

For the attention of the Minister of Planning, The Honourable Anthony John Roberts MP  
And the NSW Department of Planning and Environment  
Submission to Woodlawn ARC currently on exhibition

With reference to  
Environment Protection Authority NSW Energy from Waste Policy Statement  
Environmental Planning and Assessment Act 1979, Protection of the environment  
Operations (General) Amendment (Thermal Energy from Waste) Regulation 2021  
and the Energy from Waste Infrastructure Plan, September 2021

In the Energy from Waste Infrastructure Plan, September 2021, the government states

“Protecting human health and the environment is a fundamental objective. The NSW government is taking precautionary steps to restrict energy from waste from parts of NSW to protect human health and air quality. This will ensure new industries such as energy from waste are not contributing unnecessarily to health impacts from air quality across NSW”

The Energy from Waste Infrastructure Plan, September 2021 also states

“urban growth is increasing the spatial extent of human induced emissions and exposing more people to the impacts of adverse air quality. There is a need to avoid the exposure of high pollution centres in NSW to new sources of air emissions and take precautionary approaches for all regional communities, especially those that may be more vulnerable to air quality impacts.

Populations can still experience health impacts when emissions are below the national standards, and for some common air pollutants there is no safe threshold of impact”

In relation to the proposed Woodlawn ARC, if this proposal is approved the NSW State Government are knowingly and by their own admission, placing the health of people at risk. They are knowingly exposing the people of Tarago and it's surrounds to pollution that has “no safe threshold of impact”.

If you live in an urban area such as Sydney, the NSW Government is stating that your health is of inherently more value than if you reside in the more sparsely populated rural area of Tarago. Indeed, if you live anywhere in NSW outside of the four named zones, and some of these areas are as sparsely populated as Tarago, your health is being actively protected. A protection that is not provided to the people of Tarago and the people who live in the vicinity of Tarago.

To attempt to justify this action with a comparison of the current levels of air quality between Tarago and urban environments in NSW, assumes that there is documented air quality for Tarago. (There isn't).

Additionally, it implies that there is a set level of poor air quality that it is desirable for Tarago to meet. (There is not).

It also implies that, at no other exempted place in NSW would air quality be similar to Tarago. (Yes, there would be).

Another argument to justify this could be “that it has to go somewhere, better to minimise harm”. However, that is not the case with waste to energy proposals. They are not essential, and are arguably technology we should avoid given the high pollution levels that are damaging to human health and the environment.

A definition of criminal negligence is to knowingly cause harm.

“ A person is negligent with respect to a physical element of an offence if his or her conduct involves:

A. such a great falling short of the standard of care that a reasonable person would exercise in the circumstances; and

B. Such a high risk that the physical element exists or will exist; that the conduct merits criminal punishment for the offence.”

The legal understanding of an offence does not take into consideration the number harmed, (although it may affect the sentencing).

If the NSW Government approves the Woodlawn ARC proposal, they will be taking the position of knowingly cause harm. This could be seen as the legal equivalent of amending the law to say you cannot commit murder except if the person(s) you murder live(s) in Tarago. Another example to highlight the nature of the flaw in current policy, would be to build a children's playground on a site known to be contaminated with asbestos. We know waste to energy technology causes pollution that can harm human health. So much so, we have banned it. Except for places ruled as being outside the protection of the law.

The Environment Protection Authority NSW Energy from Waste Policy Statement states “In NSW, two key policy objectives are enshrined in the state’s waste legislation. Firstly, the Protection of the Environment Operations ACT 1997 sets the framework to ensure that human health and the environment are protected from the inappropriate use of waste”

I argue that the current Environmental Planning and Assessment Act 1979, Protection of the environment Operations (General) Amendment (Thermal Energy from Waste) Regulation 2021, contravenes the stated principle of the act itself. It contravenes the Act by placing the health of Tarago residents outside of the overarching objectives of the Act.

There is no justification for this.

The Woodlawn ARC should be rejected.

Sharn Ogden  
Monday 5 December, 2022