

DETERMINATION AND STATEMENT OF REASONS

SOUTHERN REGIONAL PLANNING PANEL

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| DATE OF DETERMINATION | Monday, 29 June 2020 |
| PANEL MEMBERS | Gordon Kirkby (Chair), Tim Fletcher, Andrew Hutton, Gordon Lindley and Tony Donoghue |
| APOLOGIES | None |
| DECLARATIONS OF INTEREST | Tony Donoghue: Is the independent chair of the Cootamundra-Gundagai Audit, Risk & Improvement Committee (ARIC). The role is not a paid position and relates to the appropriate governance of the council through audit & investigation. |

Public meeting held at Teleconference Call on 28 May 2020, opened at 11:05am and closed at 12:15pm and supplementary papers circulated between 10 June 2020 and 17 June 2020.

MATTER DETERMINED

PPSSTH-12 – Cootamundra Gundagai Regional Council – DA2019/143 at Tumblong Reserve Road, Tumblong – Tumblong Reserve Road, Tumblong (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The panel adjourned the Teleconference call public meeting and agreed to defer consideration of the matter pending receipt of additional information on a number of issues:

1. Further information from the Applicant on the overall size, location and volume of the proposed stockpile area. This should include a clear plan of the proposed stockpile area;
2. Advice that Council is satisfied that the community consultation undertaken by the Applicant and reported in the environmental impact statement meets the requirements of the Secretary's Environmental Assessment Requirements;
3. Advice regarding the receipt of land-owners consent for all land subject to the Development Application
4. Advice regarding the status of the Right-of-Way proposed to be used to transport material from the quarry area to the stockpile area;
5. Advice as to whether any tree removal on the site, subsequent to the biodiversity assessment undertaken for the EIS, has impacted on the biodiversity offset calculations;
6. Confirmation that clay material will not be imported to the site;
7. Further information, prepared by the Applicant and assessed by Council, by way of a supplementary traffic assessment of the cumulative impact of concurrent truck movements bringing waste material to the site with truck movements removing excavated material from the stockpile area. The supplementary traffic assessment should include proposed measures to minimise such occurrences.

Development Application

The panel determined to approve the development application by way of a "deferred commencement" consent pursuant to section 4.16(3) of the *Environmental Planning and Assessment Act 1979*.

The consent is not to operate until the applicant satisfies Council as to the following matters:

1. The submission of plans clearly demonstrating that the alignment of the internal road providing access between the quarry on Lot 7004 DP1028797 and the stockpile area on Lot 1 DP702858 is

located within the existing right of access across Lot 2 DP702858 and the construction and operation of that road is within the terms of the right of access agreement.

2. The submission of, and approval of revised plans that incorporate a stockpile/bund along the length of the southern boundary of Lot 1 DP702858. The bund is to be constructed to a minimum height of 8m from natural ground level and be vegetated provide a visual screen of the temporary stockpile area when viewed from the nearest residence.

The decision was unanimous.

REASONS FOR THE DECISION






- The proposed development is permissible with development consent in the RU1 Primary Production Zone under Gundagai Local Environmental Plan 2011;
- The proposed development is generally consistent with the objectives of the zone;
- Subject to the conditions of consent, the proposed development can be constructed and operated to comply with relevant environmental criteria. In this regard the panel notes that the Environment Protection Authority has provided General Terms of Approval;
- The Panel was satisfied that the visual impact of the development, particularly the proposed temporary stockpile area when viewed from the adjoining property, is able to be mitigated by way of the provision of a vegetated bund along the southern boundary of Lot 1 DP 702858. The panel has required the submission of revised plans incorporating this bund, to be a minimum of 8m in height as a deferred commencement consent requirement.
- The Panel was satisfied that potential groundwater impacts could be appropriately managed through the placement of a leachate barrier lining the floor and side walls of the landfill cells and on-going monitoring required by the Environment Protection Licence.
- The Panel was satisfied that traffic impact and road safety can be appropriately managed through a revised recommended condition of consent that requires a Transport Management Plan to be prepared and submitted for Council approval. The TMP will include measures for the Applicant and Council to liaise with regard to minimising cumulative truck movements associated with the receipt of landfill material and the delivery of extractive material.
- The Panel is satisfied that on-going engagement with the local community will be facilitated through a revised recommended condition of consent which requires the establishment of a Community Liaison Committee that will include representatives of the Applicant, Cootamundra-Gundagai Council and nearby residents.

CONDITIONS

The development application was approved subject to the amended conditions in the document titled *Consolidated List of Conditions for Tumblong Landfill (v4)* submitted to the Panel by Cootamundra-Gundagai Council on 10 June 2020.

The amended conditions reflect discussions between the Panel and Council officers to strengthen the consent by incorporating several proposed environmental management measures into the consent. The key changes to the Conditions are:

- Inclusion of a condition requiring the Applicant to establish a community liaison committee consisting of the Applicant, nearby residents and Council;
- Requiring the submission of a conceptual Rehabilitation Plan for approval of Council and EPA within 12 months of commencement of landfilling activities;
- Inclusion in the Traffic Management Plan of a requirement for the Applicant and the Council to liaise with regard to measures to minimise concurrent gravel extraction and landfill receipt operations;
- Greater clarity with regard to the scope of required management plans.

| PANEL MEMBERS | |
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|  Gordon Kirkby (Chair) |  Tim Fletcher |
|  Andrew Hutton |  Gordon Lindley |
|  Tony Donoghue | |

| SCHEDULE 1 | | |
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| 1 | PANEL REF – LGA – DA NO. | PPSSTH-12 – Cootamundra Gundagai Regional Council – DA2019/143 |
| 2 | PROPOSED DEVELOPMENT | Non Putrescible Landfill |
| 3 | STREET ADDRESS | Tumblong Reserve Road, Tumblong |
| 4 | APPLICANT/OWNER | NSW Crown Land & Martin Peter Hay |
| 5 | TYPE OF REGIONAL DEVELOPMENT | Designated development - waste management facility or works |
| 6 | RELEVANT MANDATORY CONSIDERATIONS | <ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy No 33 – Hazardous and Offensive Development State Environmental Planning Policy No 55 – Remediation of Land State Environmental Planning Policy (State and Regional Development 2011) State Environmental Planning Policy (Primary Production and Rural Development) Riverina Murray Regional Plan 2036 Gundagai Local Environmental Plan 2011 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Nil Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development |

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| | | <ul style="list-style-type: none"> Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development |
| 7 | MATERIAL CONSIDERED BY THE PANEL | <ul style="list-style-type: none"> Supplementary assessment report: 10 June 2020 Council assessment report: 17 March 2020 Written submissions Verbal submissions at the public meeting: <ul style="list-style-type: none"> Angie Lee Farmer, Kelsey Farmer, Chris White, Anthony White, Bruce McFawn, Danny Giblin and Prof Warwick Giblin Council assessment officer – Sharon Langham Independent Consultant – Ian Graham – Iris Planning On behalf of the applicant – Martin Hay, Garry Salvestro and Alan Dyer |
| 8 | MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none"> Briefing: Monday, 22 June 2020 <ul style="list-style-type: none"> Panel members: Gordon Kirkby (Chair), Tim Fletcher, Andrew Hutton, Gordon Lindley and Tony Donoghue Council Assessment Staff: Sharon Langham Consultant: Ian Graham of Iris Planning Site inspection: Tuesday, 5 May 2020 <ul style="list-style-type: none"> <u>Panel members</u>: Tim Fletcher <u>Council assessment staff</u>: Sharon Langman Site inspection: Friday, 8 May 2020 <ul style="list-style-type: none"> <u>Panel members</u>: Gordon Kirkby <u>Council assessment staff</u>: Sharon Langman Site Inspection: Tuesday, 19 May 2020 <ul style="list-style-type: none"> <u>Panel member</u>: Tony Donoghue Site inspection: Monday, 4 May 2020 <ul style="list-style-type: none"> <u>Panel member</u>: Gordon Lindley Final briefing to discuss council's recommendation, Monday 11 May 2020, 11:05am. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Gordon Kirkby (Chair), Tim Fletcher, Andrew Hutton, Gordon Lindley and Tony Donoghue <u>Council assessment Staff</u>: Sharon Langham <u>Consultant</u>: Ian Graham of Iris Planning |
| 9 | COUNCIL RECOMMENDATION | Approval |
| 10 | DRAFT CONDITIONS | Attached to the council assessment report |