



A community group working towards advocating all levels of Government to improve planning outcomes and achieve more environmentally sustainable, ecologically sound and liveable environments for our communities.

ccplanning2020@cen.org.au

25 September 2020

Director – Industry Assessments
Planning and Assessment
Department of Planning, Industry and Environment
Locked Bag 5022, PARRAMATTA NSW 2124

Dear Sir/Madam,

This submission is in response to the amended State Significant Development Application Number SSD – 8660, the Kariong Sand and Soils Supply Facility at 90 Gindurra Road, Somersby (Lot 4 DP 227279).

The Central Coast Community Better Planning Group (CCCBPG) wishes to **OBJECT** to this revised State Significant Development (SSD) application as we do not believe the proponent has adequately addressed the concerns raised by over 1300 community members. Even more alarming is the proponent's failure to address feedback provided by government agencies which would share oversight on this proposal. Due to the sensitive nature of areas surrounding the site, including proximity to a waterway, we have focused our attention in this submission on unaddressed feedback provided by the EPA and the local community.

The CCCBPG objects to this development on the basis that it represents an air and water pollution risk well in excess of any potential economic benefits. The project's proximity to significant waterways, Ecologically Endangered Communities and Regionally Significant Vegetation at least three schools, a specialist dance college, Riding for the Disabled, preschools, farms, community playing fields, a youth detention centre, Mount Penang Parklands and a significant residential area must be considered when weighing up its merit.

SIGNIFICANT ENVIRONMENTAL CONCERNS

Before the proponent can commence the proposed operations, it will need an Environment Protection Licence (EPL) from the NSW Environmental Protection Agency (EPA). The EPA was asked by DPIE to provide advice on the applicant's original and amended Environmental Impact Statement (EIS).

According to licensing information provided on the EPA's public-facing website, the EPA is unable to consider a licence application until after development consent has been received. If development approval is granted for this SSD, and an EPL is subsequently applied for, the EPA cannot refuse to issue the licence if the development is approved by NSW Department of Planning, Industry and

Environment (DPIE). Licence conditions must be substantially consistent with the conditions of the development consent issued. As such, the conditions of the development consent must be robust to ameliorate risks to the community and environment. The SSD assessment and consultation process is the key opportunity for the EPA to ensure the EPL requirements are appropriate. It is the responsibility of the DPIE to make sure the proponent has addressed all EPA concerns.

The CCCBPG urges you to consider, in depth, the concerns raised by the EPA in relation to substantial aspects of the revised proposal. It is clear from the Response to Submissions (RTS) report that the applicant has failed to provide the level of detail and additional information requested by the EPA. It is not good enough to simply respond to the EPA by stating that “evidence” has already been provided in the revised EIS. It is clear from the EPA’s feedback that it did not consider the proponent’s “evidence” satisfactory. The proponent must be required to provide the level of detail required to address each of the EPA’s concerns or the SSD should be refused.

This SSD is one of five similar projects either already in operation, or proposed, for the Somersby plateau. The aggregate impact of the expansion of waste management businesses in the Somersby area would see around one million tonnes of waste processed in the suburb per annum. In fact, four of the projects are located within a 500 square metre radius.

The Somersby Resource Recovery Facility, adjacent to Kariong Sand and Soils Supply on Gindurra Road, was issued with a SEARS in May 2018. It proposes to process up to 500,000 tonnes of waste per year. It appears the applicant’s timeframe for responding to the SEARS is open-ended. As such the DPIE must consider the aggregate environmental impacts if both operations go ahead. Waste recovery on such a large and concentrated scale may be acceptable in some locations but surely not in proximity to schools, places of work and a residential area.

SPECIFIC EPA MATTERS MUST BE ADDRESSED

The proponent’s failure to adequately address issues raised by the NSW EPA must lead the DPIE to err on the side of caution and refuse permission for this project. To do otherwise would result in the granting of an EPL for a project that has not proven its environmental bona fides. CCCBPG wishes to highlight the following remarks made by the EPA, as summarised in the proponent’s RTS report.

1. According to the EPA “Table 2.3 of the EIS outlines that 40 per cent or 79,200 tonnes per annum of the proposed product outputs for the facility as being manufactured soils produced under the provision of the Excavated Natural Material (ENM) Order 2014. Any material that has been processed cannot be considered ENM. The EPA considers that processing ENM significantly increases the risk for contamination and encourages poor practices such as blending contaminated materials with cleaner waste streams. As such, the EPA has specifically excluded processing from the definition of ENM.” The applicant’s response that “no ENM will be processed at the site” inadequately addresses the EPA’s concern about the nature of the ENM to be received. This needs to be addressed by the applicant before approval can be given.
2. The EPA also asked for the proponent to identify the source of mixed building waste to be received at the site to give a better understanding of the potential contents of this waste. The proponent’s response, that “most material received at the site will be from demolition projects conducted by the site owner, Davis Quarrying & Earthmoving” does not give adequate detail.

3. The EPA said the EIS listed waste types proposed to be accepted at the facility including hazardous and special waste. “The EPA does not intend to licence the facility to accept these waste types and the proponent must implement strict procedures to prevent the acceptance of these wastes at the Premises.” It must be clear in any conditions of consent that the proponent’s processes align with the EPA’s Standards for Managing Construction Waste in NSW (2018). The community should expect no hazardous or special waste to be processed in Somersby.
4. NSW EPA also questioned the description in the EIS “that waste handled will include mixed building waste, asphalt, timber, metals and excavated natural material (ENM). The EIS then states that the primary contaminant expected in stormwater runoff from the site is sediment based, i.e. concrete dust from processing the recycled concrete, and sediment runoff from soils to be stored on site. The EIS fails to assess potential levels of dissolved contaminants in stormwater runoff known to be associated with the types of material proposed to be handled. This assessment also fails to adequately consider potential risks associated with contaminants attached to sediment which require greater controls than clean sediment in stormwater. Based on data from other building and construction waste recycling sites there can be a wide range of potential water pollutants in site runoff at levels requiring mitigation ... As well as the potential impacts of individual contaminant concentrations, the potential additive, cumulative and loading impacts of contaminants should also be considered, including: antagonistic toxic effects from two or more pollutants; bioaccumulation in downstream waters (e.g. metals or PAHs); loading of nutrients, metals and other pollutants in downstream waters, groundwater or soils; concentration effects of chemicals due to reuse of wastewater on site.” The EPA recommended that additional information be provided on the full range of potential pollutants in site discharges, including potential water discharge concentrations from any proposed treatment system under relevant water quality and flow conditions (i.e. both controlled discharges and managed overflows) ... The proponent’s response to these comments appears to be to restate the information that the EPA rejected as inadequate in the Water Cycle Impact Assessment and Soil and Water Management Plan Report. Consent must not be given until the EPA is satisfied with measures in place and the community has received assurances of that satisfaction.
5. The EPA’s questions about why the proponent changed its stormwater capture and treatment systems also need to be answered in greater detail.
6. The CCCBPG is alarmed by the EPA’s conclusion that “the EIS has not adequately identified all practical measures that could be taken to prevent, control, abate or mitigate water pollution from the operation of the proposed facility. The EPA recommended that all practical measures to prevent, control, abate or mitigate water pollution be assessed. However, the DA limits its approach to stormwater capture and treatment to one of containment rather than taking on board options presented by the EPA.
7. NSW EPA made the point that “about 35 overflows per year” from a proposed sediment inlet pond “is not consistent with best practice guidelines for clean sediment containment ... subject to a characterisation of site discharges, due to the nature of the material onsite and potential for contaminants to be associated with sediments, the 2-4 spill per year or equivalent environmental outcome is likely to be considered minimum best practice for clean sediment ... a greater containment may be needed depending on the assessment of dissolved and sediment attached pollutants and the mix of other

mitigation measures that may be proposed.” If this level of containment cannot be proven achievable by the proponent NSW DPIE must refuse this application.

8. The DPIE must take further advice from the EPA regarding the proponent’s stormwater capture and treatment in relation to the EPA’s objection to the idea of discharge flowing over a vegetated paddock for about 280 metres to the road drainage system. According to the EPA “this is not an appropriate treatment method for water quality and pollutants may also build up in soils on site ... once flows reach the road drainage system, they may be directly transported to downstream waterbodies with little change in pollutant levels. It is also noted that there may be recreational water bodies downstream. The EPA recommends that the applicant ensures the fate of any residual pollutants in discharges are adequately assessed and appropriate monitoring and mitigation measures implemented.”
9. The NSW EPA feedback recommended that the applicant undertakes an appropriate characterisation and mitigation assessment of any water proposed to be discharged so that licence limits and licence monitoring (location, frequency methods) can be proposed for all non-trivial pollutants in wastewater. The proponent has responded that “a comprehensive water quality validation and risk assessment programme will need to be undertaken to ensure the site performs as is expected and if it doesn’t then additional mitigation measures will be required.” This validation and risk assessment programme must be completed, and any additional requirements put in place BEFORE granting of consent. To do otherwise could result in the granting of an inadequate EPL.
10. The frequency of overflows from a 25-kilolitre collection and storage tank for the waste receival and storage area haven’t been assessed, according to the EPA, and the full range of potential pollutant risks and mitigation measures should be assessed to avoid or manage potential water pollution impacts. “A wider suite of potential contaminants ... may be present in wastewater from the receival area including highly toxic chemicals.” According to the proponent the waste receiving area, including the Tip and Spread area has been re-designed. The DPIE must, at the very least, seek further advice from the EPA about the adequacy of the redesign prior to granting consent.
11. The EPA questioned whether a grassed swale along the western boundary to pre-treat sediment runoff from working areas was lined to protect ground water. The applicant confirmed that the swale would be lined with a waterproof membrane subsurface. However, the EPA further recommended that the applicant ensures potential water pollution impacts associated with the grassed swale are fully considered and, where necessary, assess what impact mitigation measures will be implemented. It is unclear whether this full consideration will be given by the applicant.
12. The EPA has not supported the use of recycled wastewater on the plant, but the proponent appears to be going ahead with its water recycling plans. CCCBPG supports the EPA’s recommendation that the applicant consider the potential human health and occupational health risks related to proposed wastewater reuse at the site.

The site, in its current form, does not have an EPL under the *Protection of the Environment Operations Act 1997*. This application extends both the volume and the range of materials able to be received at the site. Materials to be received will include: concrete, asphalt, brick, tiles, wood, timber and metals; sand and soil products, such a Virgin Excavated Natural Materials (VENM) and Excavated Natural

Materials (ENM); a mixed construction and demolition waste (masonry, concrete, brick, tiles, wood, timber and metal) from building and construction activities in the region and from the Northern suburbs of Sydney.

As such, the risk of waste including contaminated materials is significant. An application for an EPL cannot be refused if DPIE grants consent. Therefore, the conditions of consent must address all outstanding EPA concerns, or the development must be refused.

REMAINING WATER MANAGEMENT CONCERNS

The community has already witnessed one waste operator at Somersby recently polluting nearby Pile Creek as recorded by the EPA. The main water issues associated with the site now under question are the potential for contamination from on-site operations and water use for dust suppression. The discharge point for the proposed development is located 400m away from a waterway.

As noted, the largest potential impacts are the impacts on the health and stability of the bushland downstream of that proposed discharge point and contamination of nearby waterways. The proponent has provided significant detail of its proposed complex water detention and treatment system. However, the proponent acknowledges that overflows will occur and will be discharged onto adjoining bushland. It notes that the soils on this site are sandy soils with the likelihood that most flows would be absorbed and flow below the surface to form an important subsurface flow to sustain the downhill remnant vegetation". This statement appears to acknowledge the potential for surface and groundwater contamination that could have deleterious impacts on the downhill remnant vegetation.

According to the proponent, a groundwater monitoring and management plan will be implemented once the site is operational. CCCBPG urges DPIE to refuse this proposal unless a credible groundwater monitoring and management plan is submitted to the satisfaction of the EPA.

Whilst the community is relieved that all waste materials will now be received indoors and misting used to control dust, that misting may, in turn, produce leachate, as per EPA comments. The proponent must address the EPA's outstanding concerns about leachate before DPIE can responsibly and in the best interests of the community, sign off on this SSD.

It is proposed that treated water from the pond will be used to irrigate the site to suppress dust to maintain good air quality once the water has been further treated in a membrane filtration system. It is of some comfort to know that continuous water quality and flow monitoring will occur in high-risk parts of the site. However, the proponent clearly states that those high-risk areas will be where contaminants could be undetected in the material sorting process. In a high rainfall or flooding event the volume of waste to be handled is inappropriate for a site containing an EEC and regionally significant vegetation.

BIODIVERSITY

The Somersby Industrial Park Plan of Management was jointly prepared by the NSW Premiers Department and Gosford City Council in 2005. The Plan identifies key environmental values in the Somersby area, and identifies areas that should be protected. It identifies much of the existing vegetation on the proposed development site as being significant habitat.

As shown in the EIS and revised EIS, the Eastern Pygmy Possum (*Cercartetus nanus*) was confirmed on the subject site through targeted surveys. The Eastern Pygmy Possum is endangered.

A total of 32 threatened flora species were modelled as having potential to occur, or historically recorded within 10km of the subject site. One such threatened flora species is known to exist within the subject site, *melaleuca biconvexa*, which is listed as vulnerable under the *Biodiversity Conservation Act 2016* (BCA Act) and the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Whilst this small patch of *melaleuca biconvexa* will be excluded from the development, including a 10m vegetation buffer surrounding the population, it is to be “watered” with treated water from the operations, a strategy that surely cannot be satisfactory to DPIE or the EPA.

The proponent has stated a wish to explore the generation of biodiversity offset credits for the Pigmy Possum and the *melaleuca biconvexa* from an on-site Biodiversity Stewardship site. This must be a condition of consent. Other options, including purchase of credits from the market or payment to the Biodiversity Conservation Trust, does not assist the conservation of this local ecosystem.

SIGNIFICANT AND SUSTAINED COMMUNITY OPPOSITION

Air quality, biodiversity, proximity to sensitive uses and health impacts remain significant community concerns in relation to this proposal. These are significant concerns and the CCCBPG wishes to support the local Kariong and Somersby communities by objecting to this SSD.

The community has expressed concern for the conservation of the endangered Pigmy Possum. The presence of a resident population on the site was confirmed in the EIS. This has been addressed by the proponent using biodiversity offsetting, but residents remain concerned that measures have not been put in place to protect foraging and refuge areas. Offsetting does not equate to conservation of the species in the local area.

The local community’s concerns about air and water pollution remain largely unaddressed. They are particularly concerned about the presence of airborne silicon dust. They believe Somersby has been earmarked at a state government level, to become a recycling precinct for major state projects, most of which are in Sydney.

The community’s traffic concerns have not been answered by the proponent. It has been calculated that 21,875 loads of waste would be entering each facility per annum (based on a 40-tonne truck and dog load). That is at least 100 truck movements per day. It is surprising to CCCBPG that the proponent’s traffic analysis found Gindurra and the surrounding road network coping well with current usage levels. This is not the experience of locals, particularly commuters travelling the highway at peak times.

Whilst we recognise the proponent has made “design and operational improvements” these have been from a very low base in the initial application and EIS. Areas that still require attention before they will be anywhere near a standard to give the community the assurances, they require include stormwater capture and treatment, traffic modelling to take into consideration other nearby SSDs that may come online in the future.

We seek DPIE’s assurances that the promised Community Consultative Committee with an independent chair will be a condition of consent so that the community does have its forum to provide feedback on the performance of the development.

At the time of publishing this advertisement, the Minister for Planning and Public Spaces has not directed that a public hearing should be held. Given the significant number of submissions received from local residents we believe it would be in the best interests of current and future developments at Somersby if the Minister for Planning was to grant a public hearing to ensure all relevant voices and opinions are heard before a decision is made.

Yours sincerely

A handwritten signature in black ink that reads "G Chestnut". The "G" is large and stylized, and "Chestnut" is written in a cursive script.

Gary Chestnut
B. Nat. Res., MSc., B. Leg S., MBA.
on behalf
Central Coast Community Better Planning Group