



2 June 2020

General Manager
Penrith City Council
P O Box 60
PENRITH NSW 2751

Attn: Peter Wood – Development Services Manager

Dear Peter,

Re: Peer Review – Development Application No. 19/0470 – Proposed Landfill – Lot 1 DP 542395, 1725a Elizabeth Dr, Badgerys Creek

I refer to the above development application which was lodged by Suez Environment Group & Recovery Pty Ltd for proposed alterations to the existing approved waste management and resource recovery facility known as Kemps Creek Resource Recovery Park. The owner is contracted by Penrith City Council to undertake a waste service in the area and an existing Environment Protection Licence is in place on the site for the landfill.

I have reviewed the development application documentation and the draft Council Report prepared by your Senior Development Assessment Planner Paul Anzellotti. I concur with the findings and recommendations of the draft Council Report.

The proposal specifically includes the key aspects:

- Changes to the finished landform, maximum height of RL 95, being an overall increase in finished cap height of 15m;
- Increase in waste capacity of approx. 4.8 cubic metres;
- Increase in filling rate from 750,000 tpa to 950,000 tpa with an anticipated capacity by 2031;
- Continued collection of leachate; and
- Modify the existing development consent being DA 08/0958 to only apply to E2 land under Section 4.17(1)(b) of the Act.

The report identifies that the existing landfill accepts non-putrescible general solid waste and restricted solid waste, on average approx. 750,000 tpa. It is noted that this proposal does not alter staff numbers or existing hours of operation and an upgrade to perimeter landscaping is proposed as detailed on the landscape plan. Existing bushfire measures are maintained and there is no need for changes to the measures in place and the operations have an existing Emergency Response Plan.

The application has been identified as “Designated Development” and the Secretary’s Environmental Assessment Requirements (SEARs) were issued. The application is also identified as “Integrated Development” and requires concurrence from the Roads & Maritime Services (RMS) and Environment Protection Authority (EPA). Both authorities have raised no objections. The RMS has had regard to the

future M12 to the north of the site and considered the proposal as traffic generating development for the purposes of SEPP (Infrastructure). The EPA have issued General Terms of Approval (GTA).

I note that the site is zoned RU2 Rural Landscape and E2 Environmental Conservation under the Penrith Local Environmental Plan 2010. The proposed development is contained within the RU2 land. The LEP defines the proposed use as a waste or resource management facility and is a prohibited land use under the provisions of the local plan. However, the use is separately defined under State Environmental Planning Policy (SEPP) (Infrastructure) 2007 and permits the use of RU2 zoned land for the purpose of waste or resource management. The SEPP prevails to the extent of any inconsistencies with the LEP and therefore the development is a permissible land use in the zone. The proposal is compatible with the zone objectives and does not alter the approved use of the site. It is noted that existing use rights apply to the existing DA 08/0958 and the proposal includes modifying the consent to only apply to E2 land. Other provisions of the LEP relating to have been suitably addressed, including heritage, servicing and the future flight path of Western Sydney Airport.

The relevant State Environmental Planning Policies and DCP 2014 have been comprehensively addressed in the report.

The report details the existing land uses and confirms that the continued operations, which have been in place for nearly 30 years, and increase proposed is not out of context with the immediate surrounds. The report also identifies that the site is located within the area of future planning for Western Sydney and that the proposal remains a permissible land use under the discussion plans and the maximum height of the landfill will not impact upon Obstacle Limitation Surface associated with the runway of the Western Sydney Airport under construction. The visual impact and suitability of the proposal has had regard to the emerging area and future large scale infrastructure (including M12 to the north of the site) and future industrial and commercial uses as part of the planned Aerotropolis.

The site has an existing Environmental Protection Licence. Environmental impacts of the proposal have been addressed in detail within the report and considered by the EPA, including gas flaring, consideration of leachate pipe strength, gas extraction, air, odour, greenhouse gases, dust and noise, as well as potentially hazardous impacts and biodiversity. Appropriate conditions of consent are recommended, including compliance with the GTA issued by EPA.

A Visual Impact Assessment was submitted with the application, which considered the current and proposed impact from various receptors, as well as the future surrounding land uses as part of the planned Aerotropolis. Council's report concludes that the visual impact is generally acceptable noting that perimeter landscaping will also assist.

A limit on traffic movements is included in the conditions of consent to reflect the future operations to ensure the existing infrastructure remains suitable to accommodate the intensification of operations. It is also noted that the RMS are currently planning the upgrade of Elizabeth Drive, with the small number of trucks making right hand turns deemed suitable until such time as the upgrades occur given the majority are left turn movements and queuing is acceptable.

In accordance with the provisions of Section 4.17(1)(b) of the Environmental Planning & Assessment Act, 1979, this application proposes to modify DA 08/0958 to ensure that the landfill operations remain under this current application once consent is issued, except for the elements along the western boundary on land zoned E2. These works will remain under the DA 08/0958 and retain the benefit of existing use rights. An appropriate condition is recommended regrading a Notice of Modification to be lodged within 12 months of determination.

The report adequately addresses the issues raised within the seven (7) submissions received to the advertising of the application.

I consider that the proposal is well founded and on balance is a good planning outcome for the site. It is concluded that the proposed works are permissible and is in keeping with the zone and objectives and that the assessment has suitably considered the key considerations of Section 4.15 of the Environmental Planning & Assessment Act, 1979. The recommendation and proposed conditions are considered to be appropriate.

Yours faithfully,



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