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27 November 2024

Department of Planning, Housing and Infrastructure
Attention: Drew Anderson

Via: Major Projects Planning Portal

Dear Mr Anderson

**Billabong Creek Environmental Water Regulators (SSI-50831979)
EPA Advice on Environmental Impact Statement**

Thank you for the request for advice from Public Authority Consultation (PAE-77444463), requesting review by the NSW Environment Protection Authority (EPA) of the EIS for the Billabong Creek Environmental Water Regulators (SSI-50831979) located at Lot 1 / DP707463; 28 / DP756330 and Lot 7005/ DP1024202; Lot 7004 /DP1024203 within the Yanco Creek system in south-west NSW.

The EPA has reviewed the following documents:

- *Billabong Creek Regulators – Environmental Impact Statement* (NSW Department of Climate Change, Energy, the Environment and Water, October 2024 (EIS))
- *Billabong Creek Regulators - Contamination Assessment* - GHD, September 2024 (PSI)

The EPA understands the proposal is for the demolition and replacement of two existing weirs (Hartwood and Wanganella) with new water regulators, involving construction activities such as earthworks and excavation, as well as sheet piling.

Based on the information provided, the proposal does not appear to require an environment protection licence under the *Protection of the Environment Operations Act 1997*. The proposal is being undertaken on behalf of WaterNSW a NSW public authority and therefore the EPA is the appropriate regulatory authority for the proposal.

The EPA has reviewed the documents referred to above and has determined that further information is required to complete an evaluation of the proposal and ensure that environmental matters related to contamination are addressed appropriately. Recommended conditions may be provided after a review of this further information and should be included if the project is approved.

The EPA has the following comments and recommendations:

1. Matters to be addressed prior to determination

The EIS has not satisfactorily addressed the requirements of the Planning Secretary's Environmental Assessment Requirements (SEARs). The EPA recommends that for the Wanganella Regulator Site the proponent should provide the following:

- A detailed site investigation (DSI) to determine the nature and extent of the contamination at the site, including an assessment of possible contamination impacts from the Wanganella Landfill. Where contamination is found, the DSI must consider any risks to all potential sensitive receptors, including potential risks during

construction works and to Wanganella Weir, which has been identified as a town water supply.

- If the results of the DSI indicate that contamination at the site has the potential to pose an unacceptable risk to human health or the environment either under the current land use or during the construction or the operational phases of the proposed land use, a remedial action plan (RAP) must be provided.
- The DSI and any RAP must be:
 - prepared, or reviewed and approved, by consultants certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme; and be
 - prepared in accordance with *Consultants Reporting on Contaminated Land: Contaminated Land Guidelines* (EPA, 2020) and relevant guidelines made or approved by the EPA under section 105 of the *Contaminated Land Management Act 1997* (Further detail provided in Attachment A)

2. Matters to be addressed with conditions

The PSI recommendations are not sufficient to address the possible leachate and ground gas issues and other potential areas of contamination at the Hartwood Weir and Wanganella Weir sites, therefore the EPA recommends for both the Hartwood Regulator and Wanganella Regulator sites:

- The applicant is to develop site-specific construction environmental management plans (CEMP) for contamination at the sites. The CEMP must:
 - Consider all known and suspected contamination present in soils at the site and consider the potential for groundwater to also be contaminated.
 - Outline clear measures to mitigate impacts to human health and the environment from the contamination and identify the parties responsible for implementing these measures.
 - Include information on what actions must be undertaken if unexpected contamination is found as part of the development works; and
 - Be prepared, or reviewed and approved, by consultants certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme

NB - The CEMP for the Wanganella Regulator must consider the findings from the DSI required in point 1.

3. Minor matters

The EPA recommends it should be notified under section 60 of the *Contaminated Land Management Act 1997* where any contamination identified meets the triggers in the [Guidelines for the Duty to Report Contamination](#).

Should you require any further information, please contact Afnan Fazli on (02) 82751455 or email environmentprotection.planning@epa.nsw.gov.au.

Yours sincerely



Christie Jackson
Unit Head – Environment Protection Planning
NSW Environment Protection Authority

Attachment A - Detailed comments on EIS

1. The EIS has not satisfactorily addressed the requirements of the SEARs

The PSI has identified the Wanganella Regulator is to be built near Wanganella Landfill. There is no information on the construction of the landfill, but based on the age, rural location and lack of regulatory oversight (it does not have an Environment Protection Licence with the EPA and it is unlikely that the landfill is lined).

The PSI identifies that there are potentially complete source-pathway-receptor linkages for the exposure of human health and ecological receptors to leachate and ground gas migrating from Wanganella Landfill to the flood bypass channel excavations and to surface water. The report considers that it is "likely" that leachate and landfill gases/vapours could migrate into construction excavations, exposing construction workers. Further it has the potential to migrate into the channel when the Regulator is operational, exposing maintenance workers, recreational users, terrestrial riparian vegetation and in-creek aquatic ecology.

In December 2022, SEARs were issued, that required the following be included in an Environmental Impact Statement (EIS) for the proposed development:

"An assessment of site contamination in accordance with the Consultants Reporting on Contaminated Land: Contaminated Land Guidelines (EPA 2020). If a Preliminary Site Investigation (PSI) identifies that a Detailed Site Investigation (DSI) or other further assessments are required, this additional information should be provided as part of the assessment".

The contamination report submitted with the EIS was a PSI. No sampling or assessment has been completed to confirm whether contamination is present.

As requested in the SEARs, this information should be provided as part of the assessment.

2. The PSI recommendations are not sufficient to address the possible leachate and ground gas issues and identifies other potential areas of contamination at the Hartwood Weir and Wanganella Weir sites.

The PSI recommends the development of a groundwater and ground gas management plan as part of construction management controls for works within the vicinity of the Wanganella Landfill. However, as no intrusive investigations have occurred to date, it is not clear if leachate or ground gas require management.

The PSI also recommends that a construction and operational environmental management plan, a remedial action plan (if contamination is identified), and an environmental monitoring program be developed for the site. It is unclear how effective these will be for managing contamination (if present) for the flood bypass channel works and the future operation of the Regulator, therefore a more detailed understanding of actual contamination is required.

The PSI has also identified the potential for contamination to be present at both the Hartwood and Wanganella Regulator locations. The PSI identifies that asbestos and lead contamination could be present from the existing infrastructure and buildings at the sites. The PSI also identifies uncontrolled filling during historical development of the weirs, and pesticides and herbicides from historical agricultural land uses, as possibilities. The DSI should give consideration to this.