



28 April 2011

Ms Christine Chapman
Senior Environmental Planner
NSW Department of Planning
GPO BOX 39
SYDNEY NSW 2001

Dear Ms Chapman,

Kimbriki Resource Recovery Project

I refer to your letter dated 15 February 2011 in relation to the Environmental Assessment for the Kimbriki Resource Recovery Project (Project) proposed by Kimbriki Environmental Enterprises Pty Ltd (KEE) at Kimbriki Road, Terrey Hills (KEE Site).

Your letter:

- requested that Warringah Council (Council) make a copy of the Environmental Assessment available for public inspection; and
- invited Council to make a detailed submission on the Project.

I am pleased to respond to your letter and apologise for the delay in so doing.

PUBLIC INSPECTION OF ENVIRONMENTAL ASSESSMENT

As requested by the Department, a hard copy of the Environmental Assessment was made available for public inspection at Council's offices at Civic Centre, 725 Pittwater Road, Dee Why, from Wednesday 23 February 2011 until Wednesday 30 March 2011 inclusive. Additionally, the Environmental Assessment was placed on Council's website.

No submissions were received by Council in relation to the Environmental Assessment.

COUNCIL'S SUBMISSION ON PROJECT

I am pleased to now provide Council's submission on the Project.

Council endorses the development of a resource recovery centre at the KEE Site. Council, as the majority shareholder of KEE and the owner of the KEE Site, has a strong interest in the Project and considers that the development of a resource recovery centre on the KEE Site is critical to ensuring that the waste needs of Warringah are met. I note that Pittwater Council, Manly Council and Mosman Council are the other shareholders of KEE and also have a strong interest in the development of a resource recovery centre on the KEE Site.

KEE is an innovative company that has achieved important environmental outcomes and conducts its operations taking into account environmental best practice. Council

considers that the development of a resource recovery centre at the KEE Site is an exciting initiative that will permit KEE to continue and expand on the laudable work that KEE has undertaken to date and meet Warringah's waste management needs. Nevertheless, Council appreciates the opportunity to provide comments on its technical assessment of the Project, and comments as follows.

Background

It is understood that the Project has been declared a Major Project under Part 3A of the *Environmental Planning and Assessment Act 1979* (Act) and the Minister is the approval authority. Consultation with Council in relation to the Project to date has included the following:

- In or about February 2010, KEE informed Council of the Part 3A application for the Project.
- In or about April 2010, KEE informed Council of the Preliminary Environmental Assessment.
- On or about 7 May 2010, a Planning Focus Meeting was held with various stakeholders where issues arising from the Preliminary Environmental Assessment (including Biodiversity and the site location) were discussed. Council's Manager Development Assessments attended this meeting.
- By email of 24 May 2010, Council provided comments to the Department of Planning on the Preliminary Environmental Assessment, especially in relation to water and biodiversity issues.
- By letter dated 5 July 2010, when KEE commenced work on the Environmental Assessment, GHD (on behalf of KEE) contacted Warringah Council and other key stakeholders, seeking comments.
- By letter dated 26 July 2010, Council sent comprehensive comments to KEE regarding the proposed Environmental Assessment. This letter raised issues relating to, among other things, water and biodiversity.
- Whilst KEE did not liaise directly with Council about the Environmental Assessment after this, KEE advised Council in or about December 2010 of the finalisation of the Environmental Assessment.
- In or about January 2011, KEE liaised with Council regarding aspects of KEE's proposed biodiversity offset strategy. By letter dated 1 February 2011, Council confirmed that it was broadly supportive of the proposed mechanism for the strategy subject to various matters.
- By letter dated 15 February 2011, the Department of Planning informed Council of the exhibition of the Environmental Assessment and, among other things, called for submissions.

Watercourses and Wetlands

General

The KEE Site is situated in the upper catchment (or upper reach) of Deep Creek. According to the Warringah Creek Management Study (2004), it is a Group A

catchment, being a catchment that possesses very high ecological value, which flows to Narrabeen Lagoon via Deep Creek.

Various hydrological features exist on the KEE Site.

It appears that the Environmental Assessment and Council take differing positions as to the nature of these features.

Council's position, based on the Warringah Creek Management Study (2004) (as depicted in the attached plan), is that the KEE Site includes the following features:

- a) A wetland (shaded blue on the attached plan) in the south east of the KEE Site (Wetland). (The Environmental Assessment refers to this as a swamp: page 12-8).
- b) A watercourse (shown in red on the attached plan) running from the northeast to the south east of the KEE Site (Watercourse). (The Environmental Assessment refers to this as a drainage line: page 12-2). It is instructive to note that:
 - Council's GIS system shows contours that illustrate characteristics of a watercourse, in addition to the presence of pools, defined channels in sections and meandering water flows.
 - The meandering nature of the water flows can be attributed to the creation of walking trails and the like, directly through the line of the watercourse.
 - Whilst the natural water flows have been altered in sections, water is nevertheless conveyed in a uniform fashion, in a defined channel in sections until again unnaturally disturbed and would again over time, given the opportunity, return to its natural drainage path.
- c) A core riparian zone (the boundaries of which are marked in orange on the attached plan) associated with the water course.
- d) Riparian buffer land (the boundaries of which are marked in orange on the attached plan) associated with the watercourse.

The *Warringah Protection of Waterways and Riparian Land Policy*, which was adopted by Council on 24 August 2010, reflects the Warringah Creek Management Study (2004).

Location of structures

The Environmental Assessment proposes that the Maturation/Final Processing Building and Amenities Block will be built over the upper reach (or catchment) of Deep Creek, including over the Wetland.

It is Council's view that the facility would need to be relocated away from the Watercourse and the Wetland if it is not to have any effect on Deep Creek and Narrabeen Lagoon, unless it can be demonstrated that the facility will not have any effect on those features.

It is considered that the Car Park, Ramp, Weigh Bridge and AWT Building would also have an effect on the core riparian zone and riparian buffer land and should be moved away from these areas, unless it can be demonstrated that the facility will not have any effect on those features.

Water Management Act 2000

Given Council's position as to the Watercourse and Wetland on the KEE Site, it is Council's view that the Watercourse falls within the definition of "river" under the *Water Management Act 2000* (Water Act), the Wetland falls within the definition of "lake" under the Water Act and both fall within the definition of "waterfront land" under the Water Act. Council understands that, in the ordinary course, this would trigger the need for approval under the Water Act although certain exemptions apply if a project is a major project under Part 3A of the Act.

Stormwater

Due to the increased hard surface run off, potential increased discharge velocity, increased nutrient discharge and the associated impacts on the Watercourse and the Wetland, it is important that adequate details of stormwater treatment and detention devices are provided to demonstrate that there will be no hydrological change arising from the Project. Council would normally require this information prior to granting approval although, if this is not considered necessary, this information should be required by way of condition.

Other comments

Council understands that the regime that applies to the assessment of proposals under Part 3A of the Act differs to the regime that would apply if Council were the consent authority under Part 4 of the Act. Whilst the following matters may have a limited degree of relevance under Part 3A, it is noted that:

- Clause 60 (Watercourses and Aquatic Habitats) of *Warringah Local Environmental Plan 2000* (WLEP) states that "*Development is to be sited and designed to maintain and enhance natural watercourses and aquatic habitat*".
- Clause 56 (Retaining unique environmental features on site) of WLEP states that "*...development is to be designed to incorporate or be sympathetic to environmental features such as rock outcrops, remnant bushland and watercourses*".
- Principle 3.1 of the Warringah Protection of Waterways and Riparian Land Policy which was adopted by Council on 24 August 2010 provides that '*Natural ecological processes of waterways and riparian land shall be maintained and enhanced*'

It is considered that the proposal would not achieve the objectives of these provisions due to the location of structures over or in the vicinity of the Watercourse and the Wetland.

Ground water

Contamination of groundwater

It is understood that no extraction of ground water is proposed as part of the Project. Nevertheless, given the nature of the Project, the potential exists for the offsite transport of contaminants via groundwater which may potentially enter nearby watercourses. Further information would be required to determine these impacts.

It is noted that Environmental Protection Licence Nos 13090 and 13091, issued by the Environment Protection Authority in respect of the KEE Site under the *Protection of the*

Environment Operations Act 1997 require yearly and quarterly testing (as specified in licences) of groundwater and surface water. Accordingly, there should be already reasonable quantity of information regarding existing groundwater quality at the KEE Site.

Groundwater Dependent Ecosystems

It is considered that the removal of significant areas of vegetation in and around the Wetland, the erection of buildings and the associated landform works would impact on natural hydrological flows which sustain the groundwater dependent ecosystems associated with the Wetland and Watercourse.

Insofar as it may be relevant to the Project, the *NSW State Groundwater Dependant Ecosystems Policy 2002* relevantly provides:

Priority three

"Priority should be given to ensuring that sufficient groundwater quality is available at the times when it is needed:

For protecting ecosystems which are known to be, or are most likely to be, groundwater dependant; and,

For groundwater dependant ecosystems which are under an immediate or high degree of threat from groundwater-related activities".

Principle Five

"Planning, approval and management of development and land use activities should aim to minimise adverse impacts on groundwater dependant ecosystems by:

Maintaining, where possible, natural pattern of groundwater flow and not disrupting groundwater levels that are critical for ecosystems;

*Not polluting or causing adverse changes in groundwater quality; and
Rehabilitating degraded groundwater systems where practical".*

It is considered that the location of the Maturation/Final Processing Building and the Amenities Building would need to be relocated outside of the Watercourse and riparian land in order for these principles to be achieved, unless it can be demonstrated otherwise.

Other

The following matters should be conditioned in any approval granted:

- a) Adequate stormwater treatment devices should be installed and maintained in perpetuity to ensure that water quality and hydrology mimics pre-development characteristics.
- b) A Biodiversity Management Plan should be prepared and implemented in perpetuity.
- c) A water and groundwater quality testing program should be prepared and implemented to ensure that the construction and operation of the Project does not negatively impact on the downstream environments and that the relevant water and groundwater quality targets are achieved.
- d) The proposed wastewater irrigation area is to be located so as to ensure contaminated water does not impact any watercourse.

Biodiversity Management

Fragmentation

The KEE Site is located within a significant bushland remnant and any development in this area would unavoidably result in some level of fragmentation. Whilst the proposed amended location of the facility will result in the fragmentation of remnants to the north, south and east of the site, Council acknowledges that north-south connectivity will be maintained around the perimeter of the facility.

Tetratheca glandulosa

Tetratheca glandulosa is a listed threatened species under both State and Commonwealth legislation. A *Tetratheca glandulosa* retention area is proposed in the KEE Site. Council understands that this approach is supported by the relevant Commonwealth agency and considers that it is not unreasonable in the circumstances.

Council Officers should be consulted on the development of the proposed Biodiversity Management Plan which should assist in ensuring the long-term viability of the species.

Offset areas

Offset areas should generally be representative of the vegetation being removed. However, the majority of the offset areas proposed by KEE are comprised of a vegetation community which is not affected by the Project and do not necessarily contain threatened species habitat consistent with that which is proposed for removal.

Offsets may include the provision of finance to manage similar habitats outside of the affected site, where similar habitat types are not readily available within the affected site. Accordingly, alternative offset sites could be considered by KEE.

Council environment staff should be consulted in the design of the offset and the development of the proposed Biodiversity Management Plan for the offset areas.

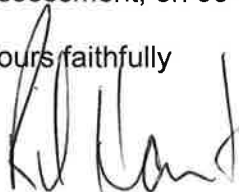
Legal mechanisms to ensure ongoing conservation

The Department of Planning, Council and KEE have considered appropriate legal mechanisms (such as a public positive covenant) to ensure that the conservation and management arrangements are in-perpetuity. These mechanisms require further consideration however, subject to the matters set out in Council's letter to KEE dated 1 February 2011, Council supports the establishment of such a mechanism.

I trust this letter is of assistance.

Council would be happy to assist you with any queries that you may have or any further information that you may require. Should you have any questions or require any further information, please contact Steve Findlay, Team Leader Development Assessment, on 9942-2481.

Yours faithfully



Rik Hart
General Manager

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