

DATE OF DETERMINATION	Friday, 21 August 2020
PANEL MEMBERS	Gordon Kirkby (Chair), Renata Brooks, Tim Fletcher and Paul Holton
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 28 July 2020.

MATTER DETERMINED

PPSSTH-25 – Snowy Valleys Council – DA2019/0172 at 10 Killarney Road, Gilmore – Expansion of existing landfill facility (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.

REASONS FOR DEFERRAL

Subsequent to the public meeting held on 10 June 2020, the panel agreed to defer the determination of the matter pending the submission of the following further information from the Applicant and Snowy Valleys Council.

- *Cross sections through the development from the Snowy Mountains Highway to the eastern extent of the current landfill operations. The cross sections are to provide information on the RLs of the development at year 3, 6 and at completion relative to the existing landfill operations, the transmission lines to the west of the proposed development and the current trees along the western boundary of the site.*
- *Confirmation that the site is not encumbered by any easements or rights of access along the western boundary where the landscape buffer is proposed.*
- *Clarification of the wastes streams to be handled on the site in terms of compliance with EPA General Term of Approval L3.*
- *A revised recommended consent in a format with clear Council drafted conditions addressing the limits on the development and required environmental management and reporting requirements. The conditions shall include required matters to be addressed in the following management plans:*
 - *A Construction Environmental Management Plan*
 - *A Landfill Environmental Management Plan*
 - *A Landscape and Rehabilitation Management Plan, including measures to minimise active disturbance areas and measures to enhance visual screening through tree planting and revegetation of completed landfill cell areas.*

The revised recommended consent shall include the EPA General Terms of Approval as an attachment to Council's recommended conditions.

The additional information was received by the Panel on 28 July 2020 and circulated electronically.

Development application

The panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

- The proposed development is permissible with development consent in the RU1 Primary Production Zone under Tumut Local Environmental Plan 2012;
- 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 when viewed from the Snowy Mountains Highway, is able to be mitigated by way of the landfill construction sequencing, vegetation of bund areas and provision of a vegetated buffer area along the western boundary of the site. To ensure the vegetated buffer is established and maintained for the life of the project, a condition of consent has been included that will require a bank guarantee to be submitted to Council prior to the commencement of any activities under the consent.
- The proposed landfill will not be constructed within 40m of the Killarney Creek or any other watercourse.
- The Panel was satisfied that the proposed landfill was not located in an area identified as being subject to Groundwater Vulnerability under Tumut LEP 2012.
- 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 (TMP) 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.

CONDITIONS

The development application was approved subject to the conditions in Attachment C of the Council's Supplementary Assessment Report with the following amendments:

- Condition 1 amended to:
 1. Make the following changes to the Table to the Condition:

Sheet Description	Number	Date	Revision
General Arrangement Plan Subgrade - Stage 2 and Access Arrangements	610.17272.D04	04/10/2019 15/06/2020	€ D

2. Include the following in the Table to the Condition:

Sheet Description	Number	Date	Revision
Landfill Filling Plan Cross Sections (Sheets 1-4)	BILLETESdwg	06/07/2020	1
Bellettes Aesthetics Model Videos	14222-Bellettes (1)	22/07/2020	

3. include the words: "except where modified by the conditions of consent" after the words: "Management and mitigation measures included in Table 64 of the Environmental Impact Statement are to be implemented"
- Condition 19 Landscaping amended to the following words (in **bold**):
 19. Prior to the issue of a Construction Certificate a Landscape and Rehabilitation Management Plan shall be developed, lodged with, and approved by Council. The objective of the plan is to

reduce the visual impact of the land fill through effective vegetation screening. The plan must include but not be limited to the following measures, as applicable to the type of development:

- Minimisation of active disturbance areas.
- **Rehabilitation of existing landfill cells within the development site area.**
- Methods to enhance visual screening.
- Tree planting and revegetation schedules of species including the proposed density of planting. **Species shall include trees of sufficient height, as shown on Landfill Filling Plan Cross Sections (sheets 1-4) BELLETES dwg 06/07/20v1 (15m - 25m) to provide higher level screening.**
- Timing of proposed planting.
- Pest, weed and plant disease control.
- Hedging and pruning requirements.
- Watering, lawn mowing, edging and maintenance.
- Mulching details.
- Replacement of dead plants.
- Use of fertilizers.

The proposed visual screening landscaping approved in this development consent shall be a **minimum 5m width and, at a minimum be located along the western boundary of Lots 62 and 94 DP 757252. The screening landscaping shall be** installed prior to the issue of any Occupation Certificate. A copy of the approved Landscape and Rehabilitation Management Plan must be maintained on site and be made available to Council officers upon request.

REASON: Because of the requirement to comply with appropriate standards for environmental control. Section 4.15 of the Environmental Planning and Assessment Act 1979, as amended.

- Include new Condition after Condition 19:

To ensure that the landscape works are undertaken and maintained in accordance with the approved Landscape and Rehabilitation Management Plan (as approved under Condition 19), a - bank guarantee to the value of the landscape screening works (as outlined in the Plan and agreed by Council) is to be submitted to Council prior to the commencement of any activities approved by this consent. The bank guarantee is to be unconditional and from an institution and in a form approved by Council.

All costs associated with the establishment and maintenance of the Bank Guarantee shall be borne by the applicant or any successors in title to that company; or any future owner of the facility.




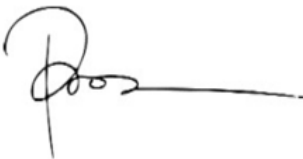
CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered the written submission made during public exhibition and heard from all those wishing to address the panel. The issues of concern included:

- Groundwater and surface water impacts, in particular; the consistency of the development with the *Environmental Guidelines: Solid Waste Landfills (NSW EPA 2016)*

The Panel notes that the EPA guidelines states that inappropriate areas for the location of landfill include areas in or within 40 metres of a permanent or intermittent water body or in an area overlying an aquifer that contains drinking water quality groundwater that is vulnerable to pollution. The Panel was satisfied that the proposed landfill development will not be located within 40m of the any permanent or intermittent water body, including the nearby Killarney Creek. The Panel is also satisfied that the proposed development is not located on land identified on the Groundwater Vulnerability Map under Tumut LEP 2012.

The panel considers that concerns raised by the community have been adequately addressed in the Council assessment report and the supplementary information provide by Council and the Applicant.

PANEL MEMBERS	
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 Tim Fletcher	 Paul Holton

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-25 – Snowy Valley Council – DA2019/0172
2	PROPOSED DEVELOPMENT	Increase general solid (non-putrescible) waste from 5,000 tonnes per annum to a limit of 40,000 tonnes per year resulting in the increased total amount of waste accepted at the landfill from 400,000 to 900,000 tonnes.
3	STREET ADDRESS	10 Killarney Road, Gilmore
4	APPLICANT/OWNER	Applicant: Allspec & Partners Pty Ltd Owner: J. Bellette and G. Bellette
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: <ol style="list-style-type: none"> State Environmental Planning Policy (State and Regional Development) Infrastructure SEPP State Environmental Planning Policy No. 33 – Hazardous and Offensive Development State Environmental Planning No. 44 – Koala Habitat Protection State Environmental Planning Policy No. 55 – Remediation of Land State Environmental Planning Policy (Primary Production and Rural Development)2019 Tumut Local Environmental Plan 2012 Draft environmental planning instruments: Nil Development control plans: <ol style="list-style-type: none"> Snowy Valleys Council Development Control Plan 2019 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 Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations

		<ul style="list-style-type: none"> The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council supplementary report: 23 July 2020 Council assessment report: 30 April 2020 Written submissions during public exhibition: 1 Verbal submissions at the public meeting: <ol style="list-style-type: none"> Bernard van der Rijt On behalf of the applicant – James McMahon
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection: Wednesday, 6 May 2020 <ul style="list-style-type: none"> <u>Panel members</u>: Tim Fletcher <u>Council assessment staff</u>: Craig Perrin <u>Applicant</u>: James McMahon trading as Allspec & Partners <u>Owner</u>: John Bellette Site inspection: Wednesday, 10 June 2020 <ul style="list-style-type: none"> <u>Panel members</u>: Gordon Kirkby (Chair) and Renata Brooks <u>Council assessment staff</u>: Craig Perrin <u>Applicant</u>: James McMahon trading as Allspec & Partners <u>Owner</u>: John Bellette Final briefing to discuss council's recommendation, Wednesday, 10 June 2020, 12:30pm. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Gordon Kirkby (Chair), Renata Brooks, Tim Fletcher and Paul Holton <u>Council assessment staff</u>: Craig Perrin and Paul May Briefing: Tuesday, 16 June 2020 <ul style="list-style-type: none"> <u>Panel members</u>: Gordon Kirkby (Chair), Renata Brooks, Tim Fletcher and Paul Holton
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report