



Our ref: DOC19/638304  
Your ref: SSD7187

Sheelagh Laguna

Team Leader, Industry Assessments

E-mail: [sheelagh.laguna@planning.nsw.gov.au](mailto:sheelagh.laguna@planning.nsw.gov.au).

Dear Sheelagh,

**Subject: West Nowra Landfill Expansion (SSD 7187)**

Thank you for the opportunity to comment on the proposed landfill extension at West Nowra. We note it is to be assessed as State Significant Development (SSD) under SEARs issued in 2017.

Overall, we raise no major concern to the proposal, subject to resolution of the items raised in this letter. A summary of the main issues is provided below, with detailed comments at Attachment A.

**Aboriginal Cultural Heritage**

The applicant has provided an archaeological assessment of the proposed areas and evidence of consultation with the Nowra Local Aboriginal Land Council. No Aboriginal objects, areas of potential archaeological deposit or Aboriginal cultural values have been identified that would be harmed by the proposed works. However, we note that broader Aboriginal community consultation in accordance with the National Parks and Wildlife Regulation 2009 has not been conducted, which means there is a risk that Aboriginal people with relevant cultural knowledge may not have been consulted and associated intangible cultural heritage values may not have been identified. We also note some areas have not been included in the archaeological survey. We recommend management plans include appropriate Aboriginal cultural heritage management processes if Aboriginal objects are found during construction or operation of the facility.

**Biodiversity**

The application has been adequately assessed under the Framework for Biodiversity Assessment (FBA). Under the provisions of the NSW Biodiversity Offsets Policy for Major Projects (major projects policy), a biodiversity offset strategy must be prepared outlining how the offsets for the proposal will be delivered. This must be prepared in accordance with the major projects policy and be provided prior to determination of the proposal.

I hope this information is of assistance. If you have any questions about this advice, please do not hesitate to contact Dan Robson on 4224 4185 or via e-mail on [daniel.robson@environment.nsw.gov.au](mailto:daniel.robson@environment.nsw.gov.au).

Yours sincerely,

Chris Page

Senior Team Leader, Planning  
South East Branch

Biodiversity and Conservation 29 July 2019

## ATTACHMENT A – DETAILED COMMENTS

### **Aboriginal Cultural Heritage**

#### **SEARs required consideration of Aboriginal cultural heritage**

In relation to heritage, the re-issued SEARs (2017) state that the EIS must address Aboriginal heritage. Specific assessment requirements were not included (although the 2015 SEARs required an assessment of tangible and intangible Aboriginal heritage values in accordance with the *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW*).

The applicant has conducted an archaeological survey and consulted the Nowra Local Aboriginal Land Council (LALC). This appears to address the re-issued (and simplified) SEARs requirement.

#### **Formal Aboriginal community consultation in accordance with relevant guidelines has not been conducted**

While the Nowra LALC has been consulted, the applicant has not conducted formal Aboriginal community consultation as set out in the National Parks and Wildlife Regulation 2009. The lack of formal consultation means there is a risk that Aboriginal people with relevant cultural knowledge have not been consulted and associated intangible cultural heritage values may not have been identified. However, formal consultation was not a requirement of the 2017 SEARs but the need to address Aboriginal heritage was required. We consider that Aboriginal heritage is best addressed with relevant consultation of the Aboriginal community.

We recommend the proponent develop a protocol for how consultation with the Aboriginal community will be conducted if unanticipated Aboriginal objects are discovered. We suggest the consultation should follow the *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010* if Aboriginal objects or Aboriginal ancestral remains are identified during construction or operation of the waste facility.

#### **An archaeological survey has been conducted**

Artefact Heritage has surveyed the proposed expansion areas on several occasions in 2014 and 2017. NLALC sites officers assisted with the surveys.

The surveys covered the proposed expansion area and rising main (Artefact Heritage 2017, pp.1-2). However, the indicative leachate pipeline from the existing dam to the proposed leachate irrigation area does not appear to have been assessed (compare Figure 6.1, Artefact Heritage 2017, p.19 to Figure 1-2 of the EIS, Arcadis 2019, p.4). From the aerial images this appears to be disturbed, however Aboriginal objects are often found in disturbed contexts because the visibility is higher. To address this, and reduce the risk of unauthorised harm to Aboriginal objects, an Aboriginal cultural heritage inspection of the leachate pipeline must be conducted.

#### **No Aboriginal objects or areas of potential archaeological deposit have been identified**

Artefact Heritage (2017) has not identified any Aboriginal objects or areas of potential archaeological deposit that would be harmed by the proposed works. This is consistent with the 2014 assessment. No comments from the NLALC are reported. We note that the survey generally encountered low ground surface visibility, which limits the ability of a survey team to identify stone artefacts and some other Aboriginal cultural heritage sites. However, no areas of potential archaeological deposit were recorded either.



We previously provided advice on an earlier SSD (15\_7015) for the West Nowra Resource Recovery Park. Our previous advice noted that there is a recorded stone arrangement near the north western corner of the present waste facility (site number 52-5-0019). Artefact Heritage (2017, p.14) suggest that the location as mapped on AHIMS may not be correct, given it is based on grid references from 1941 and the site card describes the site (prepared in 1963) as having been destroyed. However, this site recording is evidence that the subject area is located in a broader, significant Aboriginal cultural landscape.

The EIS recommends that an archaeologist inspect the location of the proposed six poles for the fauna rope bridge crossings (Arcadis 2019, p.198). We support this recommendation. The applicant should be aware that flexibility in the location of the poles should be allowed in case a pole location needs to be moved to avoid Aboriginal objects or areas of potential archaeological deposit.

**We recommend management plans include a process for managing Aboriginal objects if identified during works**

If the project is approved, we recommend an Aboriginal heritage management plan (AHMP) is developed. The AHMP should set out the stop work process if Aboriginal objects or suspected Aboriginal objects are found during works, and a protocol for consulting with the Aboriginal community. This could be incorporated with the Landfill Environmental Management Plan (LEMP) as suggested by Arcadis (2019, p.198).

**Wording of the heritage recommendations should be consistent with the legislation**

We recommend the language in Tables 8-50 and 9-1 (Arcadis 2019, pp.198, 233) is consistent with the National Parks and Wildlife Act. 'Aboriginal object' should be used to describe Aboriginal archaeological evidence. We also recommend this table state that if Aboriginal objects are found during works no further harm should occur and the find should be reported by calling Environment Line on 131 555. We also note that that recommendations H-02 and H-06 (table 9-1, Arcadis 2019, p.233-234) are duplicates.

**Summary of recommendations**

- To reduce the risk of unauthorised harm to Aboriginal objects, an Aboriginal cultural heritage inspection of the leachate pipeline must be conducted.
- An Aboriginal cultural heritage inspection must be conducted at the location of the proposed six poles for the fauna rope bridge crossings.
- A protocol for consultation with the Aboriginal community if unanticipated Aboriginal objects are discovered must be developed.
- We recommend management plans include a process for managing Aboriginal objects if identified during works.
- We recommend the language in Tables 8-50 and 9-1 of the EIS is consistent with the National Parks and Wildlife Act.

## **Biodiversity**

The proposal has been adequately assessed under the Framework for Biodiversity Assessment (FBA) and will require both ecosystem and species credit species to be offset.

Under the provisions of the NSW Biodiversity Offsets Policy for Major Projects (Major Project Policy), a biodiversity offset strategy (BOS) must be prepared outlining how the offsets for the proposal will be delivered. This has not yet been provided and should be progressed to a point of certainty that a BOS is realistically achievable and implementable in practical terms prior to determination of the proposal.

It is worth noting that the Major Project Policy states that proponents will generally have to secure offsets before development commences. If they wish to secure the offset after development commences, they must enter into a voluntary planning agreement (VPA) prior to the granting of project approval, requiring the offset requirement to be carried out. We recommend that offsets be provided prior to impacts occurring.

In addition to the required offsets, conditions relating to mitigation measures suggested in the biodiversity assessment report (BAR) should be imposed. We can provide further guidance on conditions following review of the BOS and response to submissions report.