLAND
BUSINESS DEVELOPMENT MANAGER NQ
MEIANZ

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From: "Lizzie Olesen-Jensen" [REDACTED]
Sent: Mon, 21 Mar 2022 08:55:14 +1100
To: "Cook, Steven" [REDACTED]; "City of Wagga Wagga" <Council@wagga.nsw.gov.au>
Cc: "Planning Panels Mailbox" <enquiry@planningpanels.nsw.gov.au>
Subject: Request for deferral of determination - Waste Facility DA19/0036 – PPS-2019STH007 (Re supplementary report on peer reviews)
Attachments: EA0909 C02.pdf, 70B-22-0004-GCO-31252-0 - Vipac Peer Review.pdf

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Morning Steven / Planning Panel members

Following on from my email of Friday 17 March 2022, I have attached letters from AEA (hydrological assessment) and VIPAC (air quality assessment) identifying shortcomings of the air quality and hydrological reports can be addressed as additional information and modification to design, which we are currently addressing. However, we require additional time to do so given lengthy time constraints experienced by NGH and our subconsultants due to the impacts of Covid 19.

We therefore stress, on our client's behalf, our request to defer this matter to allow time for the additional information and modification to be completed.

Sincerely,
Lizzie

LIZZIE OLESEN-JENSEN
PRINCIPAL TOWN PLANNER

[REDACTED]
35 Kincaid Street
(PO Box 5464) Wagga Wagga NSW 2650



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AEA Ref: EA0909-C02

18 March 2022

Convening Chairman
NSW Southern Regional Planning Panel
NSW Department of Planning, Industry and Environment

2019STH007 – Wagga Wagga DA19/0036

Dear Chair

Australian Environmental Auditors Pty Ltd (AEA) were engaged to prepare an independent review (EA0909-C01, 18 February 2022) of the Northbridge Waste Disposal Facility's (a proposed landfill) hydrological and hydrogeological assessments as part of the Environmental Impact Statement for the facility. I prepared the review, with an internal review completed by NSW EPA accredited auditor Mr Charlie Barber.

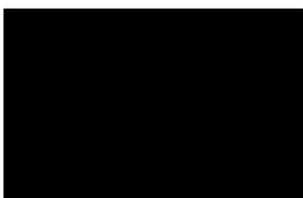
We have since received a copy of the supplementary report prepared by Council dated 8 March 2022. We note that the supplementary report recommends the proposal be refused in part 'due to the uncertainty around potential impacts on groundwater' and that 'potential impacts on groundwater are unclear and have been insufficiently established.'

We have been requested by NGH Consulting to clarify that our review identified that additional information is required to assess risks to groundwater from the operational and aftercare period of the proposed landfill. We further identified and provided comment on the steps required to obtain that additional information. Our review also found some changes were required to the design of the landfill containment system i.e. liner and leachate collection system, in order to meet the landfill design requirements of the NSW Environment Protection Authority.

The provision of the additional groundwater information and recommended changes to the landfill design can be readily achieved and will provide the necessary information to enable a decision on whether to permit the establishment of the landfill to be made with the benefit of groundwater risk information of appropriate amount and quality.

If you wish to discuss this matter, please contact me on [REDACTED] or [REDACTED]

Sincerely,
Australian Environmental Auditors



Nick Simmons
Principal Technical Specialist – Landfills
Certified Environmental Practitioner (No.1492)

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18 March 2022

Ref: 70B-22-0004-GCO-31252-0

NGH Consulting
Suite 1, 39 Fitzmaurice St
(PO Box 5464) Wagga Wagga
NSW 2650

Dear Michial,

Designated Development – Waste Facility DA19/0036, Peer Review Air Quality Planning panel reference number - PPS-2019STH007

Vipac prepared a third party review of the Air Quality Assessment (Jacobs) for the Northbridge Waste Disposal Facility Construction and Operational proposed for Trehairs Lane at Bomen, NSW.

Our review indicated that some additional information, further modelling and if needed further consideration of management measures, would provide greater clarity around the Air Quality Assessment for the project and any potential impacts on the Riverina Oils Facility.

I have read the viewed the supplementary report prepared by Council (8/3/22) for the JRPP and its recommendation of refusal of the proposal. Vipac identified some issues associated with the Air Quality Assessment. However, these short comings could potentially be addressed with the provision of additional information.

Based upon the information provided in the Air Quality Assessment, Vipac could not establish if air quality impacts would be a constraint to the proposed Facility. We reiterate our recommendation that the proponent provide additional information, modelling and where warranted a reconsideration of management measurers to clarify impacts.

Yours sincerely,

Vipac Engineers & Scientists Ltd



Dr. Stephen Thomas
Air Quality Principal

From: "Lizzie Olesen-Jensen" [REDACTED]
Sent: Thu, 17 Mar 2022 12:05:28 +1100
To: "City of Wagga Wagga" <Council@wagga.nsw.gov.au>
Subject: FW: Request for deferral of determination - Waste Facility DA19/0036 – PPS-2019STH007
Attachments: Response to Supplementary Report on Peer Reviews 20220317 (002).pdf

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From: Lizzie Olesen-Jensen
Sent: Thursday, 17 March 2022 11:55 AM
To: Cook, Steven [REDACTED]
Cc: Michial Sutherland <[REDACTED]>; enquiry@planningpanels.nsw.gov.au
Subject: Request for deferral of determination - Waste Facility DA19/0036 – PPS-2019STH007

Dear Steven,

As discussed, please find attached our formal request to defer the determination of DA19/0036 for the proposed waste facility at Bomen.

Would you kindly forward this request through to the appropriate JRPP contacts.

Regards,

LIZZIE OLESEN-JENSEN
PRINCIPAL TOWN PLANNER

[REDACTED]
35 Kincaid Street
(PO Box 5464) Wagga Wagga NSW 2650



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16 March 2022

Chair
Southern Regional Planning Panel
NSW Department of Planning and Environment



PlanComment@planningpanels.nsw.gov.au
cc: enquiry@planningpanels.nsw.gov.au
[REDACTED]

Dear Chair

Re: 16-276 Designated Development – Waste Facility DA19/0036 – PPS-2019STH007

NGH Pty Ltd (NGH) act for the proponent in this matter and have prepared this response on behalf of the proponent. In doing so NGH has reviewed:

- Councils Supplementary Report – Peer Reviews dated 8/3/22
- The ViPac Air Quality Assessment Peer Review dated 22 February 2022
- The AEA Hydrological/Hydrogeological Assessment Peer Review dated 25 January 2022

NGH on behalf of the proponent requests a deferral of determination to allow time for right of reply following the peer review.

NGH is in discussion with our consultants and Vipac and AEA who prepared the peer reviews to clarify matters raised in their report.

The proponent has diligently prepared documentation to accompany the development application to convert a liquid waste facility to the proposed solid waste facility. Documentation including designs, scoping reports, EIS, specialist studies, contamination assessments etc. Where additional information has been requested the proponent has provided same. The client has engaged the community on several occasions to garner their concerns and modified the development to meet their needs where able. Considerable time and effort has been expended to produce a comprehensive assessment for the proposal.

These actions have not been without challenges. Covid 19 has extended time frames and complicated matters for both the proponent and agencies. Compiling and assessing the hundreds of pages of planning and scientific information has been exhaustive.

The peer reviews above have been thorough. The reviews have been of value, despite being prepared under considerable time pressure. Despite this, their comments do have merit. However, it can be said with confidence that the reviews did not recommend refusal of the proposal. Further, the reports recommended that additional information be garnered to assist with the assessment of the proposal. The peer reviews describe the investigations and assessments required to provide that additional information.



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ABN 31 124 444 622 ACN 124 444 622

It is important to acknowledge that the EIA and supporting assessments have been reviewed by the EPA and other state government agencies. They have visited the site and reviewed the documentation on several occasions and expressed no uncertainty regarding the potential for impact. Their expert review accepted the assessments and the EPA have issued General Terms of Agreement.

Despite this the proponent is prepared to accept the findings of the peer review and provide the additional information suggested by the reviews. This information could be prepared in a timely manner. It is a matter of procedural fairness that the proponent be given the opportunity to provide the additional information.

At this stage it would be detrimental to abandon the process and work so far completed. There is still room to bring this matter to a fully considered conclusion. Relying on the courts to resolve this matter would be expensive and time consuming for all involved.

NGH on behalf of the proponent requests a deferral of determination.

If you have any questions, please contact me on [REDACTED] or via email at [REDACTED]

Yours sincerely,
[REDACTED]

Michial Sutherland
NGH Consulting

From: "Michial Sutherland" [REDACTED]
Sent: Fri, 25 Feb 2022 09:51:09 +1100
To: "Cook, Steven" [REDACTED]
Cc: "Nicola Smith" [REDACTED] "Chris Egan"
[REDACTED]
Subject: 16-276 - EIS Northridge Waste Management Facility Byrnes Road

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Hi Steve

I thought I would offer some thoughts on the two reports provided.

Hydrology and Hydrogeology

The nature of groundwater levels and flow direction are well understood at the site.

The geology of the area is well known and mapped and this is the controlling feature for groundwater.

The site occupies the lower ridge of the western side of the catchment, as such flow directions will be to the south east.

The ground water monitoring piezometers around the site have many years of data.

The piezometers have indicated that the ground water levels are well below the base of the intended landfill.

Additional monitoring will further demonstrate the stability of ground water conditions in the area.

The information provided in the EIS was similar to and sufficient for the approval of the ROBE liquid waste pond above the site.

The design drawings indicate minimum drainage gradients of 1%. 3% for transverse drainage could be conditioned as required.

Groundwater levels have been historically demonstrated to be below the level of the groundwater relief layer.

The power boiler flyash (mostly burnt pine bark) has been tested and shown not to be restricted solid waste.

The power boiler flyash has also been the subject of waste reuse and recovery exemptions.

Flyash is a common component of concrete manufacture in NSW.

The proponent would prepare an operational environmental monitoring plan (OEMP) and a separate post closure plan in accordance with the typical requirements of an EPL.

Air Quality Review

The use of AUSPLUME is questioned base on the potential for calm night time conditions. AUSPLUME is approved for use by the guidelines.

The NSW EPA did not question the use of the AUSPLUME model for this assessment.

NGH considered AUSPLUME suitable because:

1. The facility will not operate after 6pm or before 7am and as such emissions from the facility would not occur at night.
2. The setting is a simple landscape with gentle slopes
3. Night cover would be employed to minimise dust
4. Materials at the facility will be watered to suppress dust generation.

Dust deposition gauges (pictured below) are a common method for monitoring dusty operations especially during road works.

The OEMP could specify the use of dust deposition gauges as a form of monitoring and respond to any level exceedances.



MICHIAL SUTHERLAND
BUSINESS DEVELOPMENT MANAGER NQ
MEIANZ

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From: "Cook, Steven"
Sent: Thu, 16 Dec 2021 17:14:13 +1100
To: "Michial Sutherland" [REDACTED] "Lizzie Olesen-Jensen"
[REDACTED]; [REDACTED]
Cc: "O'Brien, Paul" [REDACTED] "Amanda Moylan"
[REDACTED]
Subject: RE: DA19/0036 - Record of Defferal

G'day Michial

Thank you for your time yesterday. The Panel appreciated the opportunity to inspect the site and ask some questions.

Following yesterday's meetings, the Panel has asked me to follow up on the additional information requests in my email of 29th October 2021 below.

Specifically, in addition to the overland/groundwater review, the Panel has advised that notwithstanding the foreshadowed amendment to remove fly ash from the proposal, the provision of the following remains a request of the Panel with regard to all airborne particles associated with landfill material:

Advice, prepared by a suitably qualified expert, addressing the potential for airborne particles associated with landfill material, in particular fly ash, to contaminate agricultural produce associated with the Riverina Oils facility. The advice should address the risk of contamination and management and mitigation measures that could be employed to manage this risk.

The Panel is proposing to meet in mid-March to consider the additional information to be submitted. To enable the Panel to consider the information, the requested reviews/advice are required to be submitted to Council by Monday 28th February 2022.

I also note that as per the initial information request, quotes for the work requested have not yet been forwarded to Council. Could you please arrange for this to occur shortly, so reviewers can be selected, and the process can move forward.

Please do not hesitate to contact me if you would like to discuss this further.

Regards

Steven Cook
Senior Town Planner

1300 292 442
[REDACTED]

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From: Michial Sutherland [REDACTED]
Sent: Monday, 6 December 2021 3:16 PM
To: Cook, Steven [REDACTED]
Cc: Nicola Smith [REDACTED]; Lizzie Olesen-Jensen [REDACTED]; O'Brien, Paul [REDACTED]; Collins, Cameron [REDACTED]
Subject: RE: DA19/0036 - Record of Defferal

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Hi Steven,

NGH and our clients have taken some time to consider their position.

With your and the panels indulgence it is proposed that:

- A. Additional review be completed for Item 1 relating to the potential impact of the facility on overland flows and groundwater.
 - B. The review could be made available with some confidence in February 2022.
 - C. The proposed development be modified to exclude the receipt of fly ash at the waste facility.
- We would provide an addendum to the EIS to modify the proposal.

It is noted that the impacts on air quality as modelled were minor and that the waste facility does not exceed any air quality trigger levels prescribed by NSW guidance.

Further, the closest Riverina Oils activity, to the proposed waste facility, is the Riverina Oils liquid waste treatment plant and 10ML effluent disposal pond.

We also note that Riverina Oils chose to build a facility bounded on two sides by former liquid waste disposal ponds and adjacent a busy road and the Main Southern Rail line.

Perhaps airborne diesel particulates from road and rail transport are different from fly ash derived from pine trees.

Kind Regards

Mike

MICHIAL SUTHERLAND
MANAGER RIVERINA AND WESTERN NSW
MEIANZ



[REDACTED]
35 Kincaid Street
(PO Box 5464) Wagga Wagga NSW 2650

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From: Cook, Steven [REDACTED]
Sent: Wednesday, 24 November 2021 8:42 PM
To: Michial Sutherland [REDACTED]
Cc: Nicola Smith [REDACTED] Lizzie Olesen-Jensen
[REDACTED] O'Brien, Paul
[REDACTED] Collins, Cameron [REDACTED]
Subject: RE: DA19/0036 - Record of Defferal

G'day Michial

I confirm receipt of your email and note that you have requested that the Development Application be determined on the basis of the information submitted.

I have notified the Panel of your request and will advise when I receive further advice.

Regards

Steven Cook
Senior Town Planner

1300 292 442

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From: Michial Sutherland [REDACTED]
Sent: Wednesday, 24 November 2021 10:08 AM
To: Cook, Steven [REDACTED]
Cc: Nicola Smith [REDACTED] Lizzie Olesen-Jensen
[REDACTED] O'Brien, Paul

Collins, Cameron

Subject: RE: DA19/0036 - Record of Defferal

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Hi Steve,

I have received two proposals to date.

One proposal for item 1 of the independent review and one proposal for item 2 of the independent review.

At this point we are awaiting two more proposals.

Given the current time frames it is unlikely that the reviews would be available prior to the 15th of December.

It is likely that the reviews would be available in late December early January.

We are of the opinion that the site inspection should still occur on the 15th December.

It is the applicants preference that the proposal be determined on its merits noting that the EPA have issued their General Terms of Agreement and that the EPA are the Authority responsible for protecting ground and surface water as well as air quality in NSW. Further, that the facility would be licenced and regulated by the EPA should it be approved.

The Proponent accepts that Council and the JRPP must consider these matters but believes that the information provided adequately addresses these matters.

Kind Regards

Mike

MICHIAL SUTHERLAND
MANAGER RIVERINA AND WESTERN NSW
MEIANZ

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From: Cook, Steven [REDACTED]
Sent: Wednesday, 24 November 2021 8:04 AM
To: Michial Sutherland [REDACTED]
Cc: Nicola Smith [REDACTED]; Lizzie Olesen-Jensen
[REDACTED]; O'Brien, Paul
[REDACTED]; Collins, Cameron [REDACTED]
Subject: RE: DA19/0036 - Record of Defferal

G'day Michial

As discussed time is now critical for the provision of these quotes to Council so that the peer reviews can be undertaken.

As we have noted in the email below, Council requires time to provide supplementary advice to the Panel following the receipt of the peer reviews. To be able to meet the panel deadlines, we will require the finalised peer reviews by next Wednesday at the latest (i.e. we will require a draft to review well before this so any necessary changes can be made). In other words, we now only have a week to go through the entire process (quotes to Council, selection, and production of the draft peer review, Council review, and finalisation).

Regards

Steven Cook
Senior Town Planner

1300 292 442

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From: Cook, Steven
Sent: Monday, 15 November 2021 12:20 PM
To: Michial Sutherland [REDACTED]
Cc: Nicola Smith [REDACTED]; Lizzie Olesen-Jensen
[REDACTED]; O'Brien, Paul
[REDACTED]; Collins, Cameron [REDACTED]
Subject: RE: DA19/0036 - Record of Defferal

G'day Michial

I was just seeking an update on the below. Have you been able to obtain the quotes?

Regards

Steven Cook
Senior Town Planner

1300 292 442

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From: Cook, Steven
Sent: Friday, 29 October 2021 12:26 PM
To: Michial Sutherland [REDACTED]
Cc: Nicola Smith [REDACTED] Lizzie Olesen-Jensen
[REDACTED] O'Brien, Paul
[REDACTED] Collins, Cameron [REDACTED]
Subject: DA19/0036 - Record of Defferal

G'day Michial

The Panel has deferred determination of DA19/0036 subject to the provision of further information.

I have attached a copy of the Panel's Record of Deferral.

As you will see, the deferral requires the provision of additional independent reviews and advice in relation to elements of the Application. To address this request of the Panel, it is requested that you obtain quotes for the provision of the following:

1. An independent review of the potential impact of the development on existing overland flows and groundwater contamination.

The independent review shall address:

- The veracity of the hydrological and hydrogeological assessment provided by the Applicant. In particular,
- Potential for contamination or other long-term impacts on the existing groundwater supplies and the implications for surrounding groundwater users (ie. bores)
- Advise on appropriateness of the proposed monitoring and management measures proposed by the Applicant.
- Make recommendations, if appropriate, with respect to additional measures that could be put in place to manage the potential impacts of the development.

2. Advice, prepared by a suitably qualified expert, addressing the potential for airborne particles associated with landfill material, in particular fly ash, to contaminate agricultural produce associated with the Riverina Oils facility. The advice should address the risk of contamination and management and mitigation measures that could be employed to manage this risk.

In relation to both matters, a minimum two quotes are required for each. The quotes should clearly outline relevant skills, qualification and experience to carry out the work, as well as a time frame within which the work can be completed. The quotes should also clearly identify that Council is the client and reviewer for the review/advice, and that the entity providing the review/advice will liaise directly with Council throughout the process for instruction, clarification, or additional information. The provision of these reports is to be at full cost of the Applicant.

The persons carrying out the work must be independent of any relationship with nigh or your client, with any conflicts of interest clearly declared.

Upon receipt of satisfactory quotes Council will select a party for commission for each of the two items listed above.

Please note, the Panel is planning a site visit on 14th or 15th December 2021. These reports should be provided to Council with sufficient time for Council to be able to provide supplementary advice to the Panel which relies on the findings and recommendations of these reports.

If you have any questions please do not hesitate to contact me.

Regards

Steven Cook
Senior Town Planner

1300 292 442

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