

ASSESSMENT REPORT:

Proposed Landfill & Regional Resource Reprocessing Facility, Molong



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1 EXECUTIVE SUMMARY

Orange and Cabonne Councils have limited landfill capacity in their local government areas (LGAs).

To provide additional capacity, the Councils propose to establish a new waste facility off Euchareena Road, about 5 kilometres north-east of Molong. This facility would be developed in 3 stages, and eventually have a:

- large putrescible landfill with sufficient capacity to accommodate at least 40 years worth of waste from both LGAs;
- resource reprocessing facility (RRF) to recover as much resource as possible from the waste stream before it is disposed of to landfill, and
- range of associated infrastructure, such as water and leachate management systems, soil and product stockpiles, and internal roads and parking

Although this is a joint proposal, Orange Council is acting as the Applicant for the proposal, and has submitted a development application (DA) and environmental impact statement for the proposal to the Department.

During the exhibition period, the Department received 148 submissions on the proposal, including 5 submissions from government authorities and 143 submissions from the general public. While the government authorities are generally satisfied that the impacts of the project can be suitably managed through conditions, most (139) of the submissions from the general public are opposed to the proposal.

Notwithstanding the broad array of community concerns about the proposal, the Department is satisfied that there is a “justifiable demand” for additional landfill capacity both LGAs, that Council’s decision to defer the construction of the proposed RRF for up to 8 years is reasonable, and that the facility as a whole would provide an essential service to the entire population of both LGAs for at least the next 40 years.

Nevertheless, it is important to recognise that the approval of the proposal involves some trade-offs. In particular, it would result in the loss of at least 21 hectares of prime cropping land; it would increase the risks of disease at the adjoining apiaries; and it would potentially increase the costs of mineral exploration or extraction on the site.

Nevertheless, the Department is satisfied that these trade-offs are justified, and that the remaining impacts of the proposal can be suitably mitigated and/or managed through the imposition of appropriate conditions of consent.

Consequently the Department believes that the proposal should be approved subject to strict conditions.

2 PROPOSED DEVELOPMENT

Orange and Cabonne Councils have limited landfill capacity in their local government areas (LGAs).

To provide additional capacity, Orange Council (Council) proposes to establish a new waste facility for both Councils off Euchareena Road about 5 kilometres from Molong in the Cabonne LGA (see Figure 1). The proposal would be developed in three stages, and includes the construction and operation of:

- a large putrescible landfill area;
- a resource reprocessing facility (RRF); and
- a range of associated infrastructure such as water and leachate management systems, soil and product stockpiles, and internal roads and parking (see Figures 2 & 3).

If approved, this facility would provide the backbone around which both Councils would build their long term waste management strategy.

The site for the proposed facility is located in a rural area that is dominated by agricultural uses, such as grazing, cropping and bee keeping. It is relatively flat and covers about 192 hectares, 132 hectares of which have previously been cleared for agricultural uses, and 60 hectares of which contain significant vegetation. There are currently 7 residences located within 2km of the proposed facility, with the closest residence ("The Shades") being located 750 metres to the east of these proposed operations (see Figure 1).

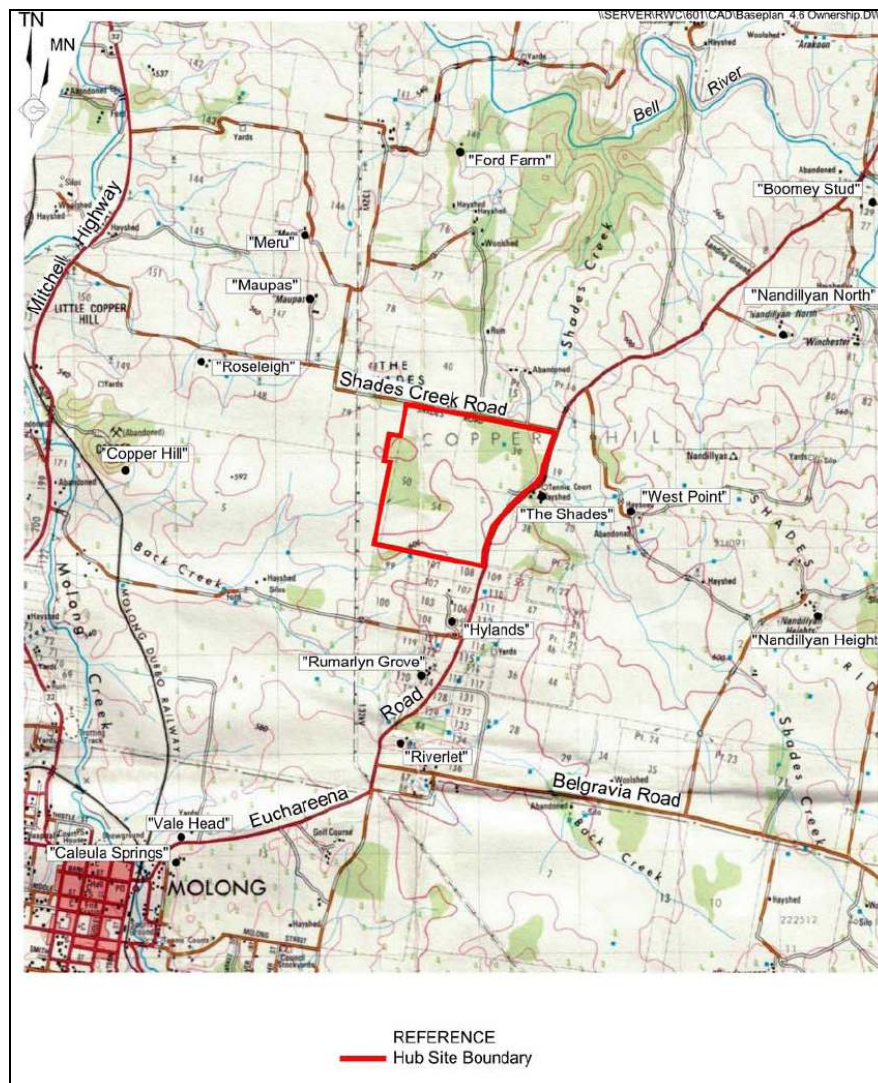


Figure 1 – Site Location

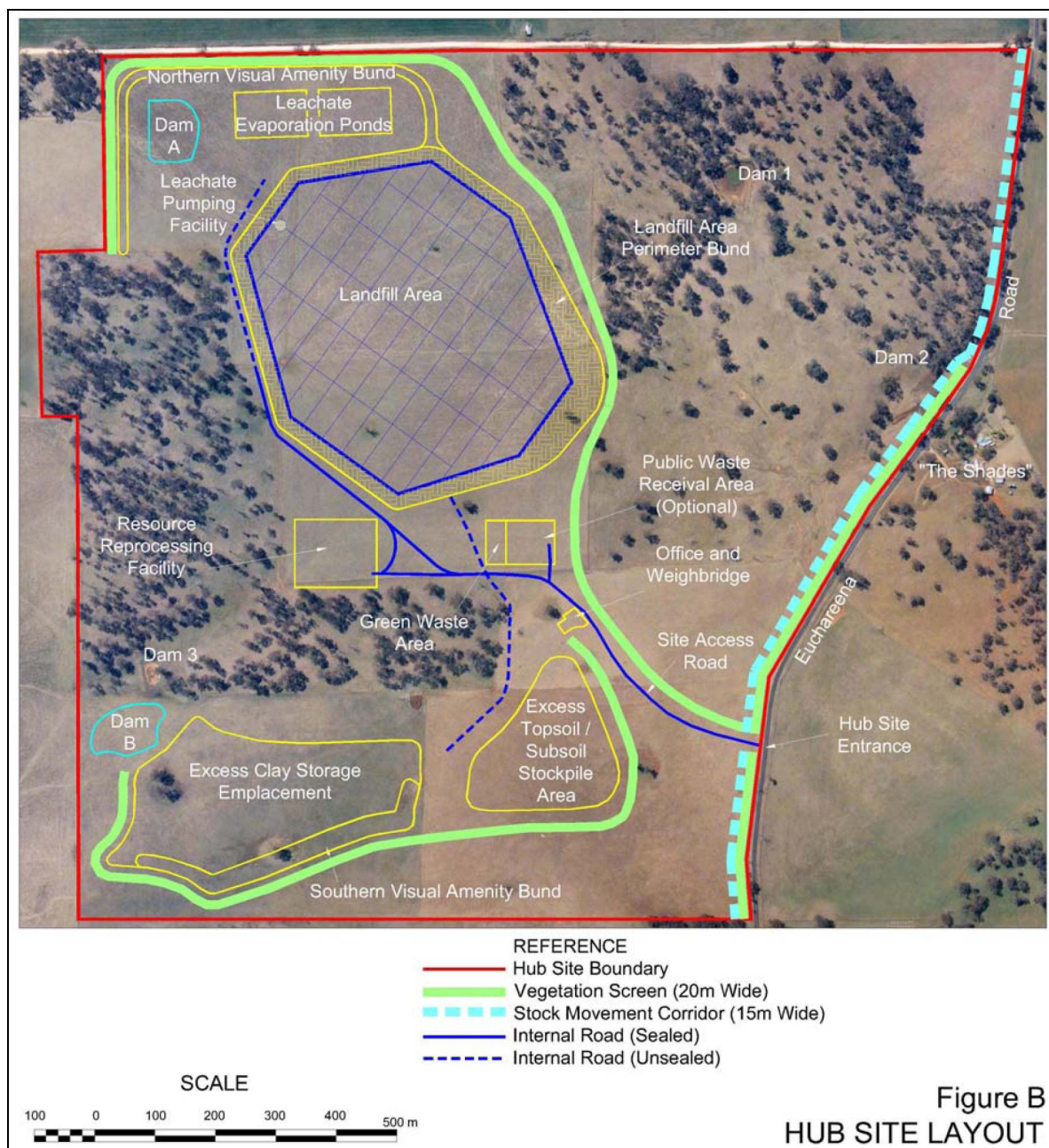


Figure 2: Layout of the Proposed Waste Management Facility

The various components of the proposal are summarised in Table 1 below.

Component	Area	Description
Landfill Area and Leachate Ponds	21 ha	- Capacity for 1.5 million m³ of waste and 150,000 m³ of cover material, which equates to approximately 40 years of worth of landfill capacity for the 2 LGAs. - Develop landfill progressively in cells; - Extract cells of 80m x 40m x 4m; - Install a detailed leachate drainage system, which consists of a compacted clay leachate barrier at the base of each cell, a leachate drainage system and 4 leachate evaporation ponds; - Fill each cell to 5m above the natural (or restored) ground level. - Cap the cells with clay, subsoil and topsoil; and - Revegetate the capped cells. - Establish a landfill gas collection system if required.

Component	Area	Description
Resource Reprocessing Facility (to commence at Stage 2 – Year 8)	2 ha	- No detailed design. - Indicative components of 2 potential alternative waste technologies, including: - a receival hall (1,250 m²); - a feedstock preparation area (1,400 m²), which could include shredding, screening, magnetic removal of metals, sorting stations etc. Separate organic material from inert material; send inert material to landfill; blend organic material with bio-solids for further processing; - an intensive processing area (3,500 m²), which could include anaerobic digestion (in an enclosed vessel producing biogas) and/or aerobic composting (technologies not yet selected, but could include rotating drums, static compost piles, composting tunnels or windrow composting); - an enclosed production maturation area (1,600 m²), which could include an aeration system (forced air) to optimise maturation of compost; - a product refining area (500 m²) where any contaminants would be removed from the compost, and the compost would be graded and blended with other materials such as virgin excavated soil, sand or clay; - a bio-filter (1,100 m²) to treat any odorous compounds, air and dust from the composting and digestion facilities; - a product storage area (800 m²); and - car park (8,500 m²).
Visual amenity bunds	1.2 ha	2 bunds: - a northern bund (2m high and 800m long) along the northern boundary of the site and linked to the landfill perimeter bund; and - southern bund (4m high and 500m long) around the excess clay emplacement area. - Both bunds would have a 20m wide vegetation screen
Stock movement corridor	2.35 ha	15m wide fenced stock movement corridor along the eastern boundary of the site.
Ancillary infrastructure	1.2 ha	- Office building, amenities and car parking; - Weighbridge office and weighbridge; - Sealed internal roadways; 2m high elevated public waste receival area; 3.5m high litter fence and 20m wide tree screening on the eastern side of the receival area; and - A separate green waste receival area on the western side of the 5m high bund.
Other components		- New intersection on Euchareena Road, incorporating turning lanes into the site; - Two lane sealed access road to the public waste receival area; - Sewage septic system, located adjacent to the amenities building; - Fuel and chemical storage area; - Perimeter fencing of the site with standard stock fencing; - Lighting for security and safety purposes; - The facility will employ 3 full time employees in the first 7 years, increasing to 5 employees from Year 8.
Operating Hours		7am to 5pm, 7 days per week (except Good Friday and Christmas Day) with public access from 8am. - Some waste reprocessing activities may be undertaken on a 24 hour basis, depending on technologies chosen.

Table 1 – Major Components of the Proposal

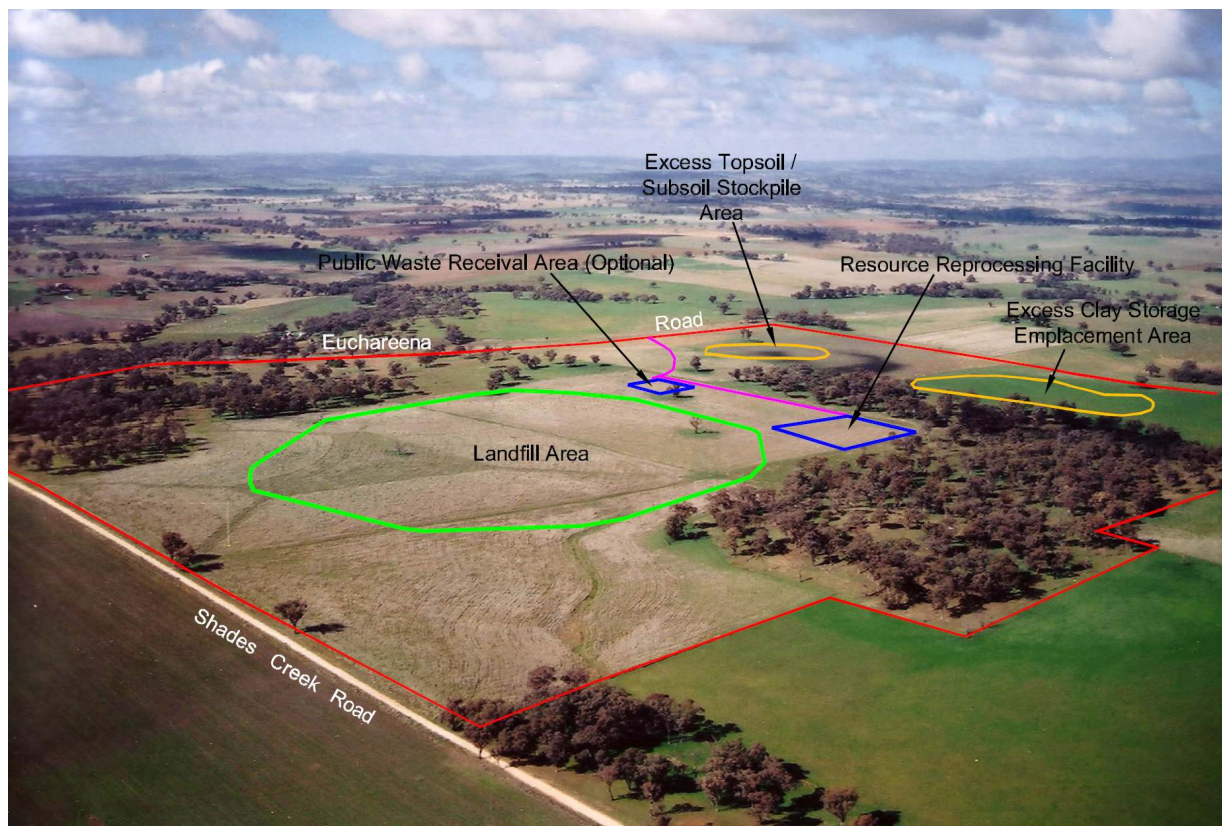


Figure 3: Layout of the Proposed Facility (Looking South East)

The proposal would be developed in 3 stages (although Stage 3 is really a continuation of Stage 2, with a greater intensity of use on site):

- Stage 1 (Years 0 - 7):
 - Receive waste - Cabonne LGA;
 - Low-level sorting and resource recovery carried out on site;
 - Most waste to landfill; and
 - Small-scale operations (between 8-9,000 tonnes a year);
- Stage 2 (Years 8 - 12):
 - Receive waste - Cabonne LGA and Orange LGAs (partial);
 - RRF commissioned -producing compost and recoverable recyclables; and
 - Residual waste to landfill;
- Stage 2 (Years 13 to 40+):
 - Receive **all** waste from Cabonne and Orange LGAs;
 - RRF operating;
 - residual waste to landfill; and
 - rehabilitation and decommissioning of site.

The proposal has a capital investment value of \$15.5 million, and would employ 3 people during Stage 1, and 5 people in Stages 2 & 3.

On 26 April 2005, Council lodged a development application (DA) with the Department seeking approval for this proposal.

3 STATUTORY CONTEXT

3.1 Permissibility

Under the *Cabonne Local Environment Plan* 1991, the site is zoned 1(a) General Rural. Waste management facilities are permissible with development consent as a innominate use in this zone. Consequently, the proposal is permissible with development consent.

3.2 Minister's Role and State Significant Development

When the application was lodged, the Minister for Planning was the consent authority for the DA as the proposal constitutes "development comprising a landfill site that is to be used for the purposes of disposing of waste including putrescible waste from more than one local government area, and that has a capacity to receive more than 650,000 tonnes of waste over the life of the site", and therefore satisfies the criteria in Clause 6 of *State Environmental Planning Policy No.48 – Major Putrescible Landfill Sites* (SEPP 48).

It was also classified as State significant development under Section 76(A)(7)(b)(iii) of the then *Environmental Planning and Assessment Act 1979* (EP&A Act) by virtue of a declaration made by the then Minister for Urban Affairs and Planning on 30 June 1998 making all development subject to SEPP 48 State significant development.

The EP&A Act has subsequently been amended. These amendments replaced the assessment and approval regime for State significant development proposals under Part 4 of the EP&A Act with a new assessment and approval regime under Part 3A of the EP&A Act.

Consequently, if this application was lodged today, it would need to be assessed and determined under the new assessment and approval regime under Part 3A of the EP&A Act.

Nevertheless, as the application was lodged before the amendments to the EP&A Act occurred, the various transitional arrangements associated with these amendments require the application to be assessed as if the amendments to the EP&A Act had not been made.

Consequently, the proposal must be assessed under Part 4 of the Act, and the Minister is the consent authority for the application.

3.3 Designated Development

The proposal is classified as designated development under Schedule 3 of the EP&A Regulation as it is for a waste management facility or work that would store, treat, purify or dispose of waste, or sort, process, recycle, recover, use or reuse materials from waste, **and** dispose (by landfilling, incinerating, storing, placing or other means) of more than 200 tonnes of solid or liquid waste material a year.

Consequently, the application was required to be accompanied by an environmental impact statement (EIS).

3.4 Integrated Development

The proposal is classified as integrated development under Section 91 of the EP&A Act as it requires:

- a licence from the Department of Environment and Conservation (DEC) under the *Protection of the Environment Operations Act 1997*;
- a permit from the DEC under the *National Parks & Wildlife Act 1974*;
- a licence from the Department of Natural Resources (DNR) under the *Water Act 1912*;
- approvals from Cabonne Council and the Roads and Traffic Authority (RTA) under the *Roads Act 1993*.

All of these agencies have provided their General Terms of Approval (GTAs) for the proposal, which have been incorporated into the recommended conditions of consent.

3.5 Environmental Planning Instruments

The proposal is subject to the provisions of a range of environmental planning instruments, including:

- *State Environmental Planning Policy No. 11 – Traffic Generating Development;*
- *State Environmental Planning Policy No. 33 – Hazardous and Offensive Development;*
- *State Environmental Planning Policy No. 44 – Koala Habitat Protection;*
- *State Environmental Planning Policy No. 48 – Major Putrescible Landfill Sites;*
- *State Environmental Planning Policy No. 55 – Remediation of Land;* and
- *Cabonne Local Environmental Plan 1991.*

The Department has assessed the proposal against the relevant provisions of these plans in Section 5 and Appendix A of this report.

This assessment has concluded that the proposal is generally consistent with the relevant requirements in these instruments; and that where it is potentially inconsistent (such as with Clause 10 of the Cabonne LEP), this inconsistency is justified.

3.6 Approvals Under Commonwealth Legislation

The Commonwealth Minister for the Environment and Heritage has declared the proposal to be a “controlled action” under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) because it could have an adverse impact on listed threatened species, a listed threatened ecological community, and migratory species.

This means the proposal requires Commonwealth approval under the EPBC Act in addition to development consent under the EP&A Act.

Nevertheless, the Commonwealth Minister has accredited the NSW assessment process for this proposal, and the Department will forward a copy of this assessment report to the Commonwealth Department of the Environment & Heritage once the Minister has determined this DA.

4 CONSULTATION AND ISSUES RAISED

After receiving the DA, the Department:

- notified nearby landowners and the relevant agencies of the proposal by letter;
- advertised the exhibition of the DA and EIS in the local newspaper on two separate occasions;
- placed a notice of the exhibition period on the site; and
- exhibited the DA & EIS for 61 days from 4 May 2005 to 4 July 2005.

This satisfies the requirements for public consultation in both the EP&A Act and Regulation.

During the exhibition period, the Department received 148 submissions on the proposal, including:

- 5 submissions from government agencies (DEC, DNR, RTA, DPI, and Cabonne Council); and
- 143 submissions from the general public.

None of the government agencies objected to the proposal. However, during the assessment process they all raised concerns about the potential impacts of the proposal, but after receiving a range of additional information concluded the proposal could be approved subject to strict conditions.

In contrast, 139 (of the 143) submissions from the general public objected to the proposal.

The key issues raised in these objections were:

- **Consideration of Alternatives:** Many submissions argued the consideration of alternatives to the proposal was inadequate, as there are better sites for the proposed facility; the options considered for the proposed facility did not canvass the full array of strategic options available, and evaluation of the options that were considered was flawed.

- **Justifiable Demand:** Several submissions questioned whether there is justifiable demand for the new waste facility, claiming that Orange Council was cynically using the lack of landfill capacity in the Cabonne LGA to justify an increase in landfill capacity of the Orange LGA when there was clearly sufficient landfill capacity in the Orange LGA for at least the next 8 years. These submissions also suggested that both Councils should be required to do more in the short term to minimise the amount of waste going to landfill, including the early implementation of a RRF, to extend the life of the existing landfills in the LGAs, but particularly the Orange LGA. Alternatively, some submissions accepted that there was justifiable demand for an increase in landfill capacity in the LGAs, but questioned whether the scale of the increase was justified.
- **Resources Processing Facility:** Numerous submissions criticised the lack of details on the RRF in the EIS to be able to assess its impacts; questioning the delay in implementing the RRF; and the lack of commitment to implementing the RRF.
- **Loss of Prime Agricultural Land:** Several submissions objected to the fact that the proposal would be located on prime agricultural land, and that it would reduce the cropping capability of some of this land in the long term. They argued that the loss of this cropping capability constituted an adverse impact on the land, and consequently that the proposal could not be approved because this would be contrary to Clause 10 of the Cabonne LEP. While the DPI (Agriculture) was critical of the site selection process for the proposal, and believes that the resource value of the land was not adequately recognised during this process, it does not object to the proposal.
- **Apiculture and Disease Control:** Several submissions, including submissions from the adjoining apiarists and Capilano Honey, were concerned that the proposal would increase the risk of disease at the nearby apiaries, and particularly the spread of American Foulbrood Disease (AFB), and that the spread of this disease at these apiaries would have significant economic consequences for the owners.
- **Mineral Resources:** A number of submissions, including a submission from Golden Cross Resources – the holder of a mining exploration licence in the area, were concerned that the proposal would sterilise any valuable mineral resources on the site, or unreasonably increase the costs associated with extracting these resources.
- **Water Resources:** Most submissions raised concerns about the potential water supply, and surface and ground water impacts of the proposal. On water supply, these submitters were opposed to Council's proposal to exceed the harvestable development rights of the site, and extract up to 40 ML of groundwater a year from the adjoining Copper Hill site, claiming the extraction of this water would have adverse impacts on downstream water users and creeks. On groundwater, the submitters were critical of the groundwater impact assessment report, saying it had failed to demonstrate that the leachate barrier system would protect groundwater supplies in the vicinity of the site from any contamination. Finally, on surface water, several submitters were concerned that contaminants from the site, such as the leachate in the leachate evaporation ponds, would be discharged from the site at some stage, and pollute downstream waters.
- **Transport:** Several submissions raised concerns about the proposed route to the site, the increase in traffic on Euchareena Road and its associated increase in road safety risks, particularly at the Mitchell Highway/Euchareena Road intersection, which is close to several important community facilities, such as the library, bus depot, and sports fields. They were also critical of the potential impacts associated with the proposed roadworks for the proposal, particularly the proposed upgrade of the Mitchell Highway/Euchareena Road intersection, which would remove a parking lane from outside several businesses on the western side of the Mitchell Highway.
- **Flora and Fauna:** Some submissions argued that the proposal would have an unacceptable impact on the Superb Parrot - a listed vulnerable species under State and Commonwealth legislation.

These issues have been assessed in more detail below in Section 5 of this report.

5 ASSESSMENT OF ENVIRONMENTAL IMPACTS

5.1 Consideration of Alternatives

Under Clause 72 of the EP&A Act, an EIS for a designated development proposal must include “an analysis of any feasible alternatives to the carrying out of the development, having regard to its objectives, including the consequences of not carrying out the development.”

The EIS for the proposal includes such an analysis in Section 2 and 6 of Volume 1 of the EIS and Part 1 of Volume 2 of the EIS.

This analysis sets out the background of the proposal, which can be summarised as follows:

- 1996: The Councils begin discussions on a potential joint waste facility.
- 1997: Regional landfill investigation/feasibility study completed for Councils. The study considered 4 potential sites for the facility, including 2 “brownfield” sites (Boomey Quarry in the Cabonne LGA and Phillip Quarry in the Orange LGA), and 2 “greenfield” sites (one near Cudal and the other to the north-west of Molong). It then evaluated the feasibility of 4 options involving these 4 sites: one option was for no joint facility (and potential landfilling of Orange waste at the Phillip Quarry), while the other options were for a joint facility on each of the remaining 3 sites. This evaluation concluded that there may be some benefit in establishing a joint waste facility, particularly for Cabonne Council which was facing the prospect of large capital costs for new landfill capacity in the LGA.
- 2000: Councils agreed to work together towards establishing a joint waste facility.
- 2001: The Councils:
 - developed 22 local and regional site selection criteria for the proposed facility, covering a broad array of social, environmental and economic issues (including centrality, accessibility, planning issues, services, geology, groundwater, surface water – erosion, residential proximity, ecology, visibility, land use, topography, protected land, and heritage);
 - sought expressions of interest from landowners that were prepared to sell their land, and who thought that their land would satisfy the relevant site selection criteria;
 - completed a site evaluation of the suitability of 4 sites in the Cabonne LGA (see Figure 4 below) against the relevant site selection criteria, which concluded that the Hub (ie. the proposed site) was the most suitable of the 4 sites evaluated.
- 2002: Orange Council bought the Hub site.
- 2004: Economic assessment of 5 options for a new waste facility completed for Councils. These options can be summarised as follows:
 1. Landfill at the Hub. No resource reprocessing facility (RRF);
 2. Landfill and RRF at the Hub;
 3. RRF at Orange Council’s existing Ophir Road waste facility. Landfill at Hub for Cabonne LGA waste and residual waste from Orange LGA;
 4. RRF at Orange Council’s existing Ophir Road waste facility. Landfill at Hub for Cabonne LGA waste and residual waste from Orange LGA, but construction of landfill at Hub delayed; and
 5. RRF at Orange Council’s Ophir Road waste facility and expansion of the approved landfill at the facility.

This assessment concluded that from a financial perspective, the preferred options were 1, 5, 3, 4 and then 2. Option 1 was best of the options simply because it didn’t

require the capital cost (\$14.3 million) of the RRF; and for the other options the difference in transport costs was the key factor. However the assessment acknowledged that the order of these options could change once other factors – such as social and environmental factors – were considered; and suggested that the Councils gauge the community's willingness to pay for each option.

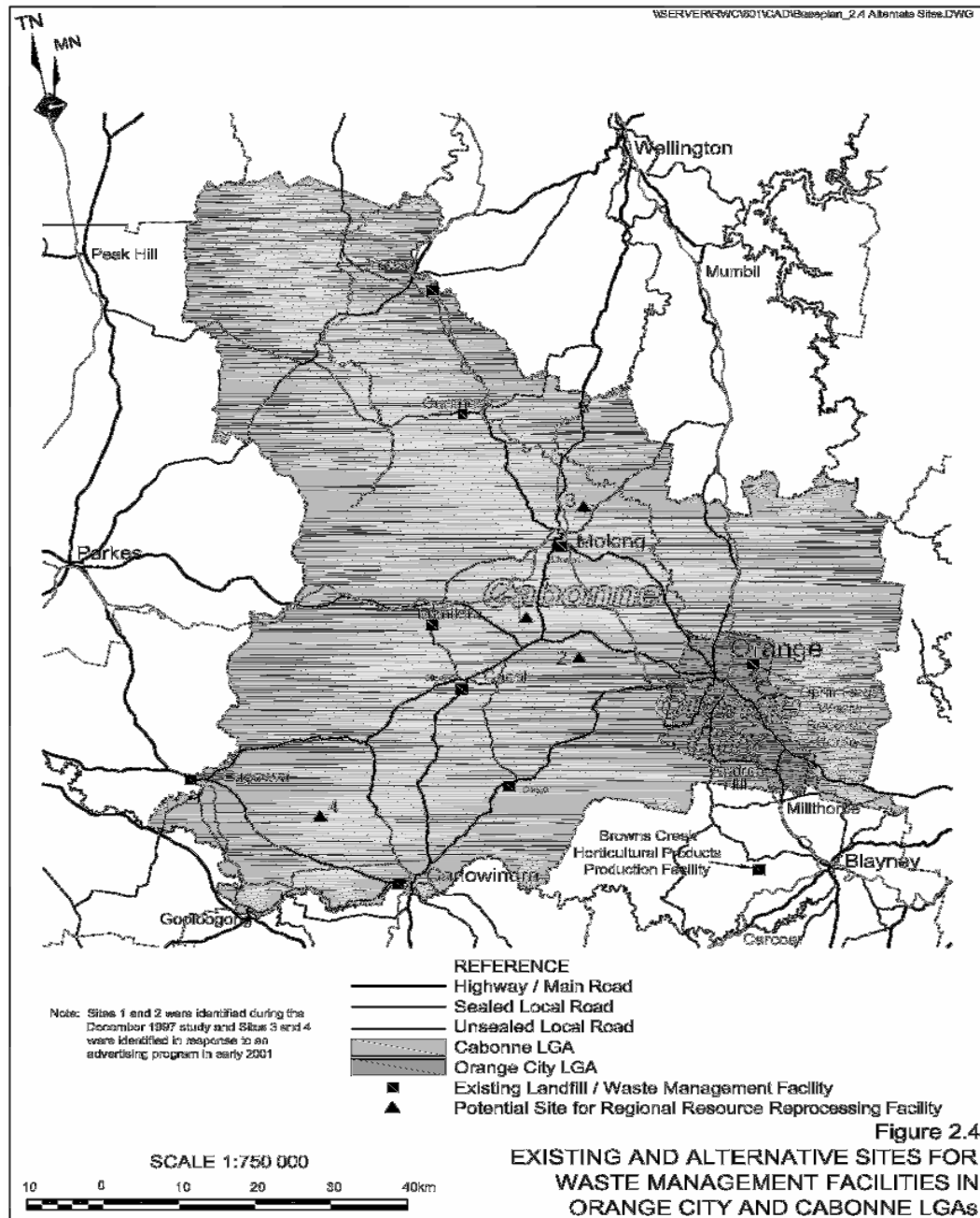


Figure 4: Map Showing the Location of the 4 Sites Tested Against the Relevant Site Selection Criteria.

- 2005: The Councils:
 - “Refined” the economic assessment of the first 4 options. Option 5 from the previous assessment was abandoned after Council decided for a range of reasons that it did not support any further expansion of the Ophir Road landfill. The net present value of each of the 4 options considered was as follows:

1. Landfill at Hub. No RRF:	\$ - 8.8 million
2. Landfill <u>and</u> RRF at Hub:	\$ - 17.3 million
3. RRF at Ophir Road. Landfill at Hub:	\$ - 14.3 million
4. RRF at Ophir Road. Delayed landfill at Hub:	\$ - 15 million

In other words, from a financial perspective, the current proposal (option 2) was likely to be the most expensive of the 4 options evaluated.

- Commissioned a multi-criteria analysis of these 4 options to try and incorporate a range of other factors – such as social and environmental matters – in the decision-making process. This analysis assessed the 4 options against 14 criteria (including zoning & planning, land ownership, community acceptance, distance from residences, environmental considerations, resource diversion, accessibility, overall cost to community, expansion opportunities and life expectancy, local Council support, resource recovery precinct, marketability of recovered product, and emergency event contingency). This analysis was done from a “technical” and “community” perspective, and both of these analyses concluded that the preferred options were as follows: 2, 1, and 3/4. In other words, that when all factors were considered the most expensive option was chosen as the preferred option.
- Commissioned an alternative waste technology assessment for the RRF. This assessment evaluated 10 technology options against 5 criteria (minimum throughput, cost, residues for disposal, flexibility, and environmental performance), and concluded that the 2 most suitable options were:
 - enclosed composting of separated green/food waste (\$5-7m); and
 - aerobic mechanical biological treatment (\$14-15m).
- Lodged an EIS for the current proposal, which is essentially the preferred option following the multi-criteria analysis (option 2) with the 2 most suitable alternative waste technologies as the potential technologies for the RRF.

From the Councils’ perspective, the current proposal is the best way to achieve the principal objectives for the project, which are to essentially to establish a single, long-term, well-run, and economically viable waste facility for both LGAs (see 3.1.1 of the EIS for a more detailed explanation of these objectives).

Submissions objecting to the proposal were extremely critical of the analysis of the feasible alternatives, and the process undertaken for analysing these alternatives, claiming both Councils had failed to adequately inform and consult with the local community on the proposal.

In fact, arguments over the choice of site, selection of feasible alternatives, and evaluation of these alternatives tended to dominate the objectors’ submissions. In other words, a large proportion of the issues raised in submissions tended to focus on what the proposal was not, rather than on the actual proposal that was the subject of the DA.

These criticisms can generally be divided into 2 categories and summarised as follows:

- **Site Selection:**
 - The Councils did not consider enough potential sites;
 - There are better sites available in both LGAs that could be developed more cheaply, and without using prime agricultural land;
 - The evaluation of the sites that were considered was cursory and flawed, as it involved a fairly subjective assignment of values to arbitrary criteria; and
 - The development of certain options, such as the potential to use Phillip Quarry as a landfill for either Class 1 or 2 waste, was excluded from further consideration without sufficient justification.
- **Analysis of Feasible Alternatives:**
 - The 4 options considered in the EIS are not comprehensive enough, and exclude a range of strategic alternatives, such as sending “green” waste to the existing Browns Creek

Horticultural Products Production Facility near Blayney, or locating the RRF at another site in Orange (if the Ophir Road does not have enough space for such a facility);

- The option to establish the RRF at Ophir Road and expand the Ophir Road landfill was excluded from further consideration without sufficient justification;
- The economic assessment of the various alternatives was flawed as it failed to account for the social and environmental externalities of these alternatives, and was therefore simply a “financial” assessment; and as a financial assessment it was also flawed because it failed to include a broad array of costs that would be generated by the options for such requirements such as road upgrades, or the provision of water and electricity to the site; and
- The RRF should be implemented immediately, and not in 8 years time as proposed, as the delay in implementing the RRF would result in unacceptable environmental impacts such as the emission of further greenhouse gases.

The Department has examined this issue in some detail, particularly in relation to whether there is justifiable demand for the a new landfill in the region (see below), and notes that it has taken both Councils nearly 10 years to get to this stage of the process.

During that time, they have examined a range of potential sites for the facility, a range of alternative waste technologies, and a range of strategic options for the long term management of waste in both LGAs. They have also evaluated these sites, technologies and strategic options against a range of economic, environmental, and social criteria in consultation with the local community; and following this evaluation, they have selected a preferred strategy that may not be the cheapest of the various strategies available, but is the preferred strategy based on a (sometimes conflicting) mix of economic, social and environmental criteria

This is clearly the prerogative of both Councils.

While it is not difficult to find fault with certain aspects of such a long and arduous process like this, it is important to highlight that it is not the role of the Department or the Minister to review the fully array of feasible alternatives, and identify the best available alternative; it is to assess the merits of Council's application, or the current proposal, with a reasonable understanding of what the feasible alternatives to this proposal are.

This is spelled out in some detail in the Supreme Court judgment *Prineas v Forestry Commission of NSW*:

The EIS is an account of the proponent's proposal and its effects as understood by him in the light of various factors which he has to consider. The obligation to state feasible alternatives is, at highest, an obligation to discuss what the proponent believes may be considered feasible alternatives. An issue can arise as to the bona fides of the belief, but apart from this, the EIS does not fail to comply under this head if particular alternatives conjured up by opponent's of the project have been ignored.

Using this test as a guide, the Department is satisfied that Council has suitably complied with its statutory obligations to discuss what it believes are the feasible alternatives to the current proposal.

It is also satisfied that Council has considered a broad array of feasible alternatives to carrying out the development, including the consequences of not carrying out the development, and adequately justified why it has settled on the preferred alternative that is the subject of this DA.

5.2 Justifiable Demand

Under Clause 12 of *State Environmental Planning Policy No. 48 – Major Putrescible Landfills*, a consent authority must consider:

- (a) *whether a justifiable demand exists for landfill having regard to waste disposal capacity requirements identified from time to time by the DEC; and*
- (b) *whether the landfill proposed in the DA is included in a waste management or waste disposal strategy identified in a regional waste plan applying to the site...*

Council believes justifiable demand exists for the proposed landfill for the following reasons:

- The two Councils produce around 76,600 tonnes of waste a year (see Table 2 below):

	Orange	Cabonne	Total
Municipal	21,791	2,500	23,291
Kerbside Recycling	1,110	-	1,110
Commercial & Industrial	8,888	2,386	11,274
Construction & Demolition	7,646	1,378	9,024
Green	5,329	762	6,091
Biosolids	3,650	400	4,050
VENM	19,000	1,000	20,000
TOTAL	68,222	8,426	76,648

Table 2: Waste Production for LGAs in 2004/5.

- These waste production rates are expected to increase by around 1.2% a year for the foreseeable future;
- Landfill capacity across both LGAs is currently limited (see Table 3 below):

Landfill	Remaining Capacity (m³)
Orange:	
Ophir Road	453,742
Cabonne:	
Eugowra	25,000
Cumnock	1,350
Cargo	300
Canowindra	500
Molong	-
Yeoval	-
TOTAL	480,892

Table 3: Estimated Landfill Capacity Late 2005

- With current waste diversion rates in both LGAs of around 15%, this capacity equates to around 7-8 years worth of landfill capacity for the two LGAs; and even less if there is another emergency such as the recent flood at Molong, which required considerable landfill capacity;
- Both Councils propose to significantly increase current waste diversion rates by implementing a broad range of measures, including differential pricing, increased MRF recycling/recovery, diverting virgin excavated natural material (VENM) from landfill, establishing an RRF in the region, and participating in a number of regional waste programs that are part of the Netwaste initiative (see below);
- However, even a significant increase in waste diversion rates is not expected to extend the existing landfill capacity of both LGAs by more than 5 years.
- In other words, under optimistic assumptions waste diversion rates the two LGAs have at most 13 years worth of landfill capacity left;
- However, given the current diversion rates of around 15% and the lead times required to establish a RRF in the region and effect changes in the way the local communities approach waste management, the optimistic assumptions of waste diversion rates are unlikely to be achieved in at least the short to medium term (the next 5 years);
- This means the current landfill capacity of the 2 LGAs is more likely to be sufficient for only another 8 to 10 years, and even shorter if there is an unforeseen emergency;
- To facilitate long-term waste planning in both LGAs, and to ensure that there is sufficient landfill capacity in the LGAs to deal with any unforeseen emergencies, both Councils want to secure approval for additional landfill capacity now; and
- They believe that the Hub proposal would fulfil a justifiable demand for the Cabonne LGA in the short to medium term, and the Orange LGA in the medium to long term; and that it it therefore meets the justifiable demand test in SEPP 48.

Several submissions were critical of this argument, saying:

- Orange Council was cynically using the lack of landfill capacity in the Cabonne LGA to justify the demand for an increase in its own capacity when such an increase was not justified for at least another few years;
- The decision on additional landfill capacity could be delayed for at least the next few years until a better site is found for the new facility, or a better long-term waste management strategy is worked out for both LGAs; and
- Both Councils should be forced to do more to reduce the amount of waste going to landfill in the short to medium term, such as bring forward the construction of any RRF, and thereby extend the life of the existing landfills in the LGAs, but most particularly the Ophir Road landfill.

However, several other submissions took a different tack. They acknowledged that there was justifiable demand for additional landfill capacity in the LGAs, but questioned whether the LGAs needed as much as 1.5 million m³ worth of additional landfill capacity.

The Department has considered these criticisms closely, and consulted the DEC on the matter.

The DEC advised the Department that:

- It has no waste capacity requirements for areas outside the Greater Sydney Metropolitan area;
- While there are no regional/rural waste diversion targets at this stage, there is a broader regional waste management strategy, NetWaste, which attempts to facilitate waste minimisation initiatives for the Central West region of NSW;
- NetWaste is a joint waste management project of the Central West (CENTROC) and Orana Regional Organisation of Councils (OROC), and is comprised of 28 LGAs from the region. The *NetWaste Central Subregional Waste Management Plan*, which covers the waste management activities in 7 of these LGAs, is the most relevant strategic document guiding waste management in the Orange and Cabonne LGAs. To date, both Councils have demonstrated their commitment to waste reduction through their active participation in the Netwaste initiatives;
- It would continue to monitor the progress of the NetWaste initiatives over time, and if necessary require further measures to be implemented to improve waste reduction rates; and
- It would like to see most of the existing landfills in the Cabonne LGA closed down, and supports the creation of a centralised and well-run waste facility in the region.

Based on its consideration of the relevant issues and DEC's advice, the Department is satisfied that:

- The proposal is generally consistent with the recommendation in the *NetWaste Central Subregional Waste Management Plan* to consider the consolidation of many localised and environmentally sub-standard landfills to larger, centralised facilities where better environmental management practices can be undertaken together with more efficient waste diversion and recycling activities; and
- The Councils have identified a broad range of measures to increase waste diversion rates across the LGAs, and reduce the amount of waste going to landfill.

However, while the successful implementation of these waste diversion measures is important, and should significantly reduce the demand for landfill capacity in the medium to long term, it is important to recognise that these measures are unlikely to yield significant waste diversion dividends in the short to medium term.

Consequently, the Department is satisfied that there is justifiable demand for additional landfill capacity in the Cabonne LGA in the short to medium term, and in the Orange LGA in the medium to long term; and that the proposal is suitably structured to reflect this.

This leaves the final question of whether the proposed capacity of the Hub is excessive.

The principle underpinning the concept of "justifiable demand" is to keep landfill capacity scarce to encourage people's efforts to reduce the amount of waste going to landfill.

Clearly, there is a risk that if the Council's manage to secure an 1.5 million m³ of landfill capacity, then they may have little or no incentive to reuse and/or recycle waste in the LGAs. On the other hand, the Councils argue that they need the long term certainty (that comes with such an approval) to enable

prudent investment decisions on significant plant with high capital costs, such as the RRF which is an important component of the Councils' waste minimisation strategy.

Although, to some extent, there would appear to be a conflict between these two objectives, the Department believes it would be possible to provide the Councils with the long term certainty they require without compromising the strategic intent underpinning the concept of justifiable demand.

This could be done by:

- approving the full capacity of the proposed landfill;
- requiring the Councils to construct and commission the RRF at the Hub prior to receiving any waste from the Orange LGA at the Hub; and
- requiring the Councils to implement all reasonable and feasible measures to minimise the amount of waste going to landfill.

To achieve this, the Department believes the Councils should be required to:

- develop the project in 3 stages, with stage 1 being the initial stages of the Hub to enable it to accommodate the waste from the Cabonne LGA, stage 2 being the construction and commissioning of the RRF, and stage 3 being the final stages of the Hub to enable it to accommodate the waste from the Cabonne and Orange LGAs;
- restrict the maximum capacity of the Stage 1 landfill to 50,000 tonnes;
- prepare and implement a waste minimisation strategy for both LGAs that establishes waste minimisation/diversion targets for each of the waste streams in the short, medium and long term; describes what measures would be implemented to achieve these targets; and include a program to monitor the effectiveness of these measures;
- commission an independent team of experts, including a waste management specialist, to carry out an independent audit of the development within 2 years of the commencement of operations (and every 4 years thereafter) to review the effectiveness of the waste minimisation strategy; and if necessary, recommend measures or actions to improve its effectiveness; and
- review, and if necessary revise, the waste minimisation strategy to the satisfaction of the Director-General after each audit.

With these measures in place, the Department is confident that it would be able to achieve the strategic intent underpinning the concept of justifiable demand, even though in the early years the Hub would have at least 40 years worth of landfill capacity available for both LGAs.

5.3 Resource Reprocessing Facility (RRF)

In the EIS for the proposal, Council evaluated 10 alternative waste technologies for the RRF against 5 criteria (minimum throughput, cost, residues for disposal, flexibility and environmental performance), and concluded that the 2 most suitable options were:

- enclosed composting of separated green/food waste (\$5-7m); and
- aerobic mechanical biological treatment (\$14-15m).

However, it did not take the evaluation of these 2 alternative technologies any further, choose a preferred technology, and then assess the impacts of constructing and operating the particular plant associated with this technology.

Instead, it developed a "conceptual layout" for the RRF (covering an area of about 18,000m²) that would be flexible enough to accommodate both of the suitable technologies, and then assessed the impacts of a "worst case" RRF using the generic impacts of similar plants of both technologies as a guide.

In other words, Council decided to seek approval for a "worst case" environmental envelope for a RRF, rather than a particular RRF.

The primary reason for the approach is that Council is only proposing to construct the RRF in year 8 of the proposal when the facility would receive waste from both the Cabonne and Orange LGAs, and does not want to prematurely commit itself to a particular plant when there may be improvements in the plant associated with either of the preferred technologies that could be adopted in the final design of the RRF.

Most of the submissions were highly critical of Council's approach to dealing with this matter, and tend to focus on 2 distinct issues.

Firstly, they complained that there was insufficient detail about the proposed RRF in the EIS to allow a proper assessment of the environmental impacts of the facility. While the Department acknowledges that there is limited detail on the proposed RRF in the EIS, and even some doubt about the particular technology that would be adopted, it believes that it is important to note that Council is not seeking approval for a detailed RRF, and that Council always envisaged that it would require further approval for the detailed plans of the RRF.

In addition, the Department has reviewed the assumptions made about the "worst case" RRF to enable the potential impacts of this facility to be assessed, and is satisfied that these assumptions are reasonable, and suitably conservative to enable an environmental footprint to be established for the RRF.

The second issue raised by objectors was Council's lack of commitment to implementing the RRF because although the EIS suggests that the RRF would be constructed in year 8 this suggestion is heavily qualified, and in their view these qualifications could be used to delay the implementation of the RRF indefinitely. To prevent such an occurrence, these objectors argued that Council should be required to implement the RRF upfront, and preferably to put the RRF at the Ophir Road waste facility where it would be closer to most of the waste generated in the LGAs.

This issue is more complex to unravel, as it is inextricably tied to the broader debate about whether or not Council has chosen the best strategy for the joint waste facility. Certainly, there would be little benefit in requiring Council to construct the RRF upfront at the Hub if the waste from the Orange LGA is only likely to be sent to the Hub from around year 8. There may be some benefit in putting the RRF at the Ophir Road waste facility in the short term, as this would extend the life of the Ophir Road landfill. However, Council has indicated that it does not favour this option for both strategic and financial reasons. Firstly, because there is insufficient space for such a facility at the Ophir Road facility. Secondly, even if it was put at the Ophir Road facility it would not extend the life of the approved facility by much as this landfill has only a few years of life left. Thirdly, it does not favour any expansions to the existing landfill at Ophir Road, and if the RRF was built there it would be faced with a situation where its RRF operations are separate from its landfill operations, and while this is technically possible to manage, it would prefer to keep the two operations together in a single integrated facility with a long life span. Finally, from a financial perspective, it would prefer to delay the capital costs associated with the RRF for a few years so that it is not forced into borrowing large sums of money to fund the construction of the facility, and raise waste charges steeply; it would prefer to raise these charges gradually over time.

As discussed earlier, it is primarily up to Council (not the Department) to determine its preferred strategy. However, it must be said that the Department considers Council's approach to be reasonable, and notes that even if it did disagree with its approach it does not possess the power to require Council to construct the RRF at Ophir Road, as this land is not even the subject of this DA.

In summary then, the Department is satisfied that there is sufficient information available in the EIS for it to be able to establish a suitable environmental envelope for the RRF at the Hub. It is also satisfied that there is little merit in requiring the RRF to be established at the Hub before it is scheduled to receive the waste from the Orange LGA. However, it believes that the RRF should be up and running by the time Orange LGA waste is brought to the Hub.

Consequently, the Department believes that Council should be required to:

- obtain further development consent from the Minister for the RRF, and in seeking this consent submit detailed plans for the RRF and an environmental impact assessment that demonstrates that the facility would achieve the diversion rates specified in the EIS and operate within the defined environmental parameters for the site; and
- construct and commission the RRF prior to receiving any waste from the Orange LGA at the Hub.

5.4 Loss of agricultural land

The site is comprised mainly of Class 3 land under the NSW agricultural land classification system. This means most of the land on site is suitable for grazing or pasture improvement, and may be cropped in rotation with some pasture. However, two parts of the site are comprised of Class 4 land (see Figure 5 below), which is suitable for grazing but not cultivation.

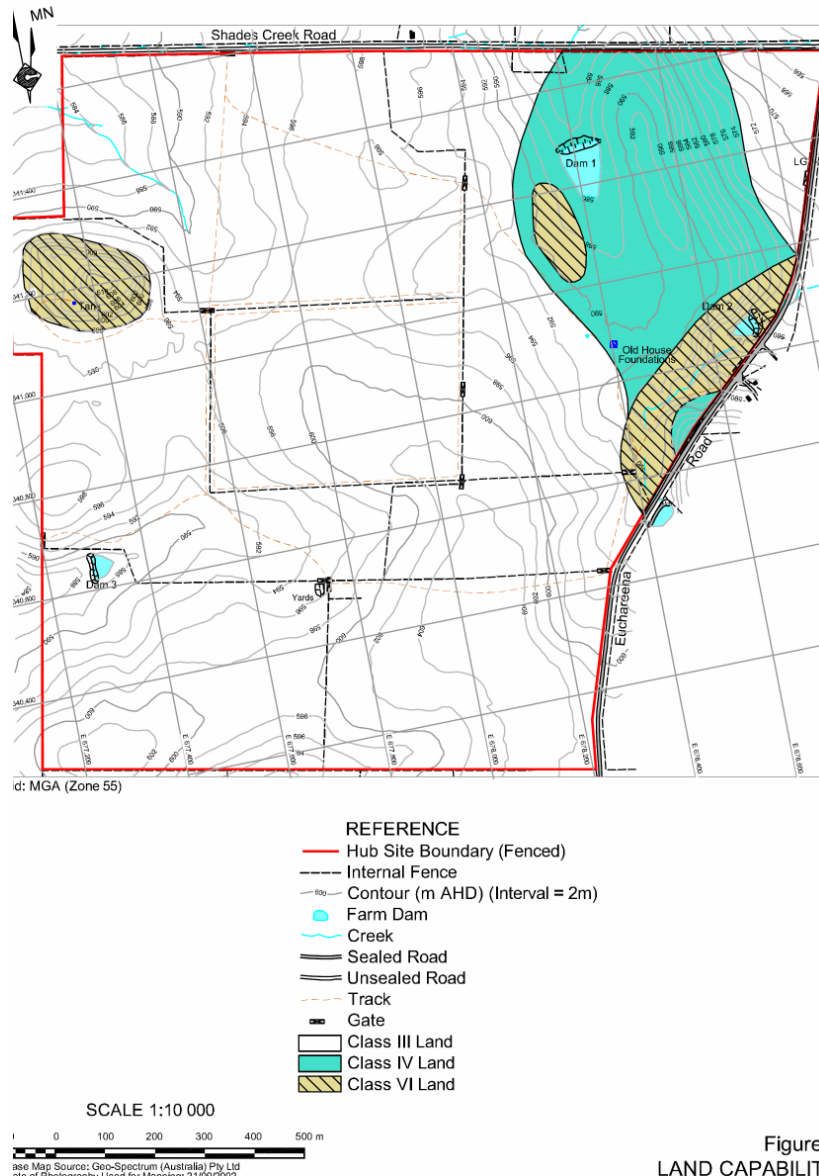


Figure 5: LAND CAPABILITY

Figure 5: Agricultural Capability of the Site

The site has been used for grazing sheep and cattle for many years. Prior to 1988, the flat northern paddocks on the site were periodically cropped with wheat, oats and/or barley, but since then these paddocks have only been sown periodically with improved pasture.

Under Clause 10 of the Cabonne LEP, a consent authority must:

“ not consent to an application to carry out development on land within the Rural 1(a) zone unless it has made an assessment, where relevant, of the effect of carrying out that development on:

(a) the present and potential use of the land for the purposes of agriculture...

*and the (consent authority) is satisfied that the development will not have an adverse effect on the long term use, for sustained agricultural production, of **any** prime crop and pasture land."*

As the definition of prime crop and pasture land includes Class 3 land, this clause applies to the proposal.

The proposal would have an impact on both the present and potential use of this land on the site.

During operations, it would reduce the intensity of grazing on the site, as there would be no grazing allowed on the operational or conservation areas on the site. Obviously the scale of this impact would vary over time depending on the intensity of operations on the site. But during peak operations, at least 25-30% of the site would not be available for grazing, and roughly 30% due to conservation. However, when operations are completed, in roughly 40 years time, the rehabilitated site would be returned to grazing, and on certain parts of the site even cropping. Nevertheless, 10% of the site – the land previously used for the landfill and leachate evaporation ponds – would no longer be suitable for cropping. In other words, it would no longer be classified as Class 3 land.

Several submissions, including a submission from the Environmental Defender's Office, argued the loss of this cropping capability would represent "a significant adverse effect on the long term use of the land for agricultural purposes", and that the Minister could not approve the development because of the specific wording of Clause 10 of the LEP.

The Department does not support such a narrow reading of Clause 10, which would effectively prohibit many of the permissible land uses in the Rural 1(a) zone. Instead, it believes the word "any" in the clause should be read widely given the primacy of the zoning table, the fact that the proposed development is permissible with consent, and that the objects of the Rural 1(a) zone expressly contemplate the "justified" development of prime crop and pasture land for purposes other than agriculture. In other words, while Clause 10 makes it clear that development that is likely to have an adverse effect on prime crop or pasture land should be **avoided**, it does not prohibit any development that would have an adverse impact on such land. In addition, if competing or non-agricultural use for the land which may have an adverse impact on such land, then one should examine the significance of the impact on the agricultural capability both the site **and** the LGA as a whole, given that the provisions of the LEP are directed primarily towards strategic aim of conserving and maintaining the agricultural productivity of the LGA (as opposed to just the site); and then consider on balance, whether such impacts are justified by the proposal.

In this case, the Department does not believe that the proposal would have a significant impact on the agricultural capability of the area or region.

This is because the loss of 21 hectares of cropping land represents an extremely small proportion of the total cropping land in the LGAs. This is demonstrated clearly in Figure 6 below, where large swathes of prime cropping land can be seen, particularly to the south west of Molong; and it should be noted that this is just a depiction of the better quality cropping land (Classes 1 & 2 land) which excludes the Class 3 land on the site.

Secondly, although the land on the site is capable of being cropped, it is important to note that this land has not been cropped since 1988. This suggests that there is a low demand for cropping on the land, and that its cropping capabilities are not valued overly highly in the current agricultural market. It also highlights that it's the potential (rather than actual) use of this land that would be lost, and by any reckoning the extent of this loss is likely to be small in the context of agricultural production across the two LGAs.

On the other hand, one of the primary attributes of the site that makes it attractive as a potential putrescible landfill site is that it has an abundance of clay. In fact, there is enough clay on site to sustain a landfilling operation on the site for at least the next 40 years.

In other words, the land on the site appears to have marginal value for cropping, but significant value for landfilling.

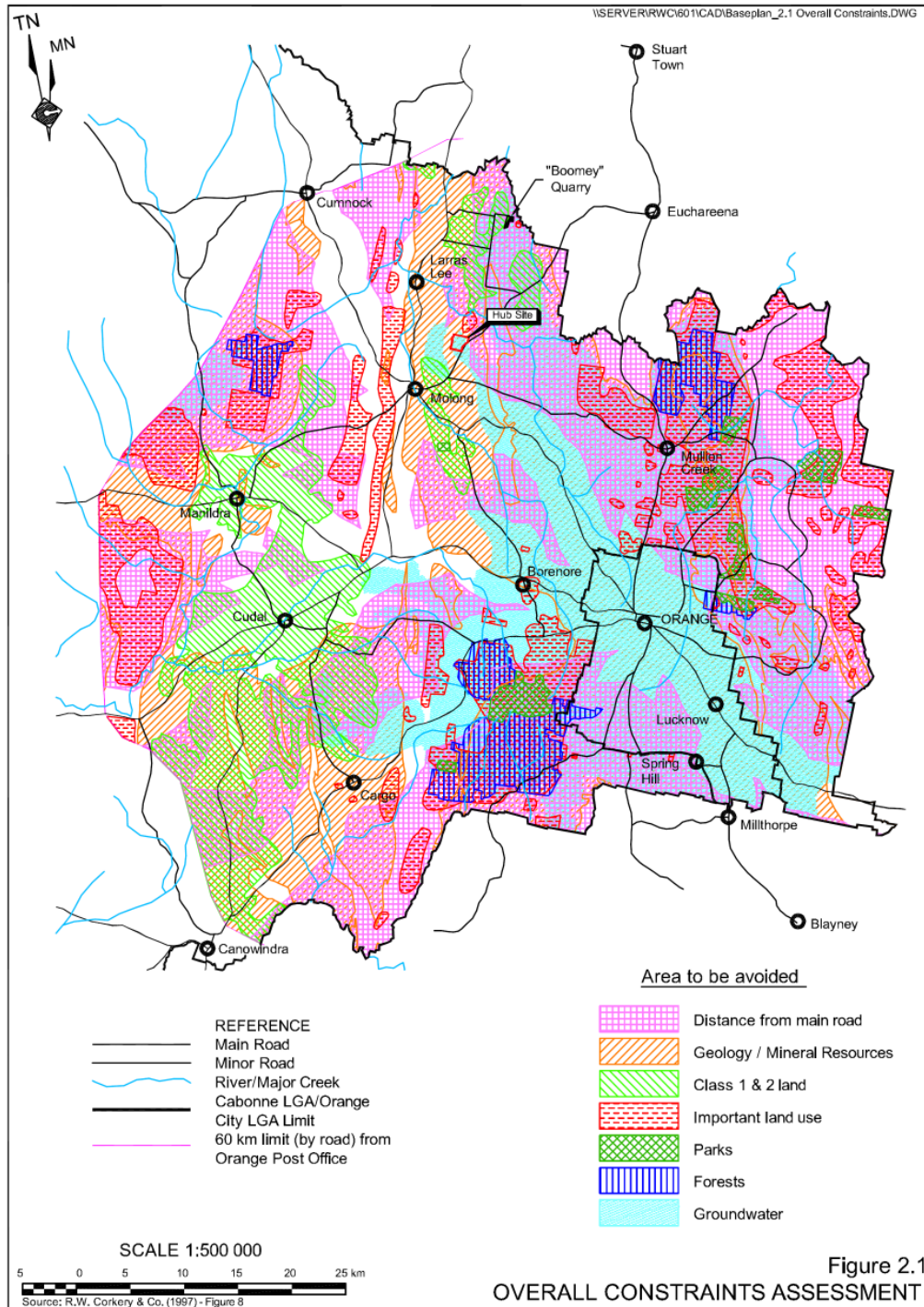


Figure 6: Map Showing the Agricultural Capability of the Land in the Orange and Cabonne LGAs

To this should be added the fact that the proposal would provide an essential service to the entire population of both LGAs for a substantial period of time, and enable some of the sub-standard landfills in the region to be closed and rehabilitated.

On balance, therefore, the Department believes that the impacts of the proposal on the agricultural capability of the land are likely to be relatively minor, and these impacts are more than justified by the essential services that the proposal would provide to the local and regional community.

5.5 Apiculture and Disease Control

There are several apiaries located in close proximity to the site, with up to 1,800 hives on the “Roseleigh” and “Shaed” properties for about 50% of the year, and 300 hives on the “Maupas” and “Vale Head” properties for about 75% of the year.

Submissions from the apiarists, and several other members of the local community, were concerned that the proposal would increase the risk of disease at these apiaries, and particularly the spread of American Foulbrood Disease (AFB), which could have significant economic consequences for these businesses.

AFB is a highly infectious bacterial disease that is endemic in Australia. It affects bee larvae, and is principally spread between hives by bees that have fed off contaminated honey or beehive materials. Once detected, it is commonly treated by destroying the diseased colonies and/or the gamma irradiation (sterilisation) of equipment.

Council proposes to reduce these risks by:

- planting trees around the boundary of the site, such as the existing trees from the Box-Gum community, to increase the source of nectar in the area, as bees are more likely to consume nectar than other sources of food (such as contaminated honey);
- minimising the disposal of honey jars and beehive material at the facility by removing these potential carriers of disease from the waste stream before they get to the site;
- training staff to identify and remove any potential carriers of disease from the waste stream, monitor bee activity in the area, and if bees are detected in the vicinity of the open face of the landfill then to cover the waste material there immediately; and
- covering the waste material in the landfill at the end of each day.

The apiarists were sceptical about how effective these measures would be, claiming:

- the proposed planting of trees would have little impact as a mitigation measure for at least 10 years, as they would not produce much nectar; and in all likelihood may only become a reliable source of nectar after 20-25 years;
- efforts to remove potential contaminants from the waste stream before they get to the site were unlikely to be wholly successful, and so it should not be assumed that some contaminated material would not reach the site;
- in addition, these efforts would generally be undermined by the provision of the public waste receival facility on the site, as contaminated material could be delivered to the site by the general public, who are not experienced enough to remove it from the waste stream, and would be on the site for some time before it was either identified and removed from the site, or disposed of on site;
- the proposed monitoring regime may not be effective enough because by the time bees are detected on site it may be too late to take the necessary remedial measures; and
- there is little benefit in covering the waste material at the landfill at the end of each day, as bees are unlikely to be feeding at night.

The Department agrees with many of these criticisms. Clearly, there is no way of completely eliminating the potential risks of spreading disease from the site to the surrounding apiaries. Nevertheless, the key question is: how significant are these risks?

In seeking to answer this question, it is worth looking at the chain of events that is required to occur for the disease to be transmitted from the site to the apiaries. Firstly, there would need to be contaminated honey or beehive materials on the site, and it is important to stress that not all honey or beehive material would be contaminated. Secondly, there would need to be bees in the area to rob the honey. Thirdly, there would need to be a shortage of nectar in the field, as bees would only tend to seek other food if there is a shortage of nectar in the area. Then, even if there is contaminated material on the site, it would need to be exposed to “robber” bees, which would not always be the case. And finally, the bees would need to rob the contaminated materials and become infected. Once infected, they would then need to spread the disease, and the extent and consequences of spreading this disease would vary considerably depending on a range of factors, including the vigilance of the apiarists.

In the Department's view, this is a fairly long chain of events, and there are clearly a range of mitigation measures that could be implemented to minimise the risk of disease transmission.

Clearly, the most significant mitigation measure is to prevent contaminated material from reaching the site. In this regard, the Department agrees with the apiarists that the provision of the public waste receival facility on the site would tend to undermine the effectiveness any other efforts to prevent contaminated material from reaching the site. Consequently, this component should be removed from the proposal. This would have the added benefit of substantially reducing the traffic generated by the proposal and the potential for illegal dumping and the proliferation of litter along Euchareena Road. The Department has canvassed this idea with Council, and Council is not opposed the removal of the facility from the proposal.

With this change to the proposal, and the effective implementation of the other mitigation measures proposed by Council, the Department is satisfied that the potential risks of spreading disease from the site to the surrounding apiaries can be reduced substantially, and should be relatively small.

Notwithstanding this conclusion, the Department accepts that the proposal may result in the spread of disease to neighbouring apiaries, and that the spread of this disease may result in these apiarists suffering economic losses. Given that these losses would be a direct consequence of the proposal, the Department believes that Council (and not the apiarists) should be held liable for any such losses.

If that were to be the case, then Council would have a powerful incentive to ensure that the mitigation measures to reduce the risk of disease spreading are implemented effectively; and if for some reason these measures are not effective and disease does spread to the adjoining apiaries, then these apiarists would be duly compensated by Council.

With such a mechanism in place, the Department is satisfied that this matter could be suitably managed.

Consequently, the Department believes Council should be required to:

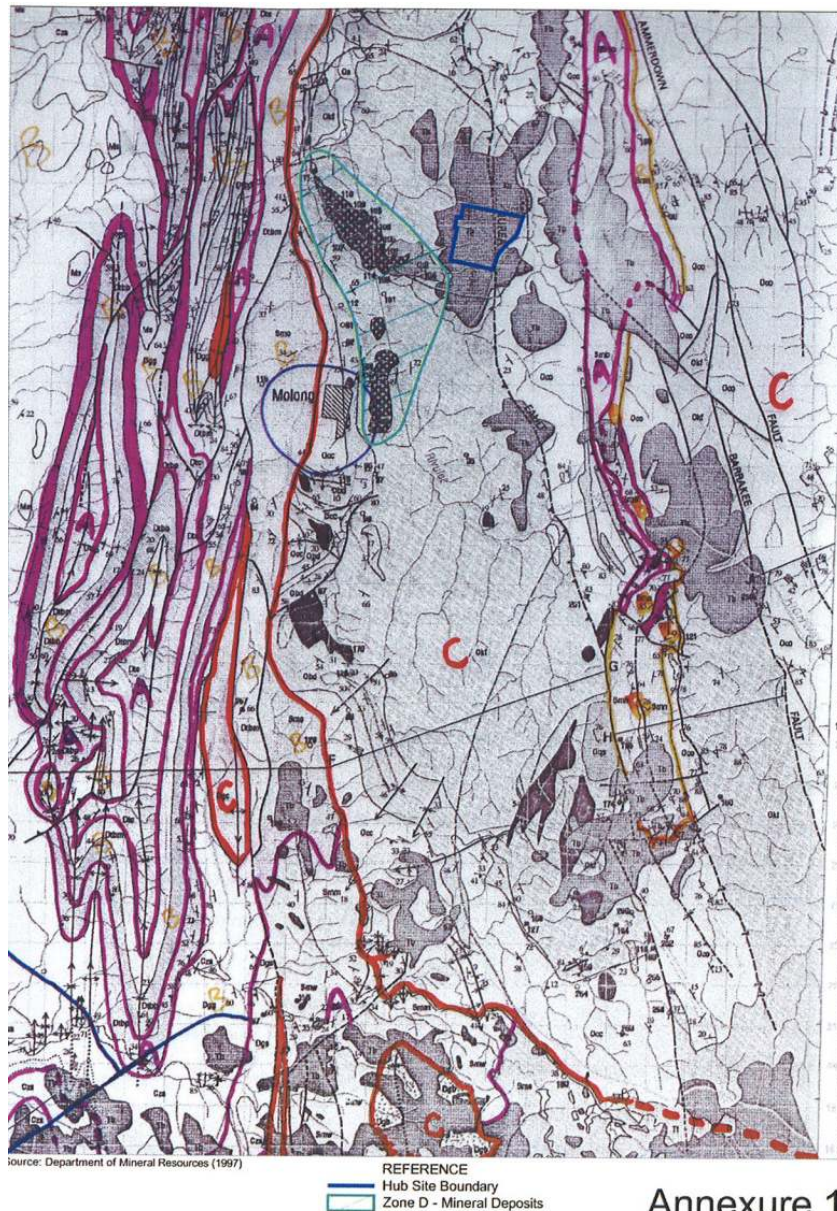
- delete the public waste receival facility from the proposal;
- prepare and implement a Bio-security Risk Minimisation Plan for the development, in consultation with DPI and the adjoining apiarists; and
- if there is an outbreak of AFB, or any other disease, at any of the apiaries in close proximity to the site, and the apiarist believes that the proposal is responsible for this outbreak, then he/she may ask Council to commission an independent investigation of this incident; and if this investigation subsequently confirms the apiarists claims, then Council be required to compensate the apiarist for any reasonable losses caused by the outbreak.

5.6 Mineral Resources

The site is located in a mining area that is focused around the old Copper Hill mine, which is about 3 kilometres away from the site.

DPI (Minerals) believes the Copper Hill exploration area, which includes the site, represents one of the top three gold-copper porphyry systems in NSW, and believes that it has the potential to host "Cadia-style" deposits (referring to the Cadia-Ridgeway gold/copper mine near Orange, which is now the second largest gold producing site in Australia).

Golden Cross Resources holds an exploration licence over much of this area (99 km²), and is currently carrying out a drilling program across the licence area to try and determine whether there is a mineable resource/reserve. However, most of this drilling is occurring in the area with the greatest potential for mineralisation, which is depicted as zone D in Figure 7 below; and is therefore being carried out to the west of the site.



Annexure 1

Figure 7: Lithological/Mineralised Zones in Cooper Hill Area

Note: DPI uses 4 zones: zones A to D. Zone A is the zone with the least potential for mineralisation while zone D is the zone with the most potential for mineralisation.

Several submissions, including a submission from Golden Cross Resources, claimed the proposal would sterilise the valuable mineral resources on the site, and was therefore inconsistent with the objectives of the Rural 1(a) zone which seeks to protect, enhance and conserve “valuable deposits of minerals, coal, petroleum and extractive materials by controlling the location of development for other purposes in order to ensure the efficient extraction of those deposits.”

In addition, under Clause 10(1) of the Cabonne LEP a consent authority must not consent to an application to carry out development on land within the Rural 1(a) zone unless it has made an assessment, where relevant, of the effect of the carrying out of the development on “the future recovery of known or prospective areas of valuable deposits of minerals, coal, petroleum, sand gravel or other extractive resources.”

The difficulty with making such an assessment is that, although the site is located in an area with medium to high mineral potential (zone C on Figure 7), there has been no exploration drilling either on or in the immediate vicinity of the site. This means there is little or no evidence to support a claim that there are significant mineral resources on the site, and therefore that the proposal **would** sterilise

these resources. Nevertheless, as DPI notes the lack of such evidence does not mean there is not a significant mineral resource on the site.

Consequently, for the purposes of this assessment the Department has assumed that there is a reasonable prospect that the site contains valuable mineral resources.

The key question is: would the proposal sterilise the exploration for, or extraction of, these potential resources?

After discussing this question with DPI (Minerals), the Department is satisfied that the proposal:

- would not prevent further exploration activities from occurring on the site, provided these exploration activities are properly co-ordinated with the landfill and other operations on the site. In an ideal world, the exploration activities would be carry out as early as possible in the life of the proposal while the site is reasonable undeveloped, however, this is not essential as even the developed parts of the site could still be explored using techniques such as directional drilling; and
- is unlikely to sterilise any significant resources on the site, as the landfill, RRF and any associated infrastructure could be easily be relocated as part of any mine plan, particularly if the mine was to be anything like the Cadia-Ridgeway mining operations, as the cost associated with moving these components of the proposal is likely to be a small cost of the total mining operations.

Consequently, the Department does not believe that the potential mineralisation of the site should prevent the proposal from proceeding.

5.7 Water Resources

Groundwater

The groundwater table lies approximately 15 – 30 metres below the ground surface of the site. The Applicant considers that the groundwater body is likely to be regionally extensive and recharged by infiltration of rainwater and downward percolation to the water table. The groundwater flows in a north-westerly and north-easterly direction with seepage naturally discharging into Molong Creek to the west and Bells River to the north and northeast.

Soil analysis has identified the presence of naturally occurring clay material (up to 30m thick) on the site. This material has very low natural permeability, and is already lower than the DEC permeability guideline for landfills. Groundwater modelling indicates that, due to the presence of this natural clay material, any seepage that happened to escape from the landfill would infiltrate at an extremely slow rate, with any such seepage expected to be confined within the boundaries of the site. Indeed, the presence of this natural protective clay 'liner' is a key reason for the selection of the proposed landfill site.

The Applicant proposes a range of standard leachate management measures, including construction of a leachate barrier system (comprising compacted clay liners to landfill cells and a leachate collection system), and a leachate and groundwater monitoring program.

Submissions raised a number of concerns regarding potential groundwater impacts, including concerns about the long term permeability/integrity of the leachate barrier system, clay cracking and the potential contamination of groundwater. In addition, the DEC raised some concern regarding the adequacy of the Applicant's groundwater assessment, and requested additional information on leachate management for the site, proposed monitoring, commitment to benchmark techniques and on the overall quality of the construction and operation of the site.

The Applicant has provided a response to these issues, emphasising the presence of the natural clay layer and demonstrating that the proposed leachate barrier and collection system would exceed existing DEC benchmarks.

Following provision of this additional information, the DEC advised that it is satisfied with the Applicant's groundwater assessment and is satisfied that the potential groundwater impacts associated with the proposal could be adequately managed. Consequently, the DEC was able to

forward its GTAs for the proposal. The DNR has also advised that it has no concerns with the proposal, and has forwarded its GTAs.

The Department is similarly satisfied that the Applicant has adequately considered the potential groundwater impacts of the proposal, and demonstrated that these impacts can be adequately managed to protect adjacent and downstream groundwater users, and the environment. The Department has recommended a number of conditions to protect the groundwater resource, including requirements on the Applicant to:

- install a leachate barrier and management system in accordance with best practice DEC guidelines;
- develop a Surface Water, Groundwater and Leachate Monitoring Program detailing the groundwater monitoring network and parameters for testing; and
- develop a Surface Water, Groundwater and Leachate Response Plan outlining measures to investigate and to respond to any groundwater contamination that may be caused by the development.

The Applicant would also be required to outline environmental management practices and procedures to be followed during landfill closure and rehabilitation to ensure the landfill continues to be non-polluting and does not cause environmental harm over the long term.

Surface Water

The site drains to 3 local catchments, with 51% of the site draining to the north to Shades Creek and to the north-west and west via a number of creeks to Molong Creek some 3km from the site. No creeks or significant water courses are located on the site, with all drainage lines identified as ephemeral depressions which only flow after major rain events.

The Applicant has designed a number of surface water management measures to control and manage any potential off-site impacts which would be progressively implemented as the site develops. The key principles include limiting the amount of water to be managed at any one time by minimising the active catchment area and the separation of clean, dirty and leachate water for appropriate management. Various sediment and erosion controls would be adopted to manage construction related impacts and works would be staged and exposed areas progressively rehabilitated to limit the amount of potential impacts at any one time. Key components of the water management system for operational areas include:

- office and weigh bridge area – rainwater collection from the roofs for general water supply and landscaping;
- resource reprocessing facility – stormwater drainage system connected to the landfill leachate collection system to contain contaminated water;
- landfill area – leachate collection system and surface water runoff collection (including perimeter bund, evaporation and holding ponds, and sub-surface drains to collect leachate); and
- stockpile area (which contains the excess clay, topsoil and subsoil) – runoff collection dam and bunding.

The proposed surface water management measures proposed for the site are outlined in Figure 8 and 9 below. The Applicant also proposes to implement a detailed surface water monitoring program.

A number of submissions raised concerns about the potential impacts of the proposal on local creeks and in particular Molong Creek.

The Department has considered these concerns, but believes that the Applicant's proposed surface water management and monitoring measures would provide adequate protection for all off site waterbodies, including Molong Creek. The Department is satisfied that the risk of any significant water pollution is unlikely given that there are no major creeks or other water courses on the site, and that there is adequate separation distance of approximately 3km to Molong Creek and 3.5km to the Bell River. The Department's view is supported by both the DEC and DNR who were satisfied with the assessment undertaken and have subsequently provided their GTAs for the proposal.

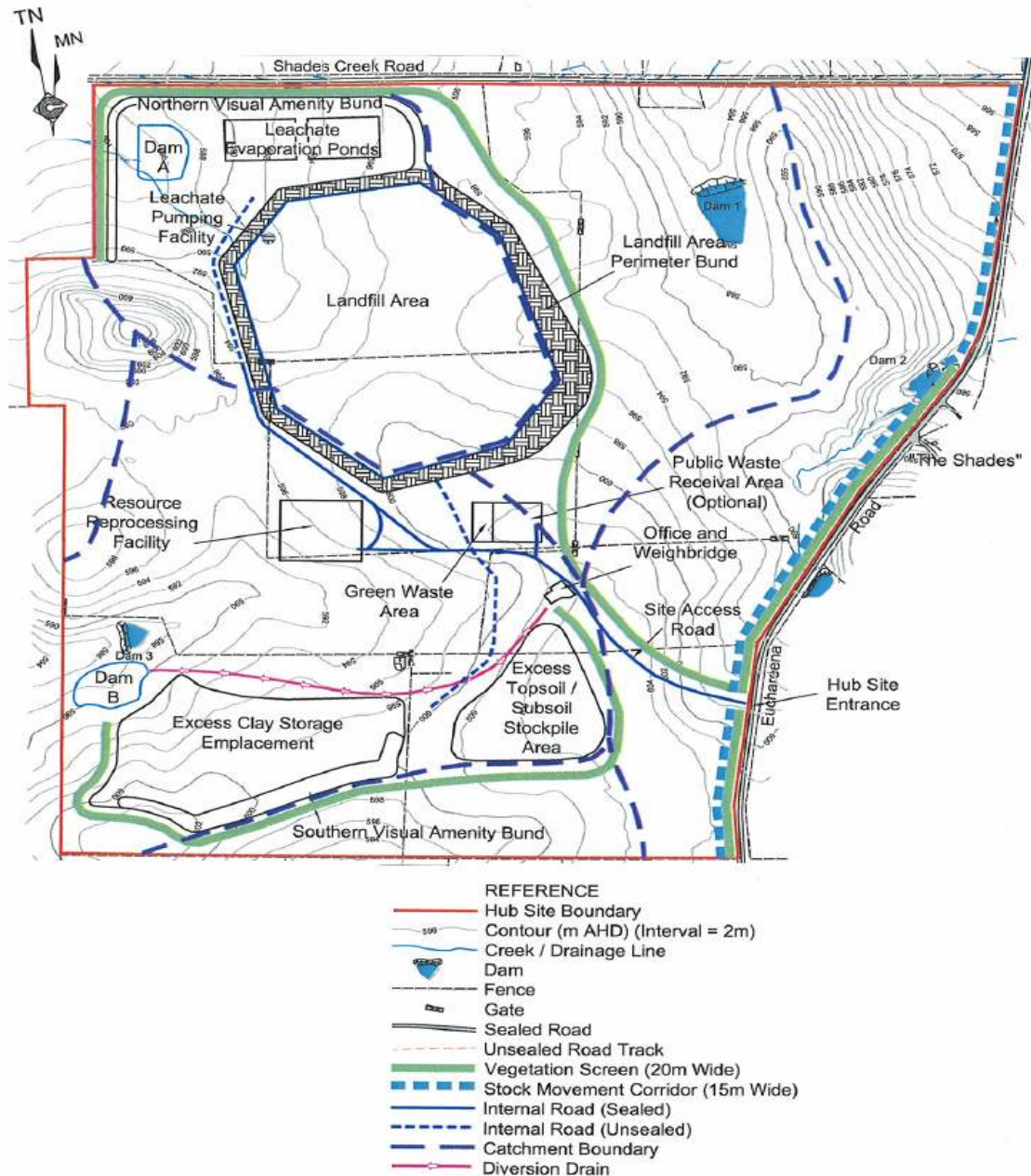


Figure 8: Proposed Surface Water Management Measures

As detailed above, the Department has recommended conditions requiring the Applicant to develop a comprehensive surface water monitoring program and response plan. The Department has also recommended conditions requiring the applicant to develop a detailed Erosion and Sediment Control Plan and Stormwater Management Scheme for the development.

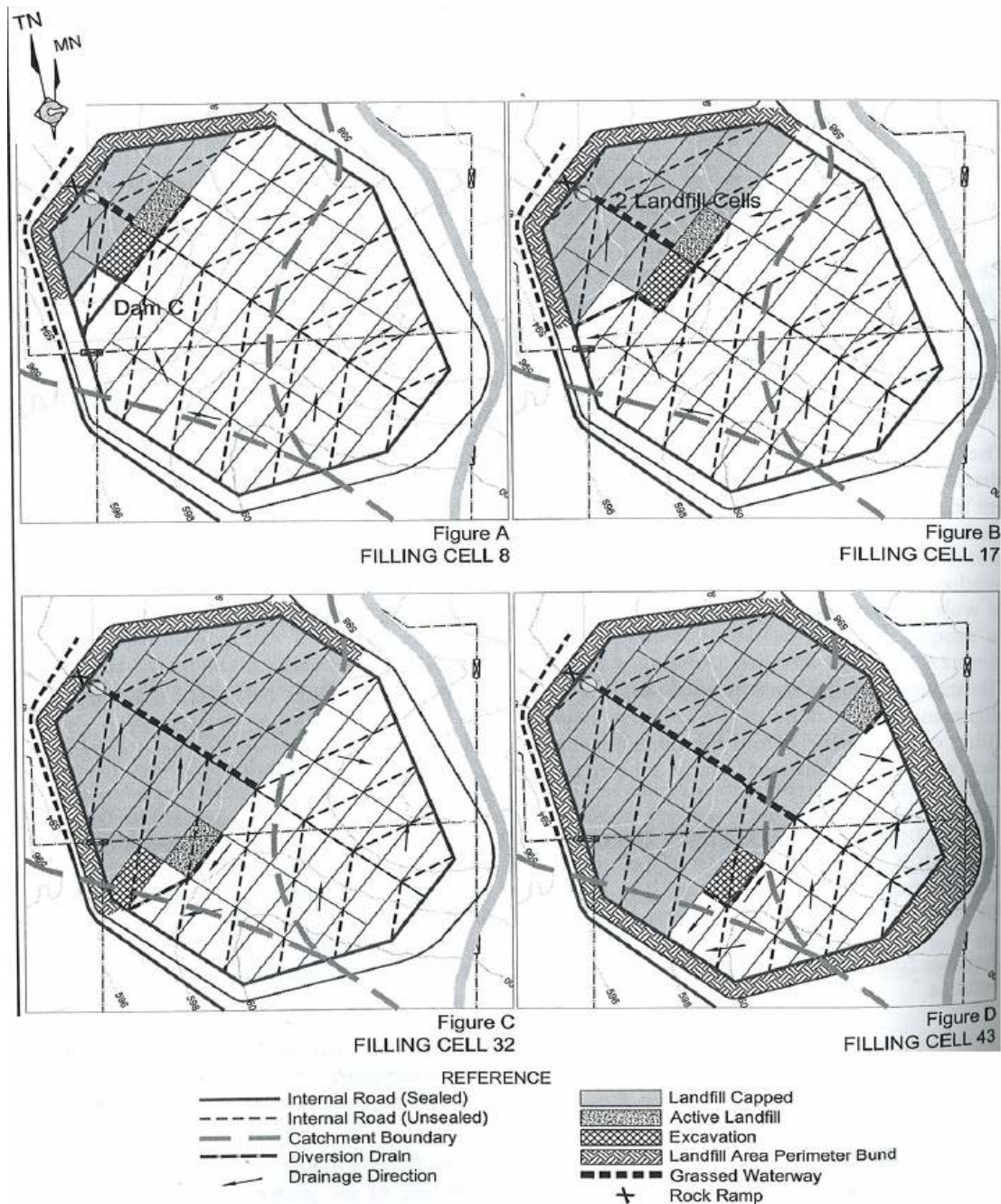


Figure 9: Proposed Landfill Surface Drainage

Water Supply

The proposal has an estimated water demand of 25ML of water per year, primarily for use in dust suppression, moisture control for clay compaction and on-site landscaping. Water requirements for the RRF were not considered in the EIS since the technology that is proposed to be used and its associated water requirements are unknown.

The proposal's water demand is able to be supplied from a variety of sources, including:

- Five surface water storage dams (total of 13.5ML per year);
- Recycled/recovered process water (2 x 10,000L tanks);
- Captured rainwater from roof (2,000L tank);
- Landfill leachate (0.65 – 2.8ML per year);
- Groundwater from a bore on "Copper Hill" property (up to 40ML per year); and
- Groundwater from a bore on adjoining "The Shades" property (small portion for stock use).

The 25ML of water required per year is expected to be sourced from the on-site sediment control and water storage dams and supplemented by groundwater from the adjoining “Copper Hill” property as required. The EIS suggests that groundwater from the “Copper Hill” property is part of a substantial groundwater resource, and that the proposed maximum extraction of 40ML per year (which is substantially more than Council actually requires) would not have a significant impact on this resource.

While the water requirements for the RRF have not been assessed, the Applicant indicates that the processes involved with the RRF are likely to generate small quantities of water and would require little or no additional water as part of its operations.

Concerns were raised in submissions about the volume of water to be extracted from the “Copper Hill” property, the impact on water availability to adjoining properties and the catchment, and the unknown quantity of water required for the RRF. Concerns were also raised about the Applicant’s determination of harvestable rights for the property.

The Department is satisfied that the Applicant has demonstrated that there would be sufficient water supply available to service the development. The Department acknowledges that some submitters are concerned that the proposed use of groundwater from bores in the area may impact on local water resources. However, the Department is satisfied that the primary water supplies for the proposal would come from the on-site storage dams and re-use of water from the operations of the development, and that the proposed supplementary supply from the local groundwater resource is not significant. The DNR concurs and has issued it GTAs for the use of the groundwater bore on the “Copper Hill” property. Notwithstanding, the Department believes the Applicant should be required to maintain a detailed water balance (as part of the overall Soil, Water and Leachate Management Plan), which includes measures to minimise water use on the site.

The Department has reviewed the issues raised about harvestable water rights, and is satisfied that the proposed water harvesting complies with the relevant water management legislation. Harvestable rights allows applicable landholders to collect runoff on their property (up to 10% of average rainfall runoff) and store it in one or more farm dams up to a certain size. For this site, the Applicant is permitted to harvest up to 13.5ML of water from its three water storage dams. However the actual storage used would total 6.5ML which is around 7ML less than is allowable. The other storages on site would be used for the control and management of leachate and other dirty water resources which are excluded when determining harvestable right calculations. The Department is therefore satisfied that the proposal would not result in a significant decrease in runoff availability to downslope and downstream landowners.

5.8 Transport and Traffic

Without the public waste receival facility, the proposal is predicted to generate very little traffic in its early years, when the new waste facility is used almost exclusively by Cabonne Council. However, it is expected to generate moderate levels of traffic in its later years once Orange Council starts using the facility, with traffic volumes peaking at 76 vehicles a day in year 13 (see Table 4 below).

Year	Total Movements* Without Public Receival Area		
	Light	Heavy	Total
0 – 7	6	14	20
8 – 12	16	42	58
13 - 40	20	56	76

Table 4: Predicted Traffic Volumes (Note: * 2 movements equals 1 round trip)

These vehicles would use the Mitchell Highway and Euchareena Road to get to and from the site, and a new site access road to get from Euchareena Road to the waste facility (see Figure 10 below).

The Mitchell Highway is a State Road, connecting Orange to Molong and beyond, which has about 3,158 vehicle movements a day (including 470 heavy vehicle movements a day) in the vicinity of the Euchareena Road intersection.

Euchareena Road is a local rural road with a sealed pavement of between 6 and 6.5 metres, and shoulders of between 0.5 and 1 metres. At present, it has about 191 vehicle movements a day (including 12 heavy vehicle movements a day), although the number of heavy vehicle movements tends to rise to around 24 movements a day during the wheat (December/January) and grape (March/April) harvesting periods.



Figure 10: The Nominated Principal Transport Route

The predicted impacts of the proposal can be viewed in both absolute and proportionate terms.

In absolute terms, the scale of the predicted traffic impacts is generally modest (equating at peak operations to about one vehicle movement every 8-10 minutes), and there is no doubt that both the Mitchell Highway and Euchareena Road have got sufficient capacity to accommodate such increases.

In proportionate terms, the increase in traffic on the Mitchell Highway is likely to be small (around 2%) and difficult to discern from the rest of the traffic on the road, although the increase in heavy vehicle traffic (around 10%) is likely to be more noticeable, particularly at the Mitchell Highway/Euchareena Road intersection where more trucks would be trying to turn right. However, the increase in traffic on Euchareena Road is likely to be significant (around 40%), and particularly significant for heavy vehicle traffic (between 450-500%). So even though the actual volume of traffic on Euchareena Road is likely to remain low, drivers on the road are likely to detect a big change in the scale and composition of traffic on the road.

To reduce the potential traffic impacts of the proposal, Council proposes to:

- upgrade the Mitchell Highway/Euchareena Road intersection to an Austroads Type B intersection (or an RTA AUR treatment) to better facilitate tight hand turns from the Mitchell Highway into Euchareena for heavy vehicles coming from Orange; and
- upgrade the pavement and shoulder of Euchareena Road to 7 and 2 metres respectively; and provide a 15 metre wide stock movement corridor along the front of the site to minimise any potential conflicts between landowners who periodically move stock and farm machinery along the road and trucks using the site.

Several submissions were concerned about the potential traffic impacts of the proposal and its associated road works, claiming:

- the proposed traffic route is poor as it would attract heavy vehicle traffic into Molong, and consequently reduce the amenity of the town;
- the traffic generated by the proposal would increase the road safety risks for a range of people, including:
 - school children and the school buses using Euchareena Road;
 - other vehicles using Euchareena Road;
 - pedestrians using the Mitchell Highway/Euchareena Road intersection, which is in close proximity to the station, library, bus terminus, sports fields, and shopping centre in Molong; and
 - landowners who use Euchareena Road to move stock and farm machinery;
- the proposed upgrade of the Mitchell Highway/Euchareena Road intersection would remove the parking lane outside several businesses on the western side of the road, and the loss of this parking is likely to have a significant impact on these businesses;
- Council should be required to extend the proposed stock movement corridor along the rest of Euchareena Road and along Shades Creek Road; and
- the proposed upgrade of Euchareena Road would require several trees to be removed, which would have an adverse visual impact on the landscape along the road.

The Department has examined these concerns closely in consultation with the RTA and Cabonne Council, and has concluded that:

- the proposed route is the most suitable route to the site as it is the shortest and most direct route between the Mitchell Highway and the site, and can easily accommodate the predicted traffic of the proposal;
- the road safety risks of the proposal have generally been overstated:
 - in absolute terms, the proposal is not expected to generate significant traffic levels; at peak operations, for instance, it is only expected to generate 76 vehicle movements a day, which equates to roughly 1 vehicle movement every 7-8 minutes, which is quite low;
 - there are only 6 residences between the Mitchell Highway/Euchareena Road intersection and the site, which means there are likely to be very few school children directly affected by the proposal; and even then the potential impacts on these children could be effectively eliminated by prohibiting heavy vehicle movements to and from the site during school bus periods; and
 - these risks could be reduced with the effective implementation of a Transport Code of Conduct for the development;
- although there are a number of pedestrians at the Mitchell Highway/Euchareena Road intersection at any one time, moving between the various facilities in the area, the safety of this intersection is likely to be improved by the proposed upgrade of the intersection as the RTA has indicated that it will require Council to upgrade the existing pedestrian island to RTA standards, with barrier kerbs, holding rails and improved signposting; and as indicated earlier, traffic from the proposal is likely to be sufficiently spread out to give pedestrians more than enough time to cross the road safely;
- the proposed upgrade of the Mitchell Highway/Euchareena Road shown in the EIS is flawed and should not be supported, as it would shift the westbound traffic land closer to the kerb and consequently increase the risks of a potential accident between pedestrians and the through traffic on the road. Nevertheless, the Western Region Development Committee (which includes the RTA and Cabonne Council) has advised the Department that an alternate layout of the proposed upgrade is possible, which would achieve the intended aim of the facilitating right hand turns from the Highway to Euchareena Road without creating undue risk. This alternate layout involves using the area of the road reserve on the eastern side of the Mitchell Highway by offsetting the centreline of the Highway and maintaining the road shoulder adjacent to the western side. This layout has the added benefit of leaving the existing parking lane outside the businesses on the western side of the Mitchell Highway, and therefore addresses the concerns raised by the business owners in this area who rely on this parking. Consequently, the Department supports this alternate layout of the proposed intersection, and believes Council should be required to upgrade the intersection in accordance with this layout rather than the layout shown in the EIS;

- there would be little benefit to be gained in forcing Council to extend the proposed stock movement corridor along the Euchareena Road, as the corridor is not justified by the impact of the proposal, partly because the traffic volumes on Euchareena Road are likely to remain low (250-300 vehicle movements a day) even with the proposal operating at capacity; and partly because the proposed upgrade of the pavement and shoulder of Euchareena Road is likely to increase the safety of the road significantly, and at the same time reduce the safety risks associated with moving stock and machinery on the road; and
- the proposed upgrade of Euchareena Road is likely to require some tree removal, and to cause some visual impact; however, these impacts are unlikely to be significant, and the Department is confident that these impacts could be either mitigated or managed to ensure an appropriate level of environmental performance. It is also worth noting that the precise impacts of these upgrades would need to be considered by Cabonne Council under Part 5 of the EP&A Act when these upgrades eventually occur.

Based on this assessment, the Department is satisfied that the proposal is unlikely to cause any significant traffic impacts, and that any impacts it does cause can be suitably mitigated or managed through appropriate conditions of consent.

To this end, the Department believes Council should be required to:

- conduct a road safety audit of Euchareena Road prior to construction and implement any recommended measures in the audit;
- construct the internal roads, on-site parking, and site access intersection to the relevant standards;
- upgrade the Mitchell Highway/Euchareena Road intersection in accordance with the alternate layout discussed above, and to the satisfaction of the RTA;
- upgrade Euchareena Road;
- pay regular road maintenance contributions;
- ensure that all heavy vehicles use the designated route, and that none of these vehicles use this route during school bus operations on the route; and
- prepare and implement a Transport Code of Conduct for the development.

5.9 Flora and Fauna

Most of the site (127 hectares) is comprised of cleared grassland, which is used for grazing and cropping and has limited habitat value. The remainder of the site (65 hectares) is covered by two stands of White Box-Yellow Box-Blakely's Red Gum Woodland vegetations, which is listed as an endangered ecological community under the *Threatened Species Conservation Act 1995* (TSC Act) and a critically endangered ecological community under the EPBC Act (see Figure 11).

At present, the condition of this woodland vegetation is moderate to poor with little regeneration occurring, some evidence of dieback, little groundcover, and an understorey that is dominated by exotics and noxious weeds.

In terms of fauna, detailed surveys of the site found 4 frog, 26 bird, 11 mammal, and 3 reptile species on the site. Apart from the Superb Parrot, which is a vulnerable species under both the TSC Act and EPBC Act, most of these species were common species; while 3 of the mammal species (European Rabbit, European Red Fox, and Feral cat) being listed as key threatening processes.

Under the proposal, Council proposes to:

- clear a number of isolated trees within the cleared grassland areas on the site;
- conserve and enhance the 2 White Box-Yellow Box-Blakely's Red Gum Woodland communities on the site;
- carry out a range of planting on the site to minimise the risk of spreading disease from the site to the adjoining apiaries, and create 20 metre wide vegetated corridors along the visual bunds and the boundaries of the site; and
- control pests, vermin, and noxious weeds.

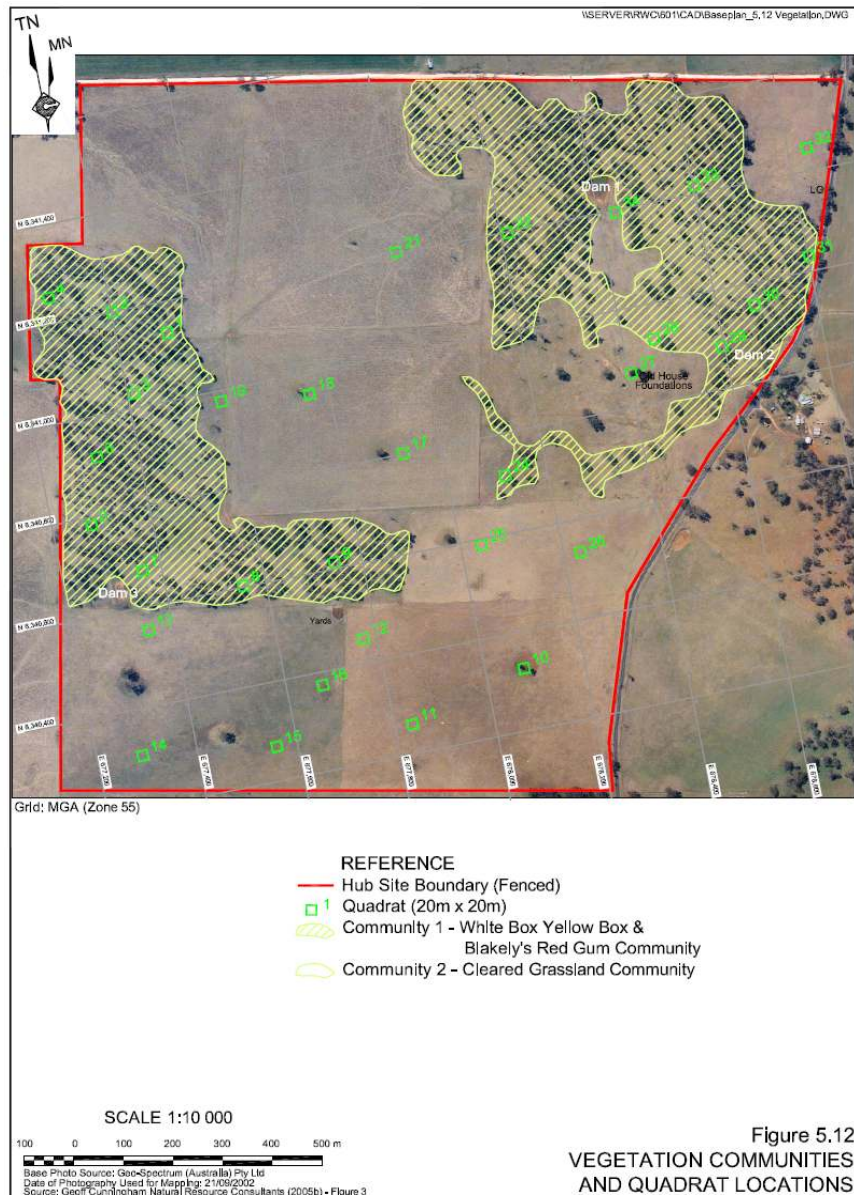


Figure 5.12
VEGETATION COMMUNITIES
AND QUADRAT LOCATIONS

Figure 11: Flora Communities at the site

Both the Department and the DEC are satisfied that the proposed tree clearing on site would not have a significant impact on either the White Box-Yellow Box-Blakely's Red Gum Woodland communities or the Superb Parrot; and that the proposed conservation measures and planting should significantly improve the conservation value of the site in the medium to long term.

Some submissions suggested the Superb Parrot was likely to be breeding in the area, and that the proposal would potential disrupt this breeding activity. However, the Department is sceptical of these claims, partly because there is no record of Superb Parrot breeding occurring north of Molong and no evidence to suggest that it may be occurring, and partly because even if Superb Parrots were breeding on the site, this breeding would more than likely be occurring in the remnant woodlands, which is likely to be enhanced by the proposal. Nevertheless, the Department believes Council should be required to monitor the site during operations for any Superb Parrot activity, and implement suitable management measures to mitigate the impact of the proposal if any breeding is detected.

In summary, the Department believes the proposal would significantly improve the conservation value of the site, and is unlikely to have a significant impact on the only vulnerable fauna species detected on the site – the Superb Parrot.

Nevertheless, the Department believes the Council should be required to:

- conserve, enhance and expand the remnant White Box-Yellow Box-Blakely's Red Gum Woodland vegetation on site; and
- prepare and implement a Conservation Management Plan for the development, that would describe in detail what measures would be implemented to:
 - conserve and enhance the vegetation on site;
 - minimise any adverse impacts on fauna across the site, in particular the Superb Parrot;
 - collect and propagate seed;
 - control pests, vermin, noxious weeds; and
 - control access.

5.10 Other Issues

The proposal would generate a range of other impacts, such as odour, dust, greenhouse, noise, and visual impacts. The Department has examined these impacts in detail, and does not believe that any of these impacts are likely to be significant. The results of this assessment are summarised in Table 5 below, along with the associated recommended conditions of consent.

Potential Impact	Comment	Recommendation
Odour	• Assessment done in accordance with DEC's draft policy for the <i>Assessment and Management of Odour From Stationary Sources in NSW</i>. • Proposal complies with DEC odour criteria of 6 Odour Units (OUs) • Maximum odour impact on the closest residence is predicted to be 1.9 OUs.	• Council not to cause or permit the emission of offensive odour beyond the boundary of the site.
Dust	• Assessment done in accordance with DEC's <i>Approved Methods & Guidance for Modelling and Assessment of Air Pollutants in NSW</i> • Proposal complies with DEC's criteria for dust deposition, total suspended particulates, and PM10 (both 24 hour and annual average).	• Council to: ○ comply with standard dust impact assessment criteria; and ○ prepare and implement an air monitoring program
Greenhouse Gas Emissions	• Quantified greenhouse gas emissions from diesel fuel combustion and release of landfill gas methane in accordance with the Australian Greenhouse Office's methodology • Proposal is predicted to generate: ○ 7,500 CO₂e t/yr (Yr 1); ○ 3,070 CO₂e t/yr (Yr 8) ○ 3,420 CO₂e t/yr (Yr 20) • RRF would result in substantial reductions in greenhouse gas generation compared to the status quo. These reductions are in the order of between 50-60,000 CO₂e	• Council to prepare and implement a landfill gas management plan.
Construction Noise	• Assessment done in accordance with the DEC's <i>Environmental Noise Control Manual</i>, • Proposal complies with criteria of 40 dB(A)_{LA10(15 minute)} • Maximum prediction at closest residence 33 dB(A)_{LA10(15 minute)}	• Council to comply with construction noise impact criteria of 40dB(A) L_{Aeq}(15 minutes) • Restrict construction work to day time hours

Operational Noise	- Assessment done in accordance with the <i>NSW Industrial Noise Policy</i> - Proposal complies with criteria of 35 dB(A) $L_{Aeq}(15 \text{ minutes})$ - Maximum prediction at closest residence 31 dB(A) $L_{Aeq}(15 \text{ minutes})$ - Insufficient information to set evening and night criteria for 24 hour operations of proposed RRF	- Council to comply with construction noise impact criteria of 35dB(A) $L_{Aeq}(15 \text{ minutes})$ - Restrict operations to day time hours
Traffic Noise	- Assessment done in accordance with DEC's <i>Environmental Criteria for Road Traffic Noise</i> - Complies with criteria of 60dB(A) at all 6 residences close to Euchareena Road. - Predictions highest at "Caleula Springs" residence, where it is 60dB(A), as the residence is only 18 metres away from the road. - Traffic only occurs in day time hours, so no question of sleep disturbance	Council to prepare and implement a Transport Code of Conduct for the development to ensure that drivers minimise potential traffic noise impacts along Euchareena Road
Aboriginal Heritage	- Surveyed site with Orange Local Aboriginal Council - Found a scarred tree (Molong ST1) on the western part of the site in the stand of remnant vegetation, and two artefacts (grindstone/miller & ground-edge axe) on the south western corner of the site - Scarred tree to be conserved on site with the remnant vegetation - Artefacts to be recovered with permission of DEC, retained by OLALC and used for education purposes	- Council to: - Obtain the necessary permits to remove the artefacts from the site from DEC; - Protect and conserve the scarred tree
Visual	- Site is currently visible from Euchareena Road and Shades Creek Road, as well as a number of adjoining properties ("Shades", "Maupes", "Meru") - Impacts to be minimised with 2 visual bunds and vegetation screens - The bunds would be clearly visible in the early years, but would become less noticeable once the vegetation screens mature. - Transitory rather than significant impact	- Council to: - Construct visual bunds and plant vegetation screens prior to the commencement of operations; - Maintain these bunds - and this screening - during the life of the development - Minimise the impacts of any external lighting on site

Table 5: Summary of the Department's Assessment of the Other Environmental Impacts of the Proposal.

6 RECOMMENDED CONDITIONS OF CONSENT

The Department has prepared recommended conditions of approval for the project (see Appendix A). These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- ensure regular monitoring and reporting; and
- provide for the ongoing environmental management of the project.

Council does not object to the impositions of these recommended conditions.

7 CONCLUSION

The Department has assessed the DA, EIS, submissions on the proposal, and Council's response to submissions in accordance with the requirements in Section 79C of the EP&A Act.

Notwithstanding the broad array of community concerns about the proposal, this assessment has found that there is "justifiable demand" for additional landfill capacity for both LGAs, that Council's decision to defer the construction of the proposed RRF for up to 8 years is reasonable, and that the facility as a whole would provide an essential service to the entire population of both LGAs for at least the next 40 years.

Essentially the new facility would provide the backbone around which both Councils would build their long-term waste management strategy.

It would also provide a number of important benefits to the region, such as reducing the greenhouse gas emissions of the LGAs waste by between 50-60,000 CO₂e tonnes a year; protecting and enhancing at least 65 hectares of the endangered White Box-Yellow Box-Blakely's Red Gum Woodland community; upgrading the local road network; and investing at least \$15.5 million in capital works.

Notwithstanding these benefits, it is important to recognise that the approval of the proposal would involve some trade-offs. In particular, it would result in the loss of at least 21 hectares of prime cropping land; it would increase the risks of disease at the adjoining apiaries; and it would potentially increase the costs of mineral exploration or extraction on the site.

Nevertheless, the Department is satisfied that the loss of this prime cropping land would not have a significant impact on the agricultural capability of the area or region, and that these impacts are more than justified by the essential services that the proposal would provide to the local and regional community. It is also satisfied that the disease risks to the adjoining apiarists can be reduced to acceptable levels with good landfill management, and that these apiarists can be adequately compensated for any losses incurred as a result of any outbreak of disease. Finally, it is satisfied that the proposal would not sterilise the potential mineral resources on site.

While there was some concern about a range of other impacts – such as water, traffic, odour, noise, and flora and fauna impacts – the Department is confident that these impacts can be suitably mitigated or managed through the imposition of appropriate conditions of consent.

In summary, the Department believes that the proposal represents a critical component of the long-term waste management strategy of both LGAs, and is justified on social, economic, and environmental planning grounds. It also believes that the proposal is generally consistent with the principles of ESD, that its potential benefits outweigh its potential costs, and that it is generally in the public interest. Consequently it believes that the application should be approved subject to conditions.

8 RECOMMENDATION

It is RECOMMENDED that the Minister:

- consider the findings and recommendations of this report;
- approve the project application, subject to conditions, under Section 80 of the *Environmental Planning and Assessment Act 1979*; and
- sign the attached Instrument of Development Consent.

David Kitto
Director, MDA

Yolande Stone
A/Executive Director, MPA

Sam Haddad
Director General

APPENDIX A – SECTION 79C CONSIDERATION

STATE ENVIRONMENTAL PLANNING POLICY No. 11– TRAFFIC GENERATING DEVELOPMENTS

SEPP 11 requires development applications for certain traffic generating developments to be referred to the RTA for comment prior to determination. The Hub proposal falls within the types of developments listed in Schedule 1 of the SEPP, and a copy of the DA and EIS were forwarded to the RTA. The RTA does not object to the proposal, and has provided recommended conditions of consent.

STATE ENVIRONMENTAL PLANNING POLICY NO. 33 – HAZARDOUS AND OFFENSIVE DEVELOPMENT

SEPP 33 aims to identify proposed developments with the potential for significant off-site impacts, in terms of risk and/ or offence (odour, noise etc). A development is defined as potentially hazardous and/ or potentially offensive if, without mitigating measures in place, the development would have a significant risk and/ or offence impact on off-site receptors. The assessment undertaken by the Applicant indicates that the proposal does not constitute “potentially hazardous development” or “potentially offensive development” as defined in SEPP 33.

STATE ENVIRONMENTAL PLANNING POLICY NO. 44 – KOALA HABITAT PROTECTION (SEPP 44)

SEPP 44 applies to Cabonne LGA. The Hub site is identified as ‘potential koala habitat’ on the basis that White Box trees, identified in Schedule 2 of the SEPP, constitute more than 15% of the trees on site. However, no koalas were found during site surveys, and there are no historical records of koala populations occurring near Molong. The proposal would enhance the ‘potential koala habitat’ on site, and is therefore likely to make a positive contribution to the efforts to protect and conserve the koala, even if it has not been recorded on the site.

STATE ENVIRONMENTAL PLANNING POLICY NO. 48 – MAJOR PUTRESCIBLE LANDFILL SITES (SEPP 48)

12 *Matters to be considered*

In determining a development application for consent to carry out development to which this Policy applies, the consent authority is to take the following matters into consideration:

(a) whether a justifiable demand exists for landfill, having regard to waste disposal capacity requirements identified from time to time by the Environment Protection Authority,

See Section 6 of report.

(b) whether the landfill site as proposed in the development application is included in a waste management or waste disposal strategy identified in a regional waste plan applying to the site,

The proposal is identified as a future planned facility in the NetWaste Subregional Waste Management Plan 2001, within an overall program of consolidating and sharing landfills across the subregion.

(c) the views of such other public authorities as the consent authority considers relevant,

The Department has consulted with the DEC on this matter.

(d) whether or not the proposed location of the landfill site is consistent with the locational principles included in the version of the publication of the Department of Urban Affairs and Planning entitled “EIS Practice Guideline—Landfilling” that is current at the time the development application is determined.

The Department's EIS Guideline for Landfilling, dated September 1996 provides the most up to date locational principles for landfill proposals. The proposal's consistency with these principles is assessed below.

Is the site consistent with any existing waste management plans or strategy?

Yes.

Is the proposed land use prohibited on the site?

No.

Is the site fundamentally inappropriate because of its high environmental sensitivity?

No.

Is the proposal likely to be compatible with surrounding zoning/land use considering separation distances?

Yes.

Do initial site investigations indicate that the site is fundamentally unsuitable?

No.

STATE ENVIRONMENTAL PLANNING POLICY NO. 55– REMEDIATION OF LAND

SEPP 55 aims to ensure that potential contamination issues are considered in the determination of a development application. Clause 7 of SEPP 55 states that:

- 7(1) A consent authority must not consent to the carrying out of any development on land unless:***
- (a) it has considered whether the land is contaminated, and***
 - (b) 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, and***
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.***

The Department is satisfied with the consideration of SEPP 55 contained in the Environmental Assessment.

CABONNE LOCAL ENVIRONMENTAL PLAN 1991

10 General considerations for development within rural zones

- (1) The Council shall not consent to an application to carry out development on land within Zone No 1 (a), 1 (c) or 7 (c) unless it has made an assessment, where relevant, of the effect of the carrying out of that development on:***
- (a) the present and potential use of the land for the purposes of agriculture,***
 - (b) vegetation, timber production, land capability (including soil resources and soil stability), water resources (including the quality and stability of water courses and ground water storage and riparian rights),***
 - (c) the future recovery of known or prospective areas of valuable deposits of minerals, coal, petroleum, sand gravel or other extractive materials,***
 - (d) the protection of areas of significance for nature conservation or of high scenic or recreational value, and places and buildings of archaeological or heritage significance, including aboriginal relics and places,***
 - (e) the cost of providing, extending and maintaining public amenities and services to the development, and***

(f) future expansion of settlements in the vicinity,

and the Council is satisfied that the development will not have an adverse effect on the long term use, for sustained agricultural production, of any prime crop and pasture land.

(2) In assessing the effect referred to in subclause (1), the Council shall have regard not only to the land the subject of the application but also to land in the vicinity.

See Section 6 of the report.