

## **SUPPLEMENTARY REPORT - PAN-5628 - HPE CM: RE: PPSSTH-12**

### **TUMBLONG NON-PUTRESCIBLE WASTE DISPOSAL FACILITY**

REGIONAL PANEL'S REQUEST 11 MAY 2020

From: Gordon Kirkby

Sent: Tuesday, 28 April 2020 2:29 PM

To: Mellissa Felipe <Mellissa.Felipe@planning.nsw.gov.au>

Subject: HPE CM: RE: PPSSTH-12

A number of key issues of concern raised by the community are not addressed in the report. The report only refers the Panel to the Applicant's response document in terms of these issues and provides no assessment by Council of these issues:

- Biodiversity
- Heritage
- Visual/Views
- Fire & Incident Management
- Landfill Closure
- Biosecurity
- Consultation
- Property values
- Litter control
- EIS adequacy
- Local amenity
- Alternate site investigation limited
- Hours of operation
- Monitoring

The following is a SUPPLEMENTARY REPORT addressing the issues of concern listed above

Prepared by Ian Graham M. Plan MPIA.

### **BIODIVERSITY**

The EIS and accompanying reports adequately address applicable statutory, regulatory and policy requirements, including:

- Biodiversity Conservation Act 2016
- Local Land Services Act 2013 and supporting regulation
- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2000 (cl 6&7)
- Gundagai Local Environmental Plan 2011
- Roads Act 1993
- Planning Secretary's Environmental Assessment Requirements (SEARs EAR 1321)

Section 9 of the EIS ENVIRONMENTAL IMPACT ASSESSMENT on page 91 under 9.5 by *Biodiversity* considers the impacts. A report on the biodiversity impact was prepared by Advitech Environmental

dated 6th November 2019 titled *Biodiversity Development Assessment Report Bangus Infill Development* MH Earth Moving P/L.

It is evident from the report that the investigation has been thorough and extensive with a clear knowledge of the legislative requirements that need to be met. The conclusions reached on page 60 are a logical result of that investigation. The Biodiversity impacts have been identified in section 6 of the report (page 4) while the impacts on vegetation are shown in table 6.1. This assessment indicates that the area of the site containing the stockpile area is not being impacted.

The report indicates that the project has avoided, where possible, significant impacts to the Biodiversity values at the project site by locating the proposal in areas degraded/disturbed vegetation with low native species cover. No impacts on biodiversity are identified to occur on the site as a result of this proposal with the conclusion that there are no likely impacts on threatened species or habitats within the area. There are no matters of natural environmental significance (Commonwealth legislation) identified as indicated in section 6.6 and also illustrated in Appendix 3.

Notwithstanding the assessment and investigative conclusions, the EIS proposes mitigation measures as outlined in section 6.7. These measures are divided into 3 distinct development phases, being:

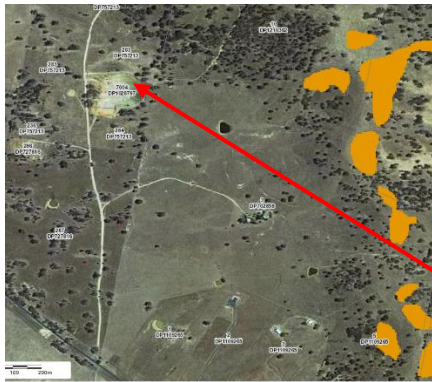
- Preconstruction
- During construction
- Post operations details (pages 56/57)

Details of the mitigation measures are shown in table 6.5: *Mitigation and Management Measures*. This table indicates the risk of failure and who is responsible to carry out the measure, namely MH Earthmoving Propriety Limited. The measures outlined in the table form part of the recommended conditions of consent.

The report has also considered the impacts beyond the site boundaries in *Section 6.4 Indirect Impacts Table 6.3*. This section describes the impacts of the proposal on native vegetation and habitat beyond the site boundaries as detailed in section 9.1.4.2. The biodiversity assessment method employed concludes no threatened entities are likely to be affected by indirect impacts.

The Biological Assessment Method (BAM) has determined that a total of three ecosystem credits and 18 species credits are required to offset the clearing of 1.77 hectares of the PCT 248 and 1.68 hectares of the PCT 343. The proponent is to acquit liability of these credits by making a cash payment as a lump sum to the Biodiversity Conservation Trust fund in an amount of \$32,166.74 in respect to flora and fauna. Details of how the contribution was calculated are contained in Appendix IV BAM Credit Summary and Payment Report.

The submissions received while mentioning biodiversity, did not focus strongly on these matters; this could be due in part to the substantially disturbed nature of the site.



Subject Site

The subject site is not affected or identified on the Native Vegetation Regulatory Map was prepared by the Department of Planning, Industry and Environment under Part 5A of the amended Local Land Services Act 2013 and supporting regulation.

## **HERITAGE** (assessed in the EIS at Section 9.1.1 p114)

The legislative context as it relates to heritage is as follows:

- Environmental Planning and Assessment Act 1979
- Gundagai LEP 2011
- National Parks and Wildlife Act 1974
- Commonwealth Federal Environmental Protection and Biodiversity Conservation Act 1999 referring to matters of national environmental significance. Note the subject area is not listed and therefore the provisions do not apply.
- SEARs EAR 1321

Heritage can be broken into Non-Aboriginal and Aboriginal Heritage and this is explored below:

### Non-Aboriginal Heritage (EIS Section 9 .1. 2)

Section 2.3 of the EIS sets out the relevant legislation that needs to be considered and complied with in the consideration and operation of the proposal. The EIS is somewhat light on post settlement heritage and could have been covered more extensively by investigating the history of Gundagai as well as the broader regional context. In doing so items of post settlement heritage may have been discovered and their proximity to the site and potential impact could then be assessed. It is noted that the submissions received tend to focus on Aboriginal, rather than post settlement, heritage. Nonetheless, there are no items of environmental heritage listed in Schedule 5 of Gundagai LEP within the vicinity. The nearest item is the Nangus Station Group, some 5 kilometres (direct line) north west of the site. It is also noted that no submissions received related to any matters associated with non-aboriginal heritage.

### Aboriginal Heritage (EIS Section 9.11.1)

The EIS draws upon the report by Ozark Environmental Heritage Aboriginal Archaeological Impact Assessment for conclusions in relation to Aboriginal Heritage in the area. The assessment methodology complies with the legislative requirements as well as the adopted code of practice. There is an awareness of the provisions of Sections 86 and 87 of the Act regarding potential for harm to items and the offences associated with the removal or destruction of items, artefacts and relics, which can incur substantial penalties. The assessment is comprehensive consisting of both field investigations and desktop research where consideration is given to:

- Geology
- Hydrology
- Vegetation

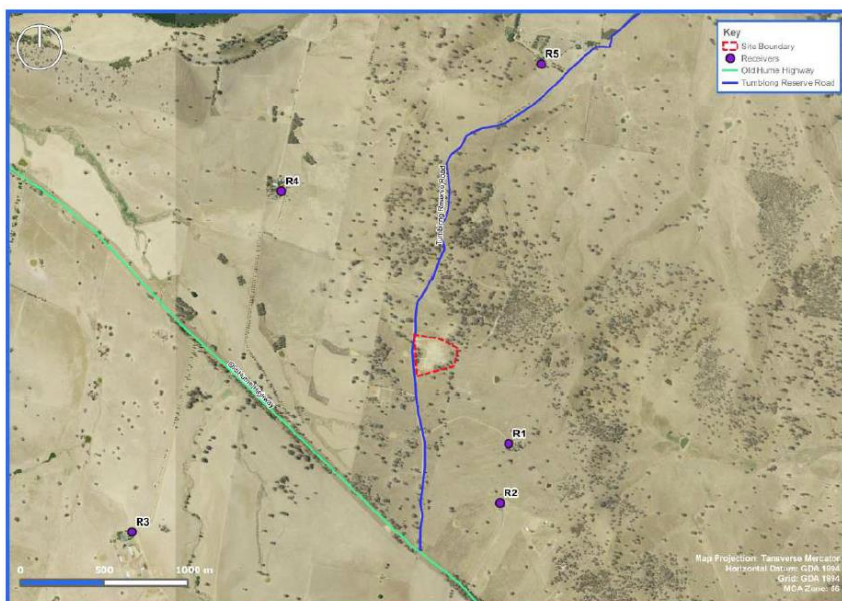
- Climate
- Land history
- Disturbance on the site

The OzArk report concluded:

- there were no cultural heritage values identified on the site.
- that there was no consultation with the local aboriginal community Brungle Tumut Local Land Council other than they helped with the field work and raised no issues.
- Ozark listed six recommendations (page 24 of their report) concerning aboriginal cultural values within the study area. These recommendations are set out on page iii within the Executive Summary. Of the six recommendations 3,4,5 and 6 will be included as recommended conditions of any development consent that issued.

None of the submissions received raised any concerns regarding heritage matters.

Aboriginal Heritage Information Management System (AHIMS) Web Services research in *Appendix 2* of the OzArk report revealed a number of recorded sites in a cluster to the southwest of the subject site *Figure 5.1 p16*. The likelihood of relics or items being located on the development site are considered remote given the disturbance of the land and the results of predicted modelling used. There is also a note of caution that it is possible that relics may be discovered, and, in such instances, the unexpected finds protocols should be employed.



Aerial photography courtesy of NSW Imagery

R1 to R5

## **VISUAL/VIEWS** (assessed in Section 9.13 of the EIS)

The legislative context for this issue includes the following:

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Act Regulations 2005
- Gundagai Local Environmental Plan 2011.

The EIS makes the following observations in assessing visual amenity:

- Describing the characteristics of the site and its location as rural in nature
- The visibility of the site from adjoining and adjacent public roads and nearby residents in the area and observes that no residences overlook the site. Dwellings in the nearby area can be

found in figure 3 of the *North Star Air Quality Report* with nearby dwellings numbered R1 to R5. An assessment of the sightlines from the dwellings to the existing quarry would suggest that when activity commences, in the excavation then stockpiling, that there will be some visible aspect of the development from the dwellings.

- R4 will be impacted visually by either the movement of vehicles on the site and/or on the adjoining roads.
- Landscaping is proposed to minimise the visual impact of the proposal on dwellings in the vicinity. To this end the management plan will need to include stage planting. The use of advanced materials and fast-growing pioneer shrubs or trees to soften the impact are preferred to provide a screen from adjacent roads and residents.
- Truck movements along Tumblong Reserve Rd will be more difficult screen given the openness of the area however there may be an opportunity for some roadside plantation. Roadside plantation may be investigated in the preparation of the landscape Plan which is included as a recommended condition of consent.
- Page 118 of the EIS states continued embellishment and maintenance of the site plantings screenings will ensure that any visual intrusion of the site operations will be minimised. The preparation of the site rehabilitation plan should consider staged planting.
- Revegetating the site should start soon as is practicable rather than leave it to within 12 months of closure of the facilities operations.
- The production of a Draft Rehabilitation Plan showing planting with an artist impression or a photomontage of how the site would look when completed in different stages would offset the concerns of number of those who made submissions.

## **FIRE & INCIDENT MANAGEMENT**

Tumblong Waste Disposal Facility – Bushfire Hazard Assessment 201158 was undertaken by Building Code & Bushfire Hazard Solutions P /L accredited practitioner. Comments provided are based on the requirements of the Environmental Planning and Assessment Act 1979, the Rural Fires Act 1997, the Rural Fires Regulations 2013, Planning for Bush Fire Protection 2006, and Australian Standard 3959 ‘Construction of buildings in bushfire prone areas’ 2009.

The report concluded: *It is of our opinion that should the proposed development comply with the recommendations contained herein the facility will have successfully met the aim and objectives of Planning for Bush Fire Protection - 2006.*

The recommendations in section 13 of the report state as follows:

*“The following sets out our recommendations for the Bushfire Protection Measures (BPM’s) with respect to the aims and objectives of Planning for Bushfire Protection - 2006.*

*a) Bushfire Asset Protection Zone:*

*Landfill site:*

*The use of the Crown Road corridor for access to the landfill facility will meet the required 10m wide APZ along the north eastern corner boundary. No other APZ’s are required.*

*A cleared area around the Office building shall be maintained to a maximum of 3.0m. This shall be equivalent to an Inner Protection Area (paved or close mown).*

*Temporary Stockpile Area:*

*The temporary stockpile area will not contain any combustible materials or buildings. PBP does not require any APZ’s for this site.*

*b) Access*

*The use of the Crown Road corridor for access to both the landfill and temporary stockpile sites will meet the required access provisions for heavy fire fighting vehicle access. Clear access across the landfill site will also assist.*

*c) Utility Services*

*No utility services shall be provided therefore:*

*A dedicated firefighting water cart will be provided. The capacity of the water cart should exceed 2500lts. The water cart is to be provided with a rubber hose reel of minimum 30m in length and a cab-controlled water monitor located on the front bumper bar, cab roof or tank.*

*Additionally, a dedicated fire service water tank having a capacity of 10,000lts is to be provided. The tank shall be non-combustible, be fitted with a 65mm 'Storz' coupling suitable to local fire services and be freely accessible to attending fire service trucks.*

*d) Structures*

*All structures other than the portable toilet shall be non-combustible.*

*All structures shall be located on the southern boundary of the Crown road access to provide for the required 10m APZ.*

*The office and amenities building shall be located on a reinforced concrete slab and provided with metal mesh screens to all openable doors, windows and vents.*

*Carports are exempt.*

*e) Bushfire Emergency Management Plan*

*The facility operators are to develop a bushfire emergency management plan to ensure the safety of both staff and others. A template can be downloaded from the NSW Rural Fire Services web page."*

The above conditions will be imposed as conditions within any development consent issued. It is recommended that a condition also be included that requires the stockpile area to be maintained in such a manner that any vegetation will not support fire. This is to be included in the required Bushfire Emergency Management Plan.

## **LANDFILL CLOSURE**

The statutory context in relation to landfill closure include:

- The Environmental Planning Assessment Act 1979 & Regulations 2000
- Protection of the Environment Operations Act 1997 and
- Environmental Guidelines: Solid Waste Landfills, second edition 2016. The guidelines require a Closure Plan (section 10.1).
- The proposed development when closing will also need to produce:
  - a Statement of Completion; and
  - a Construction Quality Assurance Plan.

A Construction Quality Assurance Plan has been prepared by Insitu Advisory, in respect to cells 1 and 2 construction, dated 22nd of October 2019.

The EIS (section 4.1.4 *Capping and Rehabilitation*) indicates that part of the Environmental Management Plan to be prepared for the facility will include a detailed Landfill Closure and Rehabilitation Plan. The Closure and Rehabilitation Plan is described in section 11.3 as part of the Environmental Impact Statement

Environmental Guidelines: Solid Waste Landfills, 2016 require the Closure Plan Rehabilitation Plan and the Construction Quality Assurance Plan to be prepared and submitted for approval 12 months prior to the cessation of works on the site. This Plan should be prepared in consultation with Council and the NSW Environment Protection Authority.

The proposal to submit the rehabilitation plan 12 months prior to cessation of works on the site does provide the community a visualisation of the finished product. It is recommended as a condition that

a conceptual drawing and an artist impression of the site post closure i.e. a Rehabilitation Plan drawing by submitted prior to the commencement of landfilling works on site.

## **BIOSECURITY**

The statutory context in relation to biosecurity is contained within the following legislation:

- Biosecurity Act 2015
- Environmental Planning and Assessment Act 1979
- Environmental Planning and Regulations 2000.

There are several biosecurity duties imposed under the Biosecurity Act in relation to specified persons. These include:

- a duty to take action when dealing with biosecurity matters or carriers
  - a requirement to notify a prohibited matter event
  - a requirement to prevent, eliminate or minimise a risk posed by prohibited matter
  - a duty to notify a suspected or existing biosecurity event
- Biosecurity duties are non-transferable, although more than one person can have the same biosecurity duty. A person can also have more than one duty.

This matter has been addressed by the EIS (section 5.9) with comments provided on feral animals, noxious weeds and pathogens. The EIS concludes that the nature of the non-putrescible material will produce little harm to animals and contains negligible pathogens. The developer is relying on Council's Weed Control Programme along public roads used to service the development. The applicant will produce their own on-site noxious Weed Management Plan.

It is unlikely that the landfill itself will support habitat for feral animals as the material delivered to site is essentially inert and does not provide a food source.

The Department of Primary Industries requested Biosecurity be considered. The application, if approved should have a condition of consent requiring the preparation of a Biodiversity Plan in accordance with the guidelines produced by the Department of Primary Industries and submitted to that department for approval prior to the commencement of operations.

The Department of primary industries in agriculture also gave advice there are a number of guidelines that could be used in the assessment they were:

- Land Use Conflict Risk Assessment Guide
- Agricultural Issues for Extractive Industry Development
- Infrastructure Proposals on Rural Land

These guidelines do not appear to have been considered by the EIS

The GCEIG submission indirectly raised or address this issue by requesting a condition of consent for the installation of a wheel wash facility to be operated and maintained on the site. It may be necessary to install another wheel wash on the site where the waste materials are collected from. This would prevent the collection of inappropriate material being tracked between two venues and placed on different sites. This matter should be addressed in the Biosecurity Management Plan.

The Biosecurity Management Plan will need to be prepared and approved prior to the commencement of landfill works on the site.

## CONSULTATION

The legislative context around consultation is contained within the following:

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2000
  - Part 6 Division 5
  - Division 5 Public participation—designated development, State significant development, nominated integrated development, threatened species development and Class 1 aquaculture development
  - 77 Notice of development applications
- Protection of the Environment Operations Act 1997
- EPA NSW - Environmental Guidelines: Solid Waste Landfills 2016
- The guidelines are silent in respect to consultation for development applications.

Cootamundra Gundagai Regional Council (CGRC COMMUNITY PARTICIPATION PLAN) adopted in October 2019 states: *The CPP is a plain English document which seeks to encourage effective and on-going partnerships with the community to provide meaningful opportunities for community participation in planning by giving the community every opportunity to participate in strategic planning, have a say on major development which they may be affected by and ensure that there is transparency in decision making processes.*

The community would consider the proposed development a major development and subject to consultation and opportunities for understanding the proposal, the issues and the safeguards. There may have been an expectation that the opportunity be provided by the applicant for issues and concerns to be verbally responded to in order that they be addressed in further documentation prior to determination of the application. The difficulty the applicant faced was not all technical information was attainable or unavailable. Being a complex proposal, technical and scientific in nature subject experts would need to attend the meetings to provide comprehensive responses to the community. This would prove difficult to arrange and costly. Some of the information that would address community concern relates to the plans required as a result of assessment and applied as condition of approval. Such plans are technical and costly and therefore not normally produced until the development consent is issued.

The appropriate notifications were given in writing to those owners who may have been affected as determined by Council. Notices in the local newspaper, information on Council's website as well as in Council offices and Department of Planning Head office were also provided in accordance with legislative requirements. There is anecdotal evidence that the proponent arranged a public meeting. There is nothing in the application and supporting documents indicating that the meeting took place. Some of those who made submissions made reference to the meeting for consultation, stating that it was inadequate and unhelpful in understanding the proposed development.

The submissions received identified the major issues, many of which were covered in the SEARs directive, relevant legislation and guidelines applicable to landfill waste facilities. The proposed Southern Regional Planning Panel meeting to be held on 28th May will give another opportunity for those members of the public interested to follow the assessment process.



The most comprehensive and detailed submission was made by The GUNDAGAI COMMUNITY ENVIRONMENTAL IMPACT GROUP (GCEIG). Their submission covered most of the points of objection raised by the other submissions. They consider the EIS is inadequate on the following grounds:

- the consideration of alternative sites was inadequately assessed
- the relationship between the landowner in Cootamundra Gundagai Regional Council was not conducive to an impartial assessment
- the scope and extent of community consultation was inadequate
- the assessment of traffic impacts was inadequate.
- the impacts and potential for groundwater system contamination what is inadequately assessed.

Of note the submission states:

- *“The GCEIG defers to the EPA to fully assess the adequacy of the EIS regarding assessment of noise odour, landfill gas, leachate and dust impacts and to ensure best practise standards are required implemented and strictly enforced” and*
- *Recommended conditions for any consent .... if Council and the SPPR of the view that the establishment of the landfill is warranted GCEIG recommends that, in accordance with the best practise regulatory conditions the following elements be included to protect the environment in the community:*
  - *waste management issues*
  - *landfill capacity in annual waste receipts*
  - *waste management issues*
  - *noise issues*
  - *air quality (odour and landfill gas) issues*
  - *socio economic issues*
  - *community dialogue*
  - *health and safety issues*
  - *compliance management*

The lack of a general meeting or forum to discuss the proposed development at a public meeting most likely gave rise to the concern the GCEIG had and many others regarding the relationship between the developer and Council because of Council’s desire to obtain gravel from the site as a by-product of the development.

The expert reports together with the general terms of approval provided by New South Wales EPA and Transport for NSW satisfy the legislative requirements and have been robust in content to identify the environmental issues and impacts together with the remedial actions and monitoring requirements to ensure the landfill operation performs in an acceptable manner .

## PROPERTY VALUES

The *Environmental Planning and Assessment Act 1979 section 4.15 Evaluation* gives the opportunity to consider the social and economic impacts of the development. There are however no specific requirements under the Act to examine the loss of value of properties that might be affected by development. The existing and continued use of the gravel pit has been present and may already have been affecting the land values. Being such a small area (4.5ha) in a broad landscape it is unlikely that land values are negatively impacted. The expert reports coupled with the conditions of consent and the EPA licensing requirements are design to minimise impacts on the development site and surrounding area. The EIS does not address this matter and this is understandable given the environmental assessment indicating the proposed use on the site can meet all the statutory and licencing requirements.

The location of the waste facility with a footprint of 4.5 hectares is dwarfed by the broad acre holdings surrounding it. It is difficult to envisage that the increased activity, with the environmental safeguards proposed to be imposed on the development, would be a detriment to those living on properties nearby nor on their agricultural pursuits. *The right to farm* by the adjoining properties owners will not be affected by the proposed development. The EIS consideration of economic impacts has focused on the positive economic benefits to the community in terms of employment and income to support the growth of the area and its infrastructure (section 9.1 page 116).

The submission by GCEIG is concerned about the economic impacts being the cost to the community on the wear and tear of the haul roads associated with the development. Council through the CGRC Section 7-12 Fixed Development Consent Levy Contributions Plan 2018 will charge 1% of the total cost of the development currently at \$680,000 and Development Generating Heavy Vehicle Usage of Local Roads (monies collected for that purpose to maintain local roads). Both plans are designed to offset the burden of any cost to the community created by the development. The contribution required by both these plans will be a condition of a development consent if issued.

The EIS, accompanying reports and the general terms of approval provided by the EPA and Transport for NSW demonstrate that the proposed development, subject to complying with specific conditions and operational procedures, will not harm the environment. The agricultural practises will remain unaffected and the residents of R1 to R5 dwellings will not have their liveability diminished.

## **LITTER CONTROL**

### What is 'litter' according to the law?

Under section 144A of the Protection of the Environment Operations Act 1997 (POEO Act) 'litter' includes:

a) any solid or liquid domestic or commercial refuse, debris or rubbish including any glass, metal, cigarette butts, paper, fabric, wood, food, abandoned vehicles, abandoned vehicle parts, construction or demolition material, garden remnants and clippings, soil, sand or rocks, deposited in or on a place, whether or not it has any value when or after being deposited in or on the place and b) any other material, substance or thing deposited in or on a place if its size, shape, nature or volume makes the place where it has been deposited disorderly or detrimentally affects the proper use of that place.

### What is 'depositing litter' according to the law?

Under section 144A of the POEO Act 'depositing litter' in or on a place includes:

- (a) dropping or throwing litter in, on, into or onto the place, or
- (b) leaving litter in or on the place, or
- (c) putting litter in such a location that it falls, descends, blows, is washed, percolates or otherwise escapes or is likely to fall, descend, blow, be washed, percolate or otherwise escape into or onto the place, or
- (d) causing, permitting or allowing litter to fall, descend, blow, be washed, percolate or otherwise escape into or onto the place.

The EIS adequately addresses this issue, considering the following:

- the nature of the development and the materials to be used on site are not likely to produce litter.
- the erection of the security fence around the perimeter of the site to collect any flying debris and
- the staff regularly carrying out litter patrols to be included in the Site Operation Management Plan

These measures are acceptable and should adequately deal with this issue if it arises

## **EIS ADEQUACY**

The EIS cited and addressed the statutory/regulatory framework identified as being relevant to the proposed development (section 6 STATUTORY REGULATORY FRAMEWORK page 65 to 85). Both State and Commonwealth legislation have been considered. The State Planning Department Secretary's Environmental Assessment Requirements (SEAR) #1321 was obtained with the key issues nominated and addressed through the EIS process. The EIS, on page 85, shows table 11 referencing the sections of the EIS that address the individual sections of the SEARs showing how all requirements have been assessed and met.

Expert reports have been obtained in respect of waste management, hazards and risk, air quality odour, noise and vibration, water resources, soil and water, traffic and transport, biodiversity, heritage, Bushfire and incident management. The experts engaged in assessment of the environmental elements were all appropriately qualified, experienced and, where necessary, certified to undertake the work and make recommendations in the respective areas of expertise with regards to the suitability of the site for the proposal. The experts also, where appropriate, recommended conditions that may be necessary to ensure the development conforms with the governing laws and performs in a sustainable environmental form.

A visual amenity assessment was undertaken by Salvestro Planning and is contained within the EIA on pages 116 to 118 (Section 9.13 visual amenity). The assessment is adequate for the purposes of the application.

Some consideration could have been given to the context of the site in relation to the agricultural character and capability of the area compared to the site. Nonetheless, the current site has been disturbed since 1975 with the quarry activity and is not available for agricultural production in its current form. The proposed rehabilitation on the site on the closure of the waste facility will restore the land suitable for grazing purposes or native vegetation.

The submissions were critical of the lack of information provided on various aspects that are listed in the consultation comments. The author of the EIS rightly pointed to the various expert conclusions and requirements that would make the development acceptable at this site. The EIS when written did not have the advantage of knowing what the general terms of approval would be from the EPA or Transport for NSW which, if had been known, would have been included and would perhaps answered a number of the issues raised in the submissions including GCEIG's.

Some of the issues raised in the submissions correctly called upon more information as did the EPA and Department of Primary Industries this was provided as additional information by the relevant experts and Salvestro Planning. The information was subsequently submitted to the satisfaction of the EPA during the *Stop the Clock* time.

## **LOCAL AMENITY**

The EIS and accompanying reports adequately address applicable statutory, regulatory and policy requirements associated with the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulations 2000.

The local amenity in the surrounding area of the site will be affected with the on-site activity and associated noise dust from transport movement volumes. The amenity has to some degree in the past been affected by the operation of the Bangus Quarry with similar impacts.

The accompanying reports have identified the extent of noise impact and traffic volumes. The suggested controls on the operation of the facility are designed to minimise the impacts:

- limits on the hours of operation when the background noise levels are the highest in the area
- limitations on the noise to be emitted by the plant operating on the site
- dust suppression requirements both on site and the adjoining road if necessary
- the proposed landscaping will be designed and implemented to disguise the site and enable it to blend with the surrounding area.
- 

It is conceded that there will be a loss of amenity as the surrounding rural land uses could be considered to in conflict with the proposed development and its activity. The Gundagai LEP 2011 permits the proposed use, being a waste management facility, within the RU1 primary production zone recognising it is a possible use and relying on other legislative requirements to ensure that it is acceptable at the location.

The loss of amenity in the area will be weighed against the need for, and benefits of, the development within the wider area together with the remedial actions to be imposed to reduce the adverse impacts. After the closure, the activity will cease, and the site rehabilitated improving the local environment.

## **ALTERNATE SITE INVESTIGATION LIMITED**

*Environmental Guidelines: Solid Waste Landfills*, Second edition 2016

### **Siting restrictions**

*Location is an important factor in determining the environmental risk posed by a landfill. Judicious location of a landfill is the single most effective environmental management tool*

### ***The list of inappropriate areas for landfilling includes sites located as follows:***

- *within 250 metres (or other protection zone) of an area of significant environmental or conservation value identified under relevant legislation or environmental planning instruments, including national parks, historic and heritage areas, conservation areas, wilderness areas, wetlands, littoral rainforests, critical habitats, scenic areas, scientific areas and cultural areas;*
- *within specially reserved drinking water catchments, such as special areas identified by the Sydney Catchment Authority, Sydney Water, and local water supply authorities;*
- *within 250 metres of a residential zone or dwelling, school or hospital not associated with the facility;*
- *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;*
- *within a karst region or with substrata that are prone to land slip or subsidence;*
- *within a floodway that may be subject to washout during a major flood event (a 1-in-100-year event).*

*Inappropriate areas also include land identified in an environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance.*

The subject site satisfies the above criteria and the fact that the EPA have issued general terms of approval and will licence the facility confirms the site is acceptable for the proposed development with appropriate conditions of operation and environmental monitoring being recommended.

The EIS lists 10 alternative sites that have been considered. Eight (8) other sites are already licenced by the EPA as waste facilities. One of the sites, the Gocup Gravel Pit, also considered was discounted as it was still actively being used at the time. The tenth and preferred option was the Bangus Quarry on Tumblong Reserve Road. A new area or the waste facility was considered the best option and given the local knowledge and history of previous applications to establish such a facility on existing licenced facilities being refused approval they were discounted as a viable option.

Most likely there are other sites within the local government area that may be suitable however the applicant has chosen this site based on their knowledge of the area and the criteria for selection from the guidelines above. The EIS has canvassed the alternative sites to a reasonable level for the purpose of enabling this site to be considered.

## **HOURS OF OPERATION**

The EIS states in section 4.1.2 Construction Activities:

***“Construction work will be conducted between the hours of 7:00 AM and 6:00 PM Monday to Friday and 7:00 AM to 12:00 PM Saturday”***

***4.2.3 Staffing and Hours of Operation does not indicate any change of those hours.***

The noise and vibration assessment by Waves Consulting use the opening hours staffed from 7:00 AM to 5:00 PM Monday to Friday and Saturday 7:00 AM to 1:00 PM closed at all other times. There is a discrepancy in the hours of operation which will need to be clarified and the conditions imposed by any consent issued. It is suggested that 7:00 AM and 6:00 PM Monday to Friday and 7:00 AM to 12:00 PM Saturday would be reasonable during daylight saving time only. Waste disposal at the facility is limited to 10 years. However the General Terms of Approval provided by the NSW Environment Protection Authority (EPA) state that the hours of operation (construction) as Monday to Friday 7:00AM to 5:00PM and Saturday 7:00AM to 12 NOON and hours of operation (activities) as Monday to Friday 7:00AM to 5:00PM and Saturday 7:00AM to 1:00PM. The recommended conditions of consent are drafted to reflect the general terms of approval as issued by the NSW EPA.

## **MONITORING**

The following statutory context is considered for this issue:

- Environmental Planning and Assessment Act 1979 and Regulations 2000
- Protection of the Environment Operations Act 19973 Objects of Act

**3 The objects of this Act** are as follows:

***(v) the monitoring and reporting of environmental quality on a regular basis,***

Environmental Guidelines: Solid Waste Landfills, Second edition 2016

The monitoring required for the waste facility is in the main contained in the general terms of approval issued by the EPA and will be attached to any licence that they issue for the operation.

- the Annual Environmental Monitoring Report covering:
  - leachate quality monitoring

- noise
- groundwater
- quality ambient air quality
- concentration of pollutant discharged.
- other reporting requirements require annual waste summary reports,
- weighbridge records of deliveries of the waste to the site.
- recording and reporting pollution complaints
- statement of compliance

The submission made by GCEIG raised concern in respect of the impact on the standard of **local roads** with the introduction of more heavy vehicles and who would cover the cost of repairs and maintenance. Road maintenance requires monitoring by Council as the impact on local roads by the introduction of heavy vehicles and must allocate money to cover the cost of rehabilitation when necessary. In this regard the development would be subject to the *GUNDAGAI SHIRE COUNCIL– CONTRIBUTION PLAN FOR DEVELOPMENT GENERATING HEAVY VEHICLE USAGE OF LOCAL ROADS June 2015*. The contribution will be calculated and imposed as a condition of any development consent.

The demand for other **community facilities** that may be created by the proposed development would be subject to the provisions of:

*COOTAMUNDRA-GUNDAGAI REGIONAL COUNCIL SECTION 7.12 FIXED DEVELOPMENT CONSENT LEVY CONTRIBUTIONS PLAN 2018 = (1% of the development Cost \$680,000)*

*1. Introduction*

*This document is called the Gundagai Shire Council Contributions Plan for development generating heavy vehicle usage of local roads (“the Plan”). The overall intent of the Plan is to require a contribution to Council from future developments that generate heavy vehicle traffic on local roads. The contribution can be financial or other means as detailed in the Plan.*

*Alternative means of contributing*

*The Council may accept an offer by the applicant to provide an ‘in-kind’ contribution (i.e. the applicant undertakes part or all of the required road works) or through provision of another material public benefit in lieu of the applicant satisfying its obligations under this Plan.*

Any other financial arrangement that may be made between Council and the operator in regard to site lease or the provision of material is likely to occur outside of the planning process, but still needs to be undertaken in a transparent and open manner. The contractual arrangements between the developer and the Council are not known (commercial and in confidence) and have no bearing on the environmental assessment and determination of the application. Obviously, the submissions are unhappy with this arrangement considered it will not be an impartial decision when Council has a commercial interest in the outcome.

The requirements of the contribution plans being a condition of consent may satisfy the concerns of the community.