15 February 2022

Jeffrey Peng
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NSW Department of Planning, Industry and Environment
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Dear Jeffrey,

**Proposed State Significant Development (SSD-10446) - Luddenham Resource Recovery Centre Response to RFI (December 2021)**

We are writing in response to the submission of a Response to Request for Information provided by Coombes Property Group (the Applicant) and KLF Holdings, in relation to Application SSD 10446 which is seeking approval for a Resource Recovery Centre (the proposed development) at 275 Adams Road, Luddenham (the site). The proposal is classed as State Significant Development under the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Western Sydney Airport (WSA) has had the opportunity to review the Response to Request for Information Report (Response to RFI) provided by the Applicant as of December 2021, and it remains the view of WSA that this application should not be approved in its current form.

Key issues remain in relation to the application, including:

1. The merit and strategic justification of the proposed development relies on a future and separate development application for the future filling of the quarry void with construction waste.
2. Issues raised by WSA through previous correspondence continue to not have been addressed, in particular in relation to wildlife attraction and vibration impacts to aviation infrastructure.
3. Whilst the SSD application does not seek approval to fill the quarry void, the Applicant's intent is for the future filling of the void with construction waste, which would have an unacceptable impact on Western Sydney International (WSI) operations in particular in relation to Foreign Object Debris (FOD) and wildlife attraction, with a heightened risk of the site being just 250m from Runway 05/23. Wildlife strike and FOD impacts can result in major and serious incidents to aircraft and airport operations, particularly at critical take off / landing stages of flight.

In order to focus on key issues, WSA's response addresses issues where additional information is required from the Applicant or where new issues have arisen as a result of the Response to RFI. Where no additional information is noted, then the recommendations of WSA's previous submissions

have not changed. This includes in relation to requests by WSA for conditions relating to specific components of the proposal as part of any future development consent.

In summary, it continues to be concerning the degree to which the application appears to be relying on the future potential filling of the void as strategic justification for the waste management facility. The filling of the void with waste is not assessed, not approved and raises further concerns for WSA as discussed below.

The Applicant identifies that filling of the void does not form part of this application, however the filling of the void continues to be referenced more than 200 times within this submissions report. The two land use activities continue to be tied together in this documentation, when it has been raised by WSA in previous submissions that the waste management facility application must be demonstrated as being capable of merit entirely on its own. Any references to the future filling of the void with waste material has the potential to prejudice the future assessment of any future modification application or development application for such a purpose.

The Applicant's aspiration for a long-term open landfill operation (to fill the void), within immediate proximity to runway raises major safety concerns for aviation operations, in particular the potential for FOD on the runway and increased wildlife attraction. Any outdoor storage of waste or long-term landfilling using construction waste in such close proximity to an operational runway is an unacceptable outcome, given the risk that this could pose to future airport operations. Additionally, the concept that the receipt of waste for the purposes of filling the quarry would fit the definition of 'rehabilitation' remains a concerning uncertainty at this late stage of the proposed development.

**Noise and Vibration**

WSA previously raised concern in relation to potential vibration impacts to aviation infrastructure from activities such as crushing and grinding. In particular, potential impacts to fuel facilities.

Table E.5 refers to the previous response and does not address this comment, only noting the construction vibration assessment and the previously identified standards. The EIS assessment was focused on human health and comfort. No amendments to the construction and vibration assessment appear to have been made to respond to WSA's concerns on this matter. Therefore, this response point by WSA remains outstanding.

**Recommendation:** That WSA's previous comments in relation to potential vibration impacts be addressed.

**Cumulative Wildlife Impact Assessment**

WSA previously raised the issue that:

a. *The wildlife risk assessment does not appear to account for the risk of the fill at the site attracting waste. This should be updated as per other comments of this letter, to demonstrate the wildlife risk of waste being disposed into the quarry at the site, including the vegetative / organic waste identified at Page 86 of the submissions report.*
b. *A review of the cumulative impacts of wildlife being attracted in this location has not been undertaken, as per out previous letter. A full review of the cumulative impact of the site*

*alongside other key attracting uses (e.g. Suez, farm dams, etc) is required to demonstrate the potential risk of the proposal.*

The Applicant has only provided a very brief response, which states that the previous assessment determined that the ARRC development *"will reduce the wildlife risk and bird-strike risk of the subject property"*, and that *"a wildlife hazard assessment will be prepared as part of the infill modification application of the approved quarry consent"*. This response does not address either of the concerns raised by WSA, given that no cumulative assessment has been undertaken in response to WSA's comments. Cumulative impact between wildlife attracting developments in the vicinity of the airport (particularly high risk land uses such as waste management facilities and farm dams) continues to be a key unaddressed risk for WSA.

Further to the above, it is noted in the Applicant RFI response that the Applicant is proposing an on-site sewage treatment system. This has not been assessed for wildlife attraction, nor is any design detail available for the proposed on-site sewer system. Given the major investment by Sydney Water in a regional wastewater network, the proposed development should connect to the Sydney Water system, which would have the benefit of reducing wildlife attraction. The absence of any detailed design of the proposed on-site sewer system, also limits the ability for a proper wildlife attraction risk assessment to be undertaken.

**Recommendation:** That WSA's previous comments be addressed in relation to cumulative attraction of wildlife to the site, both in relation to other key surrounding land uses and in relation to the cumulative operations of the waste management facility, proposed on-site sewer system and rehabilitation of the quarry void.

**Site Suitability - Planning Approvals Pathways**

In the Response to RFI, a key issue raised by DPIE was a demonstration that a planning approvals pathway could be established and confirmed with the consent authority to backfill the quarry void. This was identified by DPIE to ensure the stated purpose and objective of the present development proposal can be achieved.

Noting the response provided by the Applicant, several issues remain which are not resolved in relation to this matter. In particular, the Applicant has indicated they would seek to fill the quarry void with construction waste. Filling the quarry void with construction waste material via a modification to the existing quarry application, in WSA's view, would not constitute substantially the same development. Rather, it would constitute a new land use (waste facility / landfill) and therefore require a new development application.

The Applicant's view that filling the quarry void with construction waste would be safe, stable and non-polluting is an assumption not supported by a proper environmental assessment nor aviation impact assessment. For example, WSA notes the following:

- *Safe* - Such a use would generate safety risks of FOD from the quarry site being blown onto the airport and presenting a safety hazard for aircraft (further discussed in table below).
- *Safe* - Such a use would generate safety impacts in relation to wildlife attraction noting a lack of effective control of products being deposited into the pit, and the risk of waste attracting wildlife. Given the varied and uncontrolled nature of waste that may be received from

construction sites, there is a risk that construction waste may inadvertently include organic or other matter.

- *Stable* – Such a use is not demonstrated in any detail how it would be made stable.
- *Non-polluting* - Such a use could result in air and water pollution, which without further assessment cannot be assumed as appropriate.

The Applicant has not satisfactorily addressed the planning pathways for the future filling of the quarry void. They have also not considered in their response options for filling of the void associated with the future development of the site in accordance with the zoning of the land.

The strategic justification submitted by the Applicant relies heavily on filling of the void with construction waste which is not part of the application itself. The assessment of the filling of the void also makes statements which are not based on environmental assessment (e.g. *"the void would be infilled with inert non-putrescible waste that will not attract wildlife",* Table 2.3). Given the concerns raised above there should be no reliance on the filling of the void with construction waste as part of any strategic or environmental assessment of the SSD application.

As per WSA's previous submissions, if the Department is of a view to approve the application, it should be conditioned such that disposal of material (i.e. into the quarry void) is not permitted under this DA and the following conditions should be imposed:

- Filling of the quarry void with any material, including construction and demolition waste, non-recyclable material, vegetative and putrescible waste is not permitted.
- Any filling of the void should be the subject of a new and separate development application.
- Outdoor storage, sorting or processing of waste is not permitted.

*Consistency with Objectives of RU1 Primary Production Zone under Liverpool LEP 2008*

Prior to the making of *State Environmental Planning Policy (Western Sydney Aerotropolis) 2020*, the site was zoned RU1 Primary Production under the *Liverpool Local Environmental Plan 2008* (Liverpool LEP 2008). Relevant objectives of this zone at the time of submission of this EIS included (but are not limited to) the following:

> *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
>
> *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
>
> *To ensure that development does not hinder the development or operation of an airport on Commonwealth land in Badgerys Creek.*

The Applicant has previously identified that *"at the time of submitting the development application, the subject property was zoned RU1 primary production"*, and that *"development for a resource recovery facility is not permissible in this zone"*, noting that permissibility is achieved through the ISEPP. However, the objectives of the underlying zone remain relevant considerations and the Applicant has not adequately assessed the proposal against the Liverpool LEP 2008 zone objectives nor demonstrated how the proposed development satisfies these objectives.

**Recommendation:** Further assessment should be provided in relation to how the proposal is consistent with the objectives of the RU 1 zone in the Liverpool LEP 2008.

**Cost / Benefit Assessment of Filling Void**

Whilst not an element of the proposed project, WSA notes DPIE also requested that the Applicant undertake a cost-benefit assessment of filling the quarry void. The assessment was to consider engineering, environmental (including but not limited to bird-strike risk, traffic and noise) aviation safeguarding and financial factors. The Applicant provided a cost-benefit assessment as part of Section 2.1.2 of the Response to RFI.

Noting that it is stated throughout the Applicants document the filling of the void would be subject to a separate application to modify the quarry consent (Response to RFI Page 5), WSA seeks that DPIE clarify the purpose of this assessment.

The documentation continues to rely on the filling of the void as a key strategic objective of this application, considering filling the void with construction waste to be the base case option. However, without a clear approvals pathway to the delivery of this outcome, the future filling of the void with construction waste must not be relied upon by DPIE as a base case.

As detailed in the table below, inaccuracies / gaps remain within the responses to RFI document in relation to the filling of the void and it has not adequately assessed potential impacts to the safe operation of the airport. Additionally, there are numerous other aviation safeguarding risks (as identified in the NASF Guidelines) which have not been considered as part of this environmental assessment.

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| **Base Case** | The base case for assessment of the various different options is identified at Table 2.2 as *"15 year inert waste infill with unrecyclable / cover material"*. This is inappropriate to be considered as a base case, given that this approach has not been approved or assessed, and may not have an approvals pathway to be legally undertaken. A base case for any comparison should be an option that could occur under the existing framework, without any further intervention or additional applications.<br><br>An option which contemplated 'no infill' would be appropriate to use as a base case, given that this is the current state of the application should nothing be approved at the site.<br><br>Additionally, there is no explanation in the comparison as to the basis of a 15-year timeframe for infill using VENM/ENM but a 5-year timeframe for inert (construction waste). A 5-year timeframe for VENM/ENM should have also been assessed. |
| **Foreign Object Debris Risk** | The filling of the quarry void using construction and demolition (or similar waste) poses a significant risk to future safe operations of WSI due to the potential for windblown FOD on the runway. The assessment fails to address this issue.<br><br>FOD is defined as *"a substance, debris or article alien to a vehicle or system that has potential to cause damage to aircraft"*[1]. FOD presents a risk to the safe operations of aircraft, given the potential for FOD to be ingested into engines or to interact with parts of aircraft, particularly at the crucial decision-making points of take-off and landing. This is particularly |

[1] Australian Federal Department of Defense 2022, Glossary of Terms'

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| | relevant given the location of the quarry void is very close proximity to the runway threshold (the beginning of the runway that is available and suitable for landing).<br><br>As filling of the quarry void would be open to the air, uncontained and generally unlikely to be controllable in relation to the dumping of waste material, windblown FOD is a major concern and would be an unacceptable risk to operations. By definition, FOD can be extremely small or lightweight in nature, but still result in significant impacts to airport operations.<br><br>Similarly, the commitment to ensuring that *"no waste from the ARRC would be disposed onsite until such a time as the future application to modify the quarry consent is approved"* (Response to RFI Table E.5) does not provide sufficient protection for WSA from this future risk.<br><br>There must be no risk to aviation safety as a result of FOD from the site. Given that the void is only approximately 250m from Runway 05/23 (as demonstrated below), it is likely that FOD from the site, such as plastics, packaging material, plasterboard, metal objects and many other types of construction waste material could be blown towards and across the runway. This risk must be assessed for SSD10446, and must not be allowed in any manner which endangers the future operations of Runway 05/23.<br><br>  <br>The filling of the void with construction waste in particular would provide almost no manner in which this risk could be ameliorated. |
| **Wildlife Risk of Not Filling Void** | The statement at Table 2 that *"a void lake will remain in-perpetuity in the base of the pit forming aquatic / avian fauna habitat"* resulting in *"increase in the risk of birdstrike"* compared to the filling of the void with construction waste does not accurately communicate the full context. |

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| | The extent of wildlife risk due to water in the quarry has not been properly assessed. There are a number a factors that influence the attraction of birds and other wildlife such as water quality, water depth, bank slopes, food source, and habitat. No analysis or data has been provided in relation to these factors.<br><br>The Applicant also has a responsibly to appropriately manage the site. This is particularly relevant in the context that any 'no infill' option would still need to be rehabilitated to the point of being safe, stable and non-polluting. The steep batters and lack of vegetation in particular may act as a disincentive to wildlife.<br><br>In addition to the above, wildlife management measures are already identified at Section 7 of Appendix B of the Revised Aeronautical Impact Assessment provided by the Applicant in the May 2021 Response to Submissions. WSA has previously requested these be included as conditions of consent as they would further reduce risk through measures such as netting bodies of water, preventing any new landscaping, documentation of measures in a management plan, and further engagement of specialists of monitor the impact should other birds or wildlife start using the site. Given the cumulative nature of wildlife attraction, and the identified risk of the void lake, these measures would need to be extended to the future quarry void if the wildlife attraction risk of the proposed waste management facility is to be appropriately mitigated. |
| **Wildlife Risk of Waste Management Facility** | In addition to the above, the Cost Benefit analysis similarly does not properly assess the wildlife risk of a waste management facility where the disposal of waste into the void would also occur. The latest submission report does not address concerns by WSA in relation to this, and instead makes several statements which are not supported by proper assessment or are incorrect.<br><br>For example:<br><br>• Table 2.2 identifies that birdstrike resulting from an empty void would generate increased risk compared to if the void was filled with waste.<br>• Table 2.2 identifies that filling the void with VENM/ENM would represent a worse birdstrike outcome than if the void was filled with waste. Page 5 of the Submissions Report also identifies that *"the void would be infilled with inert non-putrescible waste that will not attract wildlife"*.<br><br>The above statements are not substantiated and no assessment has been undertaken to this effect, therefore these statements cannot be relied upon.<br><br>Any waste generated by facility operations should be managed to minimise wildlife attraction. This would include waste from trucks entering or leaving the site, waste from employees at the site, as well as waste which escapes the confines of the facility itself.<br><br>Similarly, there is no way in which the void can be filled by construction waste given the risk of such an approach, and there must be no strategic justification for SSD 10446 which includes reference to filling of the void with construction waste. |

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| **Benefits of VENM/ENM filing** | Table 2.2 identifies "15-year infill with VENM/ENM" as one option used for the case.<br><br>The following points are noted in relation to the assessment of this option:<br><br>• A "5-year infill with VENM/ENM" should have been considered as an option to provide a balanced comparison. This would provide a substantially reduced impact timeframe for WSA, without the risk that Option 2 "5-year inert waste infill" poses in relation to wildlife attraction / FOD risk.<br>• Infill with VENM/ENM would likely reduce birdstrike risk from the site, and therefore must be considered as a positive alternative to the base case. However, it is identified in the options assessment that filling the void with ENM/VENM waste over 15 years would reduce economic benefits and will not decrease any environmental costs. VENM/ENM should by nature be cleaner fill than construction or other waste. The aviation safeguarding benefits to filling the site with VENM/ENM have not been properly considered.<br>• Additionally, there does not appear to be an acknowledgement of the increased economic utility of land which has been filled earlier, and therefore would be available for other strategic land uses in accordance with the Aerotropolis SEPP.<br>• Likewise, the identification that filling the site with VENM/ENM would result in a birdstrike risk no different to the base case is not substantiated by proper analysis or assessment. |
| **Benefits of Filling the Void** | The statement that *"offsite disposal of unrecyclable materials will decrease Greater Sydney's non-putrescible landfill capacity"* makes an inaccurate assumption that waste being disposed of in an unapproved, unassessed pit is a certain outcome. In effect, this approach assumes that waste will be able to be disposed of in the void, and then assumes that not having a pathway to achieving this outcome (i.e. the current status) would be a lost benefit.<br><br>The use of this pit for waste must not be taken as an inherent benefit in the case of an application which does not seek approval for such activity, let alone assess or demonstrate that such a use can be undertaken (as noted in Response to RFI Section 2.1.2). This approach also fails to identify the benefits of filling the void with VENM/ENM compared to construction waste. |

**Recommendation:** That the Department consider the above issues in its review of the Cost Benefit analysis.

### Consent Conditions

In the event that the Department is of a view to approve this application, WSA requests the opportunity to review consent conditions prior to any determination. WSA recommends that conditions identified in our previous correspondence, as well as clear conditions confirming that any external storage of waste does not form part of this Development Application and would be required to be assessed as a separate, future application, would be included on any such consent.

**Other Issues**

Page 3 of the Response to RFI notes that on 28 October 2021, a meeting was held with WSA *"to provide an update of the progress of the ARRC application and the proposed deed between DPIE and the applicants which will provide WSA with more certainty around infill of the quarry void"*.

In the interests of clarity, it is noted that WSA did not identify that the deed would provide WSA with additional certainty. Rather, the proposed deed raises further uncertainty as it is not an agreement that falls within the legislative framework of the *Environmental Planning and Assessment Act 1979*. We further note:

- Such a deed is not publicly available and WSA has not had the opportunity to review such a deed.
- A quarry infill deed is not an established part of the NSW planning system, given the confirmation that it would not comprise a Voluntary Planning Agreement.
- The deed may prejudice a future quarry modification application, given that there would be an obligation on DPIE to provide a pathway to achieve consent to fill the void, and noting the Applicant's commitment to lodging a future modification application is contingent on the Minister (or delegate) approving the SSD application (SSD 10446).

Our view is that the proposed deed is not a suitable approach to managing the quarry void.

**Summary**

There continues to be clear gaps in the impact assessment of this application, as demonstrated in this letter. The merit and strategic justification of the proposed development relies on a future and separate development application for the future filling of the quarry void with construction waste. Additionally, there is no clear planning pathway that would allow for the future filling of the quarry void with construction waste.

Wildlife attraction and vibration impacts to aviation infrastructure continue to not have been properly assessed, nor the risk of debris being blown onto the runway.

On the basis of information provided and the nature of the proposed land use (and noting the Applicant's aspiration for a long-term landfill operation), the proposed development is not supported.

Yours Sincerely,

**Kirk Osborne**
Executive Manager, Land Use Planning and Approvals