



11 December 2024

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Dear Ms Luu

Sutherland Shire Council submission to Scoping Report for SSD-78269209, Lucas Heights Resource Recovery Park Western Extension Project

Council welcomes the opportunity to provide a submission to the Scoping Report accompanying a Request for Secretary's Environmental Assessment Requirements (SEARs) for SSD-78269209, Lucas Heights Resource Recovery Park Western Extension Project.

Within our submission, Sutherland Shire Council objects to the Lucas Heights Resource Recovery Park Western Extension Project.

Council's submission raises a number of concerns with the proposal in its current form. This submission details a number of matters that require further consideration, not limited to the following:

- Significant amendments to the proposal from that which had been previously communicated to Council;
- Insufficient information to justify the extension of the landfill life past 2037 and the establishment of a new restricted cell;
- Introduction of aspects that are contrary to the obligations under the 2017 Voluntary Planning Agreement (VPA);
- Significant delay in the transfer of land ownership and delivery of parklands to the community;
- Concerns around the quality and ultimate utility of the parklands landform, such as steep slopes and loss of stable platforms for amenities; and
- Unclear detail regarding the interaction between this proposal with outstanding modification proposals for early opening hours and external leachate receipt.

Council does not support the proposal and suggests that the proponent withdraws the application to resolve the above issues in negotiation with Council. Additional detail is provided within our attached submission.

Please note, as per communications between yourself and Council's Waste Business Development Manager, Ian Drinnan on 28 November and 3 December 2024, the elected Council will formally consider their position with respect to the Lucas Heights Resource Recovery Park Western

Extension Project at their ordinary meeting of 16 December 2024. Once Council have formally resolved their position, this will be communicated to your Department no later than 17 December 2024, as an addendum to the submission below.

If you require further information on this submission, please contact Ian Drinnan on 9710 0547 or idrinnan@ssc.nsw.gov.au as needed.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Clare', followed by a long horizontal line.

Clare Phelan
Chief Executive Officer

SUTHERLAND SHIRE COUNCIL EARLY SUBMISSION TO SCOPING REPORT for SSD-78269209, Lucas Heights Resource Recovery Park Western Extension Project

Objection to lodgement of the Scoping Report

Sutherland Shire Council entered into a Deed of Agreement with Waste Service NSW (the NSW Government owned waste provider) in 2000 as part of a 1999 Development Consent which contains an important clause requiring Council to provide its consent for any proposed modification or new application applying to development on this site. This clause is absolute and is not subject to any dispute resolution clauses within the Deed.

The Deed of Agreement sits with the 1999 Development Approval and therefore is transferrable from one owner to another. This application for SEARs has been lodged by Cleanaway without consideration of the Deed and therefore Council requests this application be withdrawn and re-lodged after consultation with and agreement from Council in accordance with the terms of the agreement.

General comments on the Scoping Report

Sutherland Shire Council has reviewed the early documentation related to the 'Lucas Heights Resource Recovery Park Western Extension Project'. While Council acknowledges the important role landfills play in servicing the needs of the Greater Sydney area, the proposal in its current form cannot be supported for reasons detailed within this submission.

Further, it is critical that the justifications for certain aspects of the proposal are clarified. This will facilitate better communication with Council to understand the implications of the proposal and allows a proper assessment into the merits of the proposal by DPIE.

This submission raises early concerns with the proposal as presented in the Scoping Report and seeks clarification on a number of issues before proceeding.

Need for the proposal and timeframes

Council notes that a general explanation for an expansion of the landfill is provided and acknowledges that additional landfill space will likely be required in or around Sydney to service the needs of the Greater Sydney region into the future. Notwithstanding, Council raises that the Scoping Report lacks justifications as to why there is a specific need for an additional 9 million cubic metres of landfill space at the Lucas Heights facility and why it is proposed to extend the life of the landfill beyond 2037.

Council seeks further clarification and to be supported with appropriate modelling and scenario testing to justify the following:

- how the proposed/increased tonnage limits have been determined to be appropriate for the site;
- why timeframes for landfill closure have again been extended.

Council is concerned that the proposal is indicative only, and that proposed waste tonnage volumes and the proposed timeframes might be further pushed considerably beyond those that are specified within the Scoping Report.

Delivery of the parklands

Council is also concerned about the completion and delivery of the parklands upon landfill closure. Significant concerns are raised over the nature and form of the final landform. Increased filling over existing landfill areas will lead to increase slopes across the proposed extension area. While the extension proposal may not result in an overall higher landform, it will result in significant portions of the site being higher than currently are, which will still fall within the visual catchment of surrounding areas. A visual impact assessment should be prepared to accompany the proposal.

Increased heights are expected to impact on post-closure usability of the site. Council considers that the utility of the site will be severely compromised with proposed extension, resulting in land that will not be suitable as usable areas for parkland or waste management as contrary to the provisions of the 2017 VPA. Therefore, no net community benefit has been demonstrated.

Landscape concept plan

As the future landowner and operator of the parklands, Council is concerned with the lack of detail, including slope analysis and contour information in the Scoping Report. The proposal will have a significant impact on usability of the site (resulted from slopes and lack of firm ground, lack of amenities) and associated maintenance issues arising from the new landform.

New restricted waste cell

The Scoping Report has proposed that a 500,000-tonne capacity restricted waste cell be established at the site. Council raises the concern that need for the proposed restricted waste cell has not been clearly addressed/explained in the Scoping Report. Noting the site has not required a restricted waste cell for the past 35 years for its operation, Council requests for further explanation to be provided around why this component of the proposal is required at this stage of landfilling.

As the current Scoping Report stands, Council does not support the inclusion of the new restricted waste cell due to the unknown variability in the types of restricted waste that could be received at the landfill, high contamination risk, ongoing environmental impacts and its proximity to the proposed diverted Mill Creek.

Amendments to waste and materials acceptance

Council notes that contrary to recent requests to receive additional leachate under the current consent, the ongoing receipt of leachate is no longer proposed at this site. Council queries why Cleanaway consider there is a current need for additional leachate receipt, when it has not been identified as a long-term need within the extension proposal.

Additionally, Council queries why the transfer station and continued operation of the GO/FOGO facility, originally proposed to Council in early 2024, has not been considered in the Scoping report, and whether this component of the facility intends to be removed from the site upon closure.

Council requests that any current modification requests are dealt with as a component of the proposal if Cleanaway intends to pursue them.

Site permissibility

Council acknowledges a State Significant Development (SSD) pathway is required due to the exceedance of identified capacity/tonnage thresholds within *State Significant Planning Policy*

(Planning Systems) 2021 and this Scoping Report forms part of a preliminary process for Secretary's Environmental Assessment Requirements (SEARs).

Council notes that a portion of the proposal site is zoned RE1 – Public Recreation (see below figure) without Additional Permitted Uses. This land use zone which prohibits the use as a 'waste or resource management facility' pursuant to the Sutherland Shire LEP 2015 (SSLEP2015).

Council notes that the proponent is required to seek a planning proposal concurrently with the SSD application to amend the SSLEP2015 to permit the land use for a 'waste or resource management facility'.



(Source: Lucas Heights Resource Recovery Park Western Extension Project Scoping Report, page 41)

Planning approvals

Council requests that the proposal must address how it relates to the existing consent for the Site. To avoid confusion, two consents should not apply to the same operation on the same site.

Council recommends specific delineation of the area covered by this application and surrender of the 2017 consent for those areas and operations.

Discussions with Council as future owner

It is noted within the Scoping Report that the parklands will be made available for public use no earlier than 2042 upon closure, then transferred to Sutherland Shire Council. Council requests the documentation/draft planning agreement should identify and recognise the role of Sutherland Shire Council as the future site owner. Council notes that to date, engagement between the proponent

and Council has been deficient and is concerned that it will remain inadequate during future assessment processes.

Hours of Work

Council understands that Cleanaway are currently seeking earlier operating hours for the site. This has not been reflected in the Scoping Report as the hours detailed are equivalent to current hours of operation. Council seeks clarification on this matter and again requests that any current modification request be dealt with as a component of the expansion proposal, if Cleanaway still intends to pursue them.

Traffic impacts

Council does not consider that traffic impacts have been appropriately scoped for existing and future post-closure uses. Council considers the ongoing traffic impacts to be significant, particularly in relation to access to the site off Heathcote Road. Cleanaway have proposed an area that may continue use as a FOGO area, however access would be off Heathcote Road and access issues have not been addressed in the proposal.

Council requests that access issues are resolved in consultation with Council prior to final lodgement of the proposal.

Statutory assessment

Council considers that further information is required related to the management of the site post closure, as the site is to be transferred to Council under the terms of the 2017 VPA, for recreational purposes. An appropriate assessment should be undertaken to ensure parklands are safe and usable for the community and Council is included in the development and planning for this stage of works.

The Scoping report should identify and rectify the following elements in the statutory context section:

Resilience and Hazards SEPP 2021	Suitability of site also needs to include future use for recreational purposes.
Statutory Instruments	Need to address the relevant legislative requirements outlined in the POEO Act.
Commonwealth legislation	Mentions the vegetation will be managed in accordance with a Vegetation Management Plan (VMP). Council has not been consulted in the development of the VMP and requests to be involved in the process, as there may be potential implications for Council upon site closure.
Engagement	Council is concerned that the engagement outlined in this section has not been implemented and is misleading. For example, while Cleanaway invited Council to a briefing, Council accepted, but no briefing was provided until after SEARs lodgement.
Stakeholder views	Again, this section is misleading, and Council's views have not been taken into consideration.

Future engagement	While Council considers this approach is acceptable, we have significant concerns over how well it will be implemented.
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Site Information

The Scoping report notes the proposal may extend to the Lucas Heights Resource Recovery Park (LHRRP) as a whole.

Council requests that Cleanaway provide estimation of how much space the proposed 9 million tonnes will occupy at current compaction rates, to better understand the size of the footprint.

VPA and Land Use

While this section notes that “Cleanaway is committed to entering into negotiations with SSC regarding any planning agreements”, it must acknowledge that the extension proposal contains many elements that are contrary to the 2017 VPA such as the agreed closure date of the landfill, the handover of parklands to Council ownership, the final landform of the parklands and the useability of the parklands. There should be negotiation principles prepared as to address these non-compliances.

Council notes the Scoping Report details that the land “may” be dedicated to SSC for community use. This is a requirement under the current 2017 VPA, so is currently a “must”. Compliance with the current 2017 VPA should be achieved within the expansion proposal or in accordance with agreed principles of new VPA.

The second last dot point concludes with, “or” this should be “and” as both these need to be delivered.

Mitigation measures

Council is concerned as the future landowner and manager regarding the impact of the new leachate systems for waste and restricted waste cells, and the ground water depressurisation and collection system, on the ongoing useability of the site as community parklands. There will be an increased ongoing requirement to maintain gas wells, leachate collection and treatment systems, much of which will be sited within the parklands.

There is insufficient information regarding how this will be managed from an operation and aesthetic basis.

Preliminary environmental assessment

The scoping report lacks detail in relation to the proposed environmental assessment and Council seeks the following information to be included in a thorough and considered assessment of impacts:

Environmental risk screening - contamination	This should also include surface contamination in the SICTA area, and how contaminated soils will be managed.
Soil and surface water	Operational impacts on soils and surface waters also needs to include post landfill management on newly formed landforms, and how this integrates with ongoing recreational management, including slope stability and maintenance.

Groundwater	This also needs to consider how ongoing groundwater management obligations will impact on recreational land management post closure.
Leachate	Will the restricted waste cell require a modified or new leachate collection system? How will ongoing management of leachate impact on post closure use and management of the site.
Threatened Species	Table 6.2 should also include the EEC Coastal Upland Swamp.
Flora and Fauna - Operation	A Vegetation Management Plan is mentioned. If this has implications for Council post closure as the landowner and manager, Council will need to be consulted and agree to any such Plan.
BDAR	If any off sets are proposed on site, Council will need to be consulted and grant consent as the future land manager who will be bound by any off-set agreement.
Vegetation Management Plan	Notes the VMP will include an assessment of the long-term maintenance requirements. This has implications for Council as the future landowner and manager. Post closure responsibilities must be clearly defined and agreed.
Air quality and odour	Odour assessment needs to consider new restricted waste as a source.
Noise and vibration	The assessment needs to consider and acknowledge that there has been no significant excavation on the site for many years, so current noise levels are not reflective of future noised levels with significant excavation, rock breaking and blasting

Social Impacts

Council does not agree with the assumption that the proposal is unlikely to result in many social impacts given it would be an extension of existing operations. The community has, to some degree, come to accept the impacts, knowing they will be for a limited time and there is an end in sight. This proposal significantly changes that assumption and will prolong impacts.

The social assessment needs to address the impact of delay in delivery of significant community assets such as the parklands.

The Scoping Report incorrectly notes that the closest residence is at Barden Ridge, approximately 4km from the proposal site. The closest residence is at Engadine, which is less than 3km away, and the proximity to Engadine community needs to be taken into consideration as part of any impact assessment.

Further, Council seeks to understand what social benefits will be provided to the communities of Barden Ridge and Engadine.

Request for Specific SEARS

Council's position is to request that the Cleanaway Expansion Proposal be withdrawn and relodged following significant consultation with Council and after Council has provided approval for the proposal to proceed in accordance with the 2000 Deed of Agreement.

However, if the Department of Planning, Housing and Infrastructure disagrees, then Council requests that Cleanaway consults with Council as a requirement of the SEARS.

Formal position of the elected Council.

Council officers have prepared a confidential report on the Cleanaway Expansion Proposal, which will be formally considered by the elected Council at its meeting of 16 December 2024. Following Council's consideration of the matter, any resolutions made by Council will be communicated to DPHI on 17 December 2024, as supplementary advice to this preliminary submission, as agreed with DPHI via email on 3 December 2024.