

COUNCIL ASSESSMENT REPORT

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| Panel Reference | PPSWES-159 |
| DA Number | 2022-10 |
| LGA | Hay Shire |
| Proposed Development | Waste Recycling and Energy Generating Works |
| Street Address | 32570 Sturt Highway |
| Applicant/Owner | Applicant – UAG Bio Nutrients Owner – R & S Harris |
| Date of DA lodgement | 19 September 2022 |
| Total number of Submissions Number of Unique Objections | • 0 • 0 |
| Recommendation | Approval |
| Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011 | 5 Private infrastructure and community facilities over \$5 million Development that has a capital investment value of more than \$5 million for any of the following purposes— (a) air transport facilities, electricity generating works, port facilities, rail infrastructure facilities, road infrastructure facilities, sewerage systems, telecommunications facilities, waste or resource management facilities, water supply systems, or wharf or boating facilities, |
| List of all relevant s4.15(1)(a) matters | <ul style="list-style-type: none"> State Environmental Planning Policy (Planning Systems) 2021; State Environmental Planning Policy (Resilience and Hazards) 2021; State Environmental Planning Policy (Transport and Infrastructure) 2021; Hay Local Environmental Plan (LEP) 2011. |
| List all documents submitted with this report for the Panel's consideration | Attachment A: Draft Conditions of Consent Attachment B: Approval from Transport for NSW for imposition of Conditions Attachment C: Approval from Essential Energy for imposition of Conditions Attachment D: Approval from EPA for imposition of Conditions Attachment E: Approval from DPI – Agriculture for imposition of Conditions Attachment F: UAG Bio Nutrients EIS (February 2022) Attachment G: UAG Bio Nutrients EIS Supporting Documentation (October 2022) |
| Clause 4.6 requests | No Variations |
| Summary of key submissions | |
| Report prepared by | Jack Terblanche |
| Report date | 6 December 2022 |

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Not applicable

Conditions

Have draft conditions been provided to the applicant for comment?

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Yes

Executive Summary

The proposed development will involve the construction and operation of a Bio Nutrient Facility, receiving organic waste material from the onsite Ramps Ridge Feedlot (cow manure and other organic waste material). Feedstock for the biogas facility will be mixed with effluent water from the feedlot to combined Heat and Power (CHP) units to generate net positive electricity supply to the bio nutrient facility. The remaining biogas supply will be routed or transported to the Ramps Ridge feedlot CHP units for power generation and heating for the flaking systems. Substrate will be processed through vermiculture modules, transforming the substrate organic fertilizer, producing both solid pelletized and liquid products for application.

The proposal will consist of the following built components:

- Assembly, Storage and Receival Areas – Some areas will be covered, and most areas will be concrete
- Processing Plant – Incorporates Processing Facilities, Tanks, Laboratory, Offices, Packaging Plant (see figure on the right)
- Water Filtration and Storage Area
- Gas Storage Facility
- Internal Roads and Parking
- Landscaping

The proposed development will have an approximate footprint of 16ha, and employ an approximate 25 people. The project will create 21 jobs in construction over a 12-month period and 4 new full-time jobs during the operational phase

The proposed development was advertised in terms of the "Sydney District & Regional Planning Panels Operational Procedures" and the Hay Shire "Notification & Advertising Policy for Development Proposals". The proposed development was:

- Advertised in the Riverina Grazier. No submissions were received.
- Properties in the vicinity were notified in line with the Hay Shire "Notification & Advertising Policy for Development Proposals", which included all properties within 1km radius of the site, all adjoining properties, and all properties that may be impacted. These were nine properties, which included the Nari Nari Tribal Council and Crown Lands. No submissions were received.

A site visit was held with the Western Regional Planning Panel members on 8 November 2022.

The *State Environmental Planning Policy (Planning Systems) 2021* applies to the proposal as it identifies if development is regionally significant development. In this case, pursuant to section 2.19 of SEPP, the proposal is a regionally significant development as it satisfies the criteria in Clause 5(a) of Schedule 6 of the SEPP as the proposal is development for *electricity generating works* with a CIV over \$5 million. Accordingly, the Western Regional Planning Panel is the consent authority for the application.

A summary of the relevant EPI's are in the table below:

| EPI | Matters for Consideration | Comply (Y/N) |
|-----------------------------------|---|--------------|
| SEPP Planning Systems | Clause 2.19(1) declares the proposal as regionally significant development pursuant to Clause 5(a) of Schedule 6. | Y |
| SEPP Resilience and Hazards | Chapter 3 – Potentially hazard and offensiveness of the proposed development has been considered within the proposal and is satisfactory. | Y |
| SEPP Transport and Infrastructure | Section 2.48 - (Determination of development applications—other development) – The proposed development may influence the electricity network; Essential Energy has been notified, and their comments are included in the conditions of approval. | Y |
| Hay LEP | The site is zoned RU1 Primary Production and the proposed development is permitted with consent in the zone. The development is considered consistent with the objectives of the RU1 zone. | Y |

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following an assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

It is recommended that the Development Application DA 2022-10 for the construction of a Waste Recycling and Energy Generating Works at 32570 Sturt Highway be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 subject to the draft conditions of consent attached to this report at Attachment A.

1. THE SITE AND LOCALITY

1.1 The Site

The Ravensworth Ramps Ridge feedlot facility is located at 32570 Sturt Hwy, Hay , 17 km south of Maude and 58km WSW of Hay in the Riverina Region of NSW. The proposed UAG Bio Nutrient pilot plant will be located on a building envelope to the southwest of the feedlot and south of the current water storage reservoir of the land contained in Lot 2 DP:1245331.

The site is used for agricultural purposes (largely cropping), with the following uses directly adjoining the site:

- North – Water Storage
- East – Feedlot manure storage
- South – Cropping
- West - Cropping



Figure 1: Site Aerial Photo



Figure 2: View looking south towards the site, taken from the dam wall to the north of the proposed development.

1.2 The Locality

Further afield from the proposed development the uses include the Sturt Highway and Abercrombie Channel 2km south of the development, Maude Village 19km towards the northeast, and the Murrumbidgee River 20km to the north.

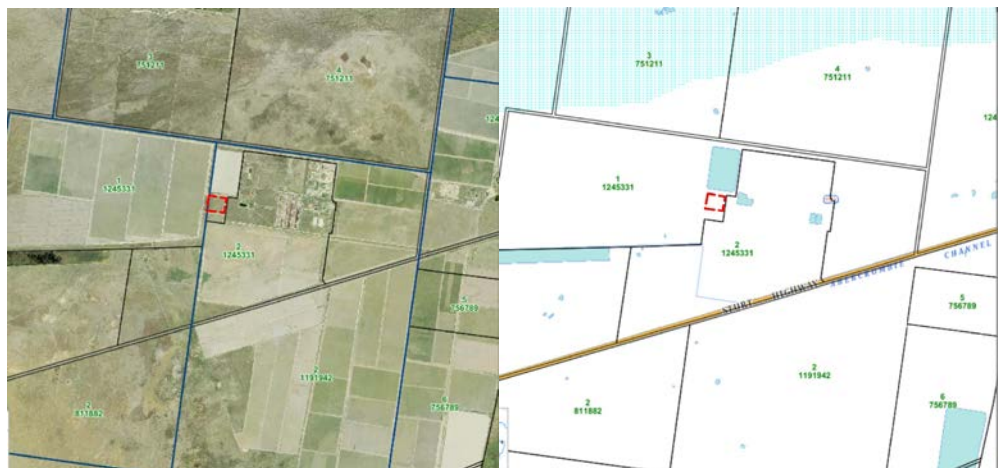


Figure 3: Location plan of subject land on aerial photo (left) and topographical extract (right).

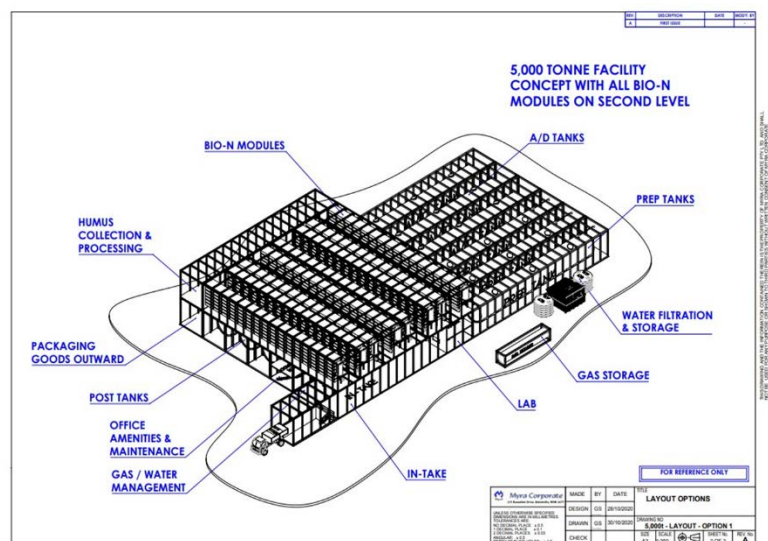
2. THE PROPOSAL

The proposed development will involve the following:

- The construction and operation of a Bio Nutrient Facility receiving organic waste material from the onsite Ramps Ridge Feedlot (cow manure and other organic waste material).
- Feedstock for the biogas facility will be mixed with effluent water from the feedlot.
- Biogas will be collected from 4 Anaerobic Digestion (AD) chambers, purified and routed to Combined Heat and Power (CHP) units to generate net positive electricity supply to the bionutrient facility.
- The remaining biogas supply will be routed or transported to the Ramps Ridge feedlot CHP units for power generation and heating for the flaking systems.
- Substrate from the AD chambers will be processed through vermiculture modules, transforming the substrate organic fertilizer, producing both solid pelletized and liquid products for application.

The proposal will consist of the following built components:

- Assembly, Storage and Receival Areas – Some areas will be covered, and most areas will be concrete
- Processing Plant – Incorporates Processing Facilities, Tanks, Laboratory, Offices, Packaging Plant (see figure on the right)
- Water Filtration and Storage Area
- Gas Storage Facility
- Internal Roads and Parking
- Landscaping



The proposed development will have an approximate footprint of 16ha, and employ an approximate 25 people. The project will create 21 jobs in construction over a 12-month period and 4 new full-time jobs during the operational phase

3. PROCESS

The proposed development was advertised in terms of the “Sydney District & Regional Planning Panels Operational Procedures” and the Hay Shire “Notification & Advertising Policy for Development Proposals”. The proposed development was:

- Advertised in the Riverina Grazier. No submissions were received.
- Properties in the vicinity were notified in line with the Hay Shire “Notification & Advertising Policy for Development Proposals”, which included all properties within 1km radius of the site, all adjoining properties, and all properties that may be impacted. These were nine properties, which included the Nari Nari Tribal Council and Crown Lands. No submissions were received.

A site visit was held with the Western Regional Planning Panel members on 8 November 2022.

4. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is not considered to be (which are considered further in this report):

- Integrated Development (s4.46)
- Designated Development (s4.10)
- Requiring concurrence (s4.13)
- Crown DA (s4.33)

4.1 Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application

- *State Environmental Planning Policy (Planning Systems) 2021;*
- *State Environmental Planning Policy (Resilience and Hazards) 2021;*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021;*
- *Hay Local Environmental Plan (LEP) 2011.*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 1** and considered in more detail below.

Table 1: Summary of EPI's

| EPI | Matters for Consideration | Comply (Y/N) |
|-----------------------------|---|--------------|
| SEPP Planning Systems | <ul style="list-style-type: none">Clause 2.19(1) declares the proposal as regionally significant development pursuant to Clause 5(a) of Schedule 6. | Y |
| SEPP Resilience and Hazards | <ul style="list-style-type: none">Chapter 3 – Potentially hazard and offensiveness of the proposed development has been considered within the proposal and is satisfactory. | Y |

| | | |
|---|--|---|
| SEPP Transport and Infrastructure | <ul style="list-style-type: none"> Section 2.48 - (Determination of development applications— other development) – The proposed development may influence the electricity network; Essential Energy has been notified, and their comments are included in the conditions of approval. | Y |
| Hay LEP | The site is zoned RU1 Primary Production and the proposed development is permitted with consent in the zone. The development is considered consistent with the objectives of the RU1 zone. | Y |

[State Environmental Planning Policy \(Planning Systems\) 2021](#)

State Environmental Planning Policy (Planning Systems) 2021 applies to the proposal as it identifies if development is regionally significant development. In this case, pursuant to section 2.19 of SEPP, the proposal is a regionally significant development as it satisfies the criteria in Clause 5(a) of Schedule 6 of the SEPP as the proposal is development for *electricity generating works* with a CIV over \$5 million. Accordingly, the Western Regional Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

[State Environmental Planning Policy \(Resilience and Hazards\) 2021](#)

The provisions of *State Environmental Planning Policy (Resilience and Hazards) 2021* have been considered in the assessment of the development application.

Chapter 3 – A agricultural waste processing and energy generating facility is not identified as potentially offensive or hazardous within the guidelines. It is assumed that the proposed development would not meet the definition of potentially offensive development.

Chapter 4 - Clause 4.6(1)(a) of the requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The proposed development site is not on the Hay Shire Council's contaminated land register. The subject land has been utilised for agricultural purposes, namely livestock grazing and cropping. The project is considered broadly consistent with the established activity pattern on the development site.

[State Environmental Planning Policy \(Transport and Infrastructure\) 2021](#)

The Transport and Infrastructure SEPP includes provisions for infrastructure and services to facilitate the effective delivery of infrastructure across the state. Permissibility for the purposes of electricity generation is provided pursuant to division 4 section 2.36 which states:

- (1) *Development for the purpose of electricity generating works may be carried out by any person with consent on the following land—*
 - (a) *in the case of electricity generating works comprising a building or place used for the purpose of making or generating electricity using waves, tides or aquatic thermal as the relevant fuel source—on any land,*
 - (b) *in any other case—any land in a prescribed rural, industrial or special use zone.*

These provisions prevail over any inconsistency in any other planning instruments, inclusive of the Hay LEP 2011. As such, the proposed development is permitted with consent pursuant to the Transport and Infrastructure SEPP. In addition, section 2.48 of the SEPP relates to determination of development applications – other development – electricity transmission and states the following:

(1) This section applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following—

- (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
- (b) development carried out—*
 - (i) within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
 - (ii) immediately adjacent to an electricity substation, or*
 - (iii) within 5m of an exposed overhead electricity power line,*

Subsequently, the application was referred to Essential Energy for comment, who provided the following response:

Strictly based on the documents submitted, Essential Energy has the following comments to make as to potential safety risks arising from the proposed development:

- *As the plans provided do not show the distances from Essential Energy’s infrastructure and the development, there may be a safety risk. A distance of 15 metres from the nearest part of the development to Essential Energy’s infrastructure (measured horizontally) is required to ensure that there is no safety risk.*
- *It is also essential that all works comply with SafeWork clearance requirements. In this regard it is the responsibility of the person/s completing any works to understand their safety responsibilities. The applicant will need to submit a [Request for Safety Advice](#) if works cannot maintain the safe working clearances set out in the [Working Near Overhead Powerlines Code of Practice](#), or [CEOP8041 - Work Near Essential Energy's Underground Assets](#).*

Council is of the opinion that these comments made by Essential Energy can be suitably conditioned within the development consent.

[Hay Local Environmental Plan 2011](#)

The relevant local environmental plan applying to the site is the *Hay Local Environmental Plan 2011* ('the LEP'). The aims of the LEP include:

(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,

(a) to protect, enhance and conserve agricultural lands and the contribution they make to the regional economy,

(b) to ensure that there is sufficient land to meet the employment needs of Hay,

(c) to encourage further urban growth of Hay, Booligal and Maude villages by ensuring there is a range of residential living opportunities,

(d) to ensure areas of high ecological value or significant land sensitivity are enhanced for future generations,

(e) to give priority to the protection, conservation and enhancement of areas and items of significance for Aboriginal and non-Aboriginal cultural heritage.

The proposal is consistent with these aims as the proposal is considered to encourage sustainable economic growth and development within the LGA.

Zoning and Permissibility (Part 2)

The site is located within the RU1 Primary Production Zone pursuant to Clause 2.2 of the LEP. The figure below details the land zoning. The proposal is permissible in the zone with consent.



Figure 4: Land Zoning Map with Subject Site Outlined in Red

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

The proposal is considered to be consistent with these zone objectives for the following reasons:

- The development is considered to encourage environmentally and economically sustainable primary industry.
- The development diversifies the primary industry economic base.
- The development has no impact on the fragmentation of agricultural lands.
- The development will not lead to land use conflicts, as the development is isolated and not close to other land uses.

General Controls and Development Standards (Part 2, 4, 5 and 6)

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in the table below.

Table 2: Consideration of the LEP Controls

| Control | Requirement | Proposal | Comply |
|---------|--|--|--------|
| 1.9A | <i>For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.</i> | Noted. | Y |
| 5.10 | <i>To conserve the environmental heritage and heritage significance of heritage items and heritage conservation areas of Hay.</i> | The site does not contain any known items of Environmental Heritage Significance. It is the responsibility of the Applicant to ensure compliance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales. Any consent issued will contain the standard condition regarding protection of Aboriginal Cultural Heritage. | Y |
| 5.11 | <i>Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.</i> | The development site is not mapped as bushfire prone land. It is further noted that the proposed development is not a habitable building and is therefore not listed as a special fire protection purpose under section 100B of the Rural Fires Act 1997. | Y |
| 5.21 | <i>To minimise the flood risk to life and property associated with the use of land,</i> | The development site is not identified as flood prone land. | Y |

| | | | |
|-----|--|--|---|
| 6.1 | <i>To ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,</i> | No significant earthworks are proposed. Any earthworks required are to facilitate the construction of the development and will be minor in nature. | Y |
| 6.2 | <i>Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the proposed development are available or that adequate arrangements have been made to make them available when required—</i> <i>a. the supply of water,</i> <i>b. the supply of electricity,</i> <i>c. the disposal and management of sewage,</i> <i>d. stormwater drainage or on-site conservation,</i> <i>e. suitable road access.</i> | The services required are readily available to the site. | Y |

The proposal is considered to be generally consistent with the LEP.

4.2 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are no proposed instruments.

4.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

There is no Development Control Plan

4.4 Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

4.5 Section 4.15(1)(a)(iv) - Provisions of Regulations

The regulations have been considered in the assessment of this application. It is considered the application is consistent with the objectives of the regulations.

4.6 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered.

Natural Environment:

- Impact on local fauna and flora will be negligible. The area is already disturbed, and form part of an existing feedlot complex.
- Waste – According to the applicant, all waste will be retained and recycled on site. It will be recommended that construction waste be disposed at a suitable landfill, and the applicant enter into a Waste Management Agreement with the Hay Shire Council if the proponent wished to utilize the Hay Shire Council facilities. The proposed development will reduce the amount of waste of the feedlot and reduce emissions.
- The proposed development will have ample impermeable surfaces and bunding to prevent groundwater contamination, and the proposed development may lessen the potential contamination of groundwater of the feedlot operation.
- The proposed development will not influence the current microclimate of the area, and as stated previously, reduce emissions from the site.
- Air Quality:
 - The EPA requested additional information regarding Air Quality: *The information presented in the EIS does not adequately address the potential air quality impacts from the proposed facility, including from the potential odour and particulate emissions. Cumulative impacts from the associated 'Ravensworth' feedlot operation have not been addressed. An air quality impact assessment should be completed for the proposed activity, including any potential cumulative impacts from the Ravensworth feedlot operation, in accordance with the Approved Methods for the Modelling and Assessment of Air Pollutants in NSW (EPA, 2022).*
 - The applicant provided the additional information, and concluded that: *The proposed Bio Nutrients facility has been purpose designed to capture and process all emissions associated with each phase of the anaerobic digestion process and the vermiculture processing of digestate into odour-free, humus-rich fertiliser. All fixed machinery emissions are redirected into the gas collection and conditioning system for processing, and all internal air quality controls are automated with gas sensor safety systems. A gas flare system will be in place to combust any excess methane during downtime and maintenance. It is expected that the only emissions associated with the proposed development will be those of a very small number of daily truck movements (<5), which will have negligible impact given that the feedlot location currently experiences around 85 truck movements per day. It can be reasonably expected that the large volume of cattle waste being processed and emissions captured through the Bio Nutrients facility will improve air quality in the immediate vicinity through reduced windrowing of manure and the subsequent atmospheric release of methane, carbon dioxide and hydrogen sulphide through this practice. No additional treatments or controls are therefore warranted for the proposed development.*
 - It is expected that the air quality will be improved with the proposed development.

Built Environment:

- Although to a large scale, the development will have a negligible visual impact. The visual impact from the Sturt Highway (see picture below) will not be significant, duplicating in scale the existing feedlot buildings.

- The area for the proposed development is remote, with no heritage buildings in the vicinity.



Figure 5: Visual Impact from the Sturt Highway

Social Impact:

- Potential will be a positive with the attraction of additional workers to an isolated area.
- A concern was raised with the EPA regarding to the noise impact: *The information presented in the EIS does not adequately address the potential impacts from noise from the proposed facility and has not provided sufficient details in relation to operating hours and associated noise generating activities. The EPA requires that a noise assessment for the proposed activity is prepared in accordance with the Noise Policy for Industry (EPA, 2017) to support the proposal.*
- The applicant provided the additional information and concluded that: *Noise impact assessment for the construction and operation of the proposed UAG Bio Nutrients facility within the Ravensworth Ramps Ridge feedlot boundary was conducted as per EPA request. The noise impact expected from the construction phase is expected to be more than 10dB lower than ambient noise levels currently emitted by feedlot operations. The noise impact expected from the operation of the UAG Bio Nutrients facility is expected to be more than 10dB lower than current ambient noise levels emitted by feedlot operations. Sensitive receivers are located at more than 8km from source effectively attenuating any noise interference from the proposed development. No receiver-based treatments or controls are therefore warranted for the proposed development, and no specific noise mitigation measures need to be adopted for the proposed development to comply with the NSW Industrial Noise Policy.*
- It is expected that there will be negligible noise increase. It needs to be also kept in mind that the proposed development is within a feedlot complex, which has a high noise level with animals, pumps, and vehicle movements.

4.7 Section 4.15(1)(c) – Suitability for the site for the development

The site (and the wider locality) is suited to the proposed development, as:

- The proposed development is located in an isolated area, with sensitive receptors being a significant distance away.
- The proposed development is located on the Sturt Highway, which provides good access to the proposed development, without having a significant traffic impact on the development.
- The proposed development intensifies the land uses within the feedlot footprint, without impacting significantly on the supply of agricultural land.

4.8 Section 4.15(1)(d) – Submissions

The proposed development was:

- Advertised in the Riverina Grazier. No submissions were received.
- Properties in the vicinity were notified in line with the Hay Shire “Notification & Advertising Policy for Development Proposals”, which included all properties within 1km radius of the site, all adjoining properties, and all properties that may be impacted. These were nine properties, which included the Nari Nari Tribal Council and Crown Lands. No submissions were received.

The proposed development was referred to the following Departments:

- Department of Planning and Environment (DPE)
- DPE -Water
- Department of Primary Industry – Agriculture
- DPE -Biodiversity, Conservation and Science
- Environment Protection Authority
- Essential Energy
- DPE – Heritage NSW
- Transport for NSW

The responses are below:

Department of Primary Industries – Agriculture Response:

While the concept may be appropriate use of the onsite organics waste streams, information is limited on where and how the process has been “proven” and what monitoring and quality assurance will be undertaken:

- *The fertiliser is to be developed from vermiculture, however there is limited information on what oversight or regulation of fertiliser production/processing and quality assurance (eg biosecurity/pathogens) will be undertaken.*
- *Electricity production from biogas and reducing carbon emissions are considered energy efficiency solutions and could contribute to climate change mitigation but no details have been provided on how the carbon/water/energy balance modelling will be monitored and analysed to demonstrate these outcomes.*

The proponent also needs to clarify how this is not a Designated Development (as less than 5000 tonnes will be processed per year) because elsewhere in the document it states that 7600 tonnes of fertiliser will be produced.

Comment: The information is noted. It is not within the scope of the assessment to investigate if the technology is proven and quality assurance. The Designation Development trigger issue has been addressed by the applicant

NSW EPA Response:

The EPA requested additional information:

1. *Air quality impact assessment*

The information presented in the EIS does not adequately address the potential air quality impacts from the proposed facility, including from the potential odour and particulate emissions. Cumulative impacts from the associated 'Ravensworth' feedlot operation have not been addressed.

An air quality impact assessment should be completed for the proposed activity, including any potential cumulative impacts from the Ravensworth feedlot operation, in accordance with the Approved Methods for the Modelling and Assessment of Air Pollutants in NSW (EPA, 2022).

2. *Noise assessment*

The information presented in the EIS does not adequately address the potential impacts from noise from the proposed facility and has not provided sufficient details in relation to operating hours and associated noise generating activities.

The EPA requires that a noise assessment for the proposed activity is prepared in accordance with the Noise Policy for Industry (EPA, 2017) to support the proposal.

3. *Waste inputs*

The EIS does not clearly detail waste input materials. In addition, details provided for waste input materials appear inconsistent throughout the EIS. For example, Figures 11 and 12 include externally sourced "waste paper" as an input material which is not consistent with other sections of the EIS.

The EPA requires that specific details of the proposed input materials are provided, including a description of each individual waste material, where the waste material is sourced from, proposed volumes and associated waste classification(s). Note, the waste classification of each input material must be determined in accordance with the Waste Classification Guidelines (EPA, 2014).

4. *Processing volumes*

The EIS does not clearly detail processing volumes and how they will be achieved. In addition, details provided for processing capacity and associated outputs, such as fertiliser, appear inconsistent. For example, the EIS states that the annual processing capacity of the proposed facility is 5000 tonnes, but each year will produce approximately 7600 tonnes of organic fertiliser.

The EPA requires additional information which explains how the outputs produced by the proposed facility exceed the processing capacity. If the apparent discrepancy between processing capacity and outputs is associated with comparing materials of differing moisture contents, this should be clearly detailed and explained.

5. *Manure management*

The EIS does not clearly explain the implications of the proposed development on current manure and compost management practices associated with the existing Ravensworth feedlot operation. The proposal also indicates that manure will be received and processed at 20% moisture content,

but does not describe the process involved in how this will be consistently achieved.

The EPA requires further information regarding the proposed management of manure prior to processing, and implications of this in relation to current pen cleaning and composting activities undertaken as part of the existing Ravensworth feedlot operation. This should include consideration of any changes to potential odour risks.

6. EPA Resource Recovery Framework

The EIS does not include details of the relevant EPA Resource Recovery Order and Exemption requirements that may be applicable for the lawful supply and subsequent land application of organic fertiliser products produced from the proposed activity.

The EPA requires additional information that identifies the relevant requirements for the lawful supply and use of these fertiliser products and details how these requirements will be met, including appropriate consideration of the EPA Resource Recovery Framework

The proponent supplied an additional EIS with supporting documents, on which the EPA commented as follows:

The EPA has responsibilities for pollution control and environmental management under the Protection of the Environment Operations Act 1997 (POEO Act). We have reviewed the information provided and determined that the proposal is not a scheduled activity under the POEO Act and does not require an environment protection licence.

We understand, however, that the location of the proposed development forms part of the Ravensworth Ramps Ridge Feedlot premises which is regulated by the EPA through Environment Protection Licence (EPL) No. 4109. Consequently, the EPA will be the appropriate regulatory authority for all matters relating to the POEO Act for this development.

Should council approve the development application, the proponent will be required to submit a licence variation application to the EPA to incorporate the proposed facility as an ancillary activity onto EPL 4109. The variation application must be submitted and approved by the EPA prior to the commencement of any construction works or activities associated with the approved development.

EPA Resource Recovery Order and Exemption Requirements:

The EPA notes that recovered waste materials utilised for fertiliser production from the proposed activity include 'waste-paper' and 'cow manure'. Currently, there are no EPA Resource Recovery Orders and Exemptions for general use applicable to a combination of manure & waste paper.

To lawfully supply fertiliser products generated by the proposed facility for off-site re-use as a soil amendment material, the proponent will be required to apply to the EPA for a Resource Recovery Order and Exemption specific to their waste stream inputs.

On this basis, we recommend that the following condition be incorporated into the consent where development approval is granted by council.

- *Within the first 6-months of operation, the proponent must apply to the EPA for a Specific Resource Recovery Order and Exemption for the soil amendment products generated by the development.*

Comment: The proposed condition is to be included in the Development Approval.

Essential Energy Response;

Strictly based on the documents submitted, Essential Energy has the following comments to make as to potential safety risks arising from the proposed development:

- *As the plans provided do not show the distances from Essential Energy's infrastructure and the development, there may be a safety risk. A distance of 15 metres from the nearest part of the development to Essential Energy's infrastructure (measured horizontally) is required to ensure that there is no safety risk.*
- *It is also essential that all works comply with SafeWork clearance requirements. In this regard it is the responsibility of the person/s completing any works to understand their safety responsibilities. The applicant will need to submit a Request for Safety Advice if works cannot maintain the safe working clearances set out in the Working Near Overhead Powerlines Code of Practice, or CEOP8041 - Work Near Essential Energy's Underground Assets*

Information relating to developments near electrical infrastructure is available on our website Development Applications (essentialenergy.com.au). If the applicant believes the development complies with safe distances or would like to submit a request to encroach then they will need to complete a Network Encroachment Form via Essential Energy's website Encroachments (essentialenergy.com.au) and provide supporting documentation. Applicants are advised that fees and charges will apply where Essential Energy provides this service.

Council's and the applicant's attention is also drawn to Section 49 of the Electricity Supply Act 1995 (NSW). Relevantly, Essential Energy may require structures or things that could destroy, damage or interfere with electricity works, or could make those works become a potential cause of bush fire or a risk to public safety, to be modified or removed.

Essential Energy makes the following general comments:

- *If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment;*
- *Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with;*
- *Any activities in proximity to electrical infrastructure must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure;*
- *Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW); the location of overhead and underground powerlines are also shown in the Look Up and Live app essentialenergy.com.au/lookupandlive*

Comment: The proposed conditions are to be included in the Development Approval.

Transport for NSW Response:

General conditions:

1. *The existing driveway to the subject site from the carriageway of the Sturt Highway shall be sealed and maintained as a sealed surface from the edge of seal of the highway to the property boundary.*
2. *The existing vehicle access tracks within the road reserve of the Sturt Highway either side of the formed driveway shall be removed and the disturbed area reinstated to match the surrounding landform. Works shall be installed near to the entrance gate to prevent vehicles travelling outside the approved driveway. Plans of the proposed works shall be submitted to Transport for NSW for approval prior to the works being undertaken.*
3. *Any works associated with the development shall be at no cost to Transport for NSW.*

Prior to the issuing of the Construction Certificate, the developer must:

1. *Obtain Section 138 consent under the Roads Act, 1993 for the works on, in or over the road reserve of the Sturt Highway from the consent authority.*

Prior to the issuing of the Occupation Certificate, the developer must:

1. *Complete the works on, in or over the Sturt Highway to the satisfaction of the consent authority*

Comment: The proposed conditions are to be included in the Development Approval.

4.9 Section 4.15(1)(e) - Public interest

Generally, the development proposal provides the following public benefits:

- Reducing emissions
- Creating additional employment opportunities with potential flow on effects
- Creating energy and by-products from waste.
- Potentially improving air quality around the feedlot.
- There are no significant adverse impacts on surrounding properties in terms of smell, access, views, visual and acoustic amenity.

5. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application can be supported.

6. RECOMMENDATION

That the Development Application DA 2022-10 for the construction of a Waste Recycling and Energy Generating Works at 32570 Sturt Highway be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of Consent
- Attachment B: Approval from Transport for NSW for imposition of Conditions
- Attachment C: Approval from Essential Energy for imposition of Conditions
- Attachment D: Approval from EPA for imposition of Conditions
- Attachment E: Approval from DPI – Agriculture for imposition of Conditions
- Attachment F: UAG Bio Nutrients EIS (February 2022)
- Attachment G: UAG Bio Nutrients EIS Supporting Documentation (October 2022)

Attachment A: Conditions of Consent

This consent is granted subject to the following conditions;

- (1) **Compliance with Consent:** The Development being completed in accordance with the UAG Bio Nutrients EIS (February 2022) & UAG Bio Nutrients EIS Supporting Documentation (October 2022) except where varied by conditions of this consent.

***Reason:** To confirm the details of the application as submitted by the applicant and as approved by Council.*

- (2) **Signage:** Site signage shall apply and must be erected on the site in a prominent, visible position for the duration of the construction.
- Stating that unauthorised entry to the site is not permitted;
 - Showing the name of the builder or another person responsible for the site and a telephone number at which the builder or other persons can be contacted outside working hours; and
 - The name, address and telephone contact of the Principal Certifying Authority for the work.

Any structures erected to meet the requirements of this condition must be removed when it is no longer required for the purposes for which it was erected.

***Reason:** To meet the minimum requirements of the Environmental Planning and Assessment Regulation.*

- (3) **Compliance with Standards:** Any building and associated works shall comply with the statutory requirements of the Environmental Planning & Assessment Act, Local Government Act and the National Construction Code (NCC). Detailed building and structural plans, including a Fire Safety Schedule need to be submitted as part of the Construction Certificate process.

***Reason:** The legal obligations of the Council to administer the New South Wales building and planning laws in order to provide satisfactory standards of living and development.*

- (4) **Mandatory Inspections:** A person who is carrying out or in charge of carrying out the work **MUST notify** Council one working day prior to the following stages of the work and **MUST** stop building work for 24 hours pending an inspection by an authorised officer:
- a) At the commencement of the building work
 - b) Prior to covering any internal or underfloor plumbing
 - c) After excavation for, and prior to the placement of, any footings
 - d) Prior to pouring any in-situ reinforced concrete building element
 - e) Prior to covering of the framework for any floor, wall, roof or other building element
 - f) Prior to covering any storm water drainage connections
 - g) After the building work has been completed and prior to any occupation certificate being issued in relation to the building.
- (5) **Siting:** The applicant is responsible to ensure that the building is sited on the allotment and constructed to the design levels approved by Council as specified on the approved site plan.
- (6) **Variations:** No alteration to approved plans and specifications is allowed unless separately approved by Council.
- (7) **Site Encroachment Prohibited:** The structure shall be erected solely within the property boundaries. Guttering and eaves should not overhang into neighbouring properties.

***Reason:** To ensure that no encroachments occur onto neighbouring properties.*

- (8) **Construction Certificate Required:** A Construction Certificate must be obtained from a Principal Certifying Authority prior to commencement of any work.

***Reason:** To ensure that minimum standards relating to structural adequacy, health and amenity are met.*

- (9) **Roofwater:** Guttering and downpipes shall be provided and fitted in an approved manner and the stormwater shall be conveyed into a stormwater system.
- (10) **Easements:** The applicant is required to ensure that any easements registered over the title to the land are complied with.
- (11) **Builders Toilets:** Provision being made for temporary WC accommodation on site prior to the commencement of excavation or other associated building works.

Reason: To ensure minimum standards of hygiene for on-site workers.

- (12) **Further Details Required:** The applicant should submit to Council, in duplicate, information relating to building work details for a Construction Certificate. No work relating to this detail shall be carried out until the information is supplied and approved by Council.

Reason: To ensure that minimum standards relating to structural adequacy, health and amenity are met.

- (13) **Legal Access:** Physical access for vehicular movement shall be provided to the proposed development. Such access to be contained within a legally created easement or roadway.

Reason: To ensure that legal access can be maintained to the development.

- (14) **Occupation Certificate Required:** Prior to commencement of the use (and/or) occupation of the subject development, a satisfactory final inspection (and/or) occupation certificate must be issued by the Principal Certifying Authority. An Occupation Certificate must be applied for through the NSW Planning Portal, and can be a "related certificate" to the Development Application.

Reason: To ensure that minimum standards relating to structural adequacy, health and amenity are met.

- (15) **EPA Condition:** Within the first 6-months of operation, the proponent must apply to the EPA for a Specific Resource Recovery Order and Exemption for the soil amendment products generated by the development.

Reason: Compliance with EPA Condition

- (16) **Essential Energy Conditions:** A distance of 15 metres from the nearest part of the development to Essential Energy's infrastructure (measured horizontally) is required to ensure that there is no safety risk.
- (17) All works should comply with SafeWork clearance requirements. In this regard it is the responsibility of the person/s completing any works to understand their safety responsibilities. The applicant will need to submit a Request for Safety Advice if works cannot maintain the safe working clearances set out in the Working Near Overhead Powerlines Code of Practice, or CEOP8041 - Work Near Essential Energy's Underground Assets
- (18) Information relating to developments near electrical infrastructure is available on our website Development Applications (essentialenergy.com.au). If the applicant believes the development complies with safe distances or would like to submit a request to encroach then they will need to complete a Network Encroachment Form via Essential Energy's website Encroachments (essentialenergy.com.au) and provide supporting documentation. Applicants are advised that fees and charges will apply where Essential Energy provides this service.
- (19) Council's and the applicant's attention is also drawn to Section 49 of the Electricity Supply Act 1995 (NSW). Relevantly, Essential Energy may require structures or things that could destroy, damage or interfere with electricity works, or could make those works become a potential cause of bush fire or a risk to public safety, to be modified or removed.
- (20) Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.

- (21) Any activities in proximity to electrical infrastructure must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.
- (22) Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW); the location of overhead and underground powerlines are also shown in the Look Up and Live app essentialenergy.com.au/lookupandlive

Reason: *Compliance with Essential Energy Conditions*

- (23) **Transport for NSW Conditions:** The existing driveway to the subject site from the carriageway of the Sturt Highway shall be sealed and maintained as a sealed surface from the edge of seal of the highway to the property boundary.
- (24) The existing vehicle access tracks within the road reserve of the Sturt Highway either side of the formed driveway shall be removed and the disturbed area reinstated to match the surrounding landform. Works shall be installed near to the entrance gate to prevent vehicles travelling outside the approved driveway. Plans of the proposed works shall be submitted to Transport for NSW for approval prior to the works being undertaken.
- (25) Any works associated with the development shall be at no cost to Transport for NSW or Council.
- (26) Prior to the issuing of the Construction Certificate, the developer must obtain a Section 138 consent under the Roads Act, 1993 for the works on, in or over the road reserve of the Sturt Highway from the consent authority.
- (27) Prior to the issuing of the Occupation Certificate, the developer must complete the works on, in or over the Sturt Highway to the satisfaction of the consent authority.

Reason: *Compliance with Transport for NSW Conditions*

- (28) **Waste:** If the developer would wish to utilise any waste facilities of the Council, a Waste Management Agreement must be agreed upon before commencement of construction.

Reason: *To minimise the waste impact.*

- (29) **Excavation Safety:** All excavations and back-filling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards. The adjoining property owner is to be given seven (7) days notice.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

Reason: *Regulatory compliance.*

- (30) If any Aboriginal object is discovered and/or harmed in, or under the land, while undertaking the proposed development activities, the proponent must:
- Not further harm the object;
 - Immediately cease all work at the particular location;
 - Secure the area so as to avoid further harm to the Aboriginal object;
 - Notify Heritage NSW as soon as practical on 131555 or by emailing ahims@environment.nsw.gov.au, providing any details of the Aboriginal object and its location; and
 - Not recommence any work at the particular location unless authorised in writing by Heritage NSW.

- a) In the event that human remains are unexpectedly encountered during the activity, work must stop immediately, the area secured to prevent unauthorised access and NSW Police and Heritage NSW contacted.
- b) All recommendations as per the Aboriginal Due Dilligence Assessment: (Ref: Matter 36855 dated 16 September 2022) needs to be adhered to.
- c) Access to Council Officers must be provided at any reasonable time for the purpose of monitoring the development.

Reason: *To ensure the works are completed in accordance with the EIS, approved plans and this approval.*