

From: [REDACTED]
To: [EPD, Customer Services](#)
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SUBMISSION AGAINST
DRAFT EIS MATERIALS RECOVERY FACILITY - FYSHWICK
201700053

To the Director General of ACT Planning
EPDCustomerServices@act.gov.au

This is a submission opposing this facility on the two grounds set out below.

[A] It is the Minister's responsibility to ensure that the Planning and Development legislation is adhered to in all relevant matters pertaining to the assessment of an Environmental Impact Statement. The Draft EIS 201700053 does not respond to each matter set out in the relevant Scoping Document as legally required.

Section 216 of the Planning and Development Act states:

- (1) This section applies if the planning and land authority gives the proponent of a development proposal a scoping document for the proposal.
- (2) The proponent must, by the end of the period stated in the scoping document for the development proposal—
 - (a) prepare a document that addresses **each** matter raised in the scoping document (a draft EIS).

Section 222.2 also states that

- (2) The planning and land authority must
 - (a) accept the EIS if satisfied that the EIS **sufficiently**—
 - (i) addresses **each** matter raised in the scoping document for the proposal;

This Draft EIS must be rejected because

- i] it fails to address adequately all of the matters required by law and described in the Scoping Document.
- i] It does not sufficiently cover each matter raised by the Scoping Document or identify other matters of environmental impact requiring assessment.

[B] Apart from failing to satisfy the above legal requirements this EIS must also be rejected for its lack of scientific rigour and technical details necessary for an informed and meaningful environmental assessment. The development should not be approved.

FAILURE TO ADDRESS REQUIRED MATTERS

5.1 (a) The objectives and justification for the proposal.

The EIS at no point acknowledges the true objectives of the proposal as stated in the Scoping Application of November 2017. Capital Recycling Solutions Pty Ltd (CRS) has prepared this Scoping Application in association with *"the previous Application number 201700023 – Materials recovery facility and waste to energy (WtE) thermal conversion and emission control equipment. " Their decision to "split the original proposal into its key components. 1. The Materials Recovery Facility and Rail Freight Terminal (MRF) 2. The Waste to Energy facility (WtE) We consider the WtE facility ancillary to the overall solution in that it is dealing with residues from the MRF and does not impact on its effectiveness or viability. As such, we are proposing to proceed with an EIS process for the MRF only, with a separate EIS process to be undertaken for the WtE component at a later date. " One might assume the intentions was to mislead.*

5.1 h) Provide a description of the proposal, including:

An outline of any developments that have been, or are being, undertaken by the proponent, or other person(s) or entities, within the proposal area and broadly in the region. Describe how the proposal relates to those in the region affected by the proposal

The EIS failed completely to consider other future developments such as the Molonglo mixed use residential development along Dairy Road and the discussed redevelopment of land on the eastern side of Cessnock Road. The EIS failed to adequately consider the proposed East lake development particularly the high rise component which will be located 290m across the Monaro Highway and within EPA Separation Distance Guidelines. The height of the stack from the Ventilation System has been ignored for its potential to carry odour and polluted air directly to the upper level apartments.

More importantly the EIS did not consider CRS's own future plans for a WtE facility on the same site. This was part of the Scoping Application November 2017 and the current Notifiable Instruments NI 2018-27 and NI 2017-389.

5.1 i) Provide a description of the proposal, including:

A description of all the components of the proposal, including the proposal specifications, the predicted timescale for implementation (design, approvals, construction and decommissioning) and project life.

Because the original Notified proposal has been split this requirement of the Scoping Document has not been copied with. Segmenting the proposal does not release the proponent from his obligations to provide an environmental assessment. All known phases of a project should be considered in the determination of significance. If later phases are uncertain as to design or timing, their environmental significance should be examined as part of the whole action by considering the potential effects of total development.

Since there is a common purpose for each segment of this proposal and a common geographical site involved; since the WtE component is functionally dependent on the current proposal and since the two segments share common impacts on health, air quality, traffic, noise, etc then if the activities are not reviewed as one project, potentially significant adverse impacts will not be described or mitigation measures considered.

Additional significant elements of the proposal that have important impacts and are necessary for environmental assessment have not been included, specifically details of the Air Ventilation System, and the flexible vapour barrier.

No timescale was provided for each of the stages of the proposal or any consideration of the life of the facility or its decommissioning. The capacity of the facility to handle ACT waste over a long time is of crucial importance to all ACT residents.

No security of service was discussed.

5.1 j) A plan/description of the **precise** location of any works to be undertaken, structures to be built or elements of the proposal that may have relevant impacts.

There was no "precise" location of the shed on any surveyor or draftsman-drawn map or engineering diagram. Nothing had a scale or measurements to allow this part of the Scoping Document to be fulfilled. It was impossible therefore to determine the exact orientation of the building to evaluate the odour modelling for wind direction; to evaluate the siting of the building away from the worst of the soil contamination; to locate the position of the fuel tanks, waste water tanks and so on.

The precise location of the two weigh bridges was not shown.

The precise location of the Lithgow street access, administration building, the educational research centre and the office was similarly not included on any readable plan.

The dimensions of the site as a whole were not provided to assess road widths and manoeuvrability.

5.1 k) A description of the construction methodologies for the proposal.

No details about construction methods, materials to be used and necessary earthworks were provided.

Earthwork on this site is especially problematic since the site is not level and would have to be level with the rail siding which cannot be moved and because the site is badly polluted both soil and shallow and deep groundwater with hydrocarbon chemicals of concern. A comprehensive detailed explanation of the volumes of soil to be moved or removed must be provided along with the method of disposal. Any perched shallow aquifers which will be disturbed during construction and the water exposed as a consequence, similarly should be described as to its treatment and removal.

A description of the construction methodologies was essential for assessing the building for its ability to contain the noise and odour. Materials to be used would have assisted with the assessment.

No details were provided about the demolition of the existing Shell infrastructure or whether the remaining underground tanks were located and if and how they would be removed.

No details were provided about the Vapour barrier to prevent toxic hydrocarbon fumes entering the building and endangering the health of the workers inside. These details are essential for assessing the ability of the barrier to do its job. Liners or barriers have been used extensively in engineering works, particularly in dam construction, and over time they invariably leak. Many of the faults are manufacturer's faults but most occur during construction when a dropped tool, or someone walking across or driving a vehicle over it can cause pinholes. The construction method and the quality controls to be used when a liner is to be under concrete must be provided in order to satisfy this requirement of the Scoping Document.

5.2 Alternatives to the proposal

Provide details of any alternatives to the proposal considered in developing the proposal including a description of:

- a. Any alternatives to the proposal and provide reasons for selecting the preferred option with an analysis of site selection as an attachment to the EIS

There was no such attachment and no other site was canvassed in the EIS. Indeed the Community Consultation which was another requirement did not include any site selection issues. The proposal was presented with the site a fait accompli.

The purchase of Block 9 section 8 was presented as having been secured and as having Ministerial approval. Statements such as this could be seen as an attempt at dampening community opposition and do not create the impression of an independent process.

- b) The criteria used for assessing the performance of any alternative to the proposal considered

No reference was made to any criteria for assessing site selection which can be found in various state and international Guidelines for Transfer Stations. Such Guidelines were not referenced anywhere in connection with any component of the development.

- c) Any matters considered to avoid or reduce potential impacts prior to the selection of the preferred option

Since this is a contaminated site and matters considered selecting it as fit for purpose before rather than afterwards were required to be explained in the EIS. They were not.

6 Legislative Context

A description of the EIS process including any statutory approvals obtained or required for the proposal.

Important legislative contexts were not referenced. Approval and licences must be obtained under the Environment Protection Act and the Waste Management and Resource Recovery Act. The EPA EPP Contaminated Sites Guideline has relevant impacts on the proposal and was not referenced. The Territory Plan Tables which designate railway use on Block 11 as Prohibited was not described.

8.1 Required detail for addressing impacts

The following items (sections 8.1.1 - 8.1.11), relate to the potentially significant environmental impacts identified in Table 1. They must be addressed **in detail** in the EIS.

8.1.1 Planning and land status

Describe land use of the proposed land and any land to be affected (including, but not limited to, zoning, lessee(s) or custodian of the land, the permissibility of the proposed use defined in the Territory Plan)

This has been studiously and deliberately ignored as it is a serious constraint to the development. Under the Territory Plan Development Tables IZ2 Mixed Use Zone, "railway use" is a prohibited development on Block 11 section 8 Fyshwick.

8.1.2 Traffic and transport

- Include details of vehicle traffic, transit routes and transport of heavy and oversize loads (including types and composition)
- A comprehensive Traffic Impact Assessment (TIA) must be prepared in accordance with the TCCS TIA Guideline.

No details of transit routes; the number and types of oversized loads or composition of the loads were provided. Metal recyclables coming to the rail terminal for transport to Port Botany must be accounted for.

A comprehensive TIA should have included analysis of traffic hazards, increased road safety risks with particular emphasis on intersections of concern, eg the Monaro Highway. The TIA did not include this.

Traffic increases associated with the waste deliveries and general growth should also have been included.

8.1.5 Landscape and visual

There was no "assessment" of these issues. A selection of concept drawings and incorrectly labelled photographs does not constitute an assessment. There should have been some supporting text

8.1.8 Climate change and air quality

- An air quality and odour impact assessment must be completed by a suitably qualified environmental consultant
- The air quality and odour impact assessment should consider the ACT Government's proposed East Lake residential development and other surrounding development
 - An assessment of the effect the proposal may have on climate change and how the proposal is consistent with associated ACT and national policies
 - Cumulative impacts of the development on air quality in the locality

The EPA also required a formal Air quality assessment.

There was no Air Quality Study provided for this EIS, a serious omission. While the Odour modelling is important, it is not an air quality impact assessment of the local ambient air in relation to the potential impacts on it of the emissions likely to be produced by this operation. Consequently no cumulative impact of this development with others and on the existing air quality was possible or attempted.

Toxic diesel emissions from additional heavy vehicles on air quality was omitted.

The Odour study examined the stack for its velocity and dispersion but ignored its characterisation. Since the Air Ventilation is not filtered then the emissions out of the stack could include dust, harmful pathogens, fine particulate matter, diesel fumes and possibly BTEX vapours as a result of the contaminated soil and groundwater on which the facility is constructed. Benzene and toluene are known carcinogens and in their vapour form, are up to five times more toxic. This should have been dealt with in both a suitable air quality study and in the Health Impact Assessment.

It was very important to analyse the chemical composition of the stack emissions in relation to the East Lake development. This future residential and commercial precinct would be impacted by the stack emissions because some of it is multi storey and because the heavier fraction of the emissions could deposit somewhere within its boundaries.

The proposed New Molonglo Development is shown to be in the direct path of the emissions plume as modelled in the Odour study if the mitigation measures to prevent release fail. This is likely to happen at some stage or another over the life of the operation. The risk assessment failed to quantify its likelihood or potential impacts.

There is no assessment of any air pollutants or of the cumulative impacts of the proposal on air quality in relation to toxic diesel emissions from heavy vehicles. The truck diesel emissions were ignored completely as were their potential health impacts.

Climate change in this context, 8.1.8, was ignored completely.

8.1.9 Socio-economic and health

- Provide a formal Health Impact Assessment (HIA) that includes an analysis of the potential impacts on human health and any measures incorporated into the development to mitigate these impacts
- The HIA will investigate all positive and negative health implications including consultation with relevant stakeholders that may be impacted by the proposal
- Provide maps showing impacts on the surrounding sensitive receivers
- Detailed discussion of the potential social and economic impacts associated with the proposal
- Describe the suitability of the land for the type of proposal described in terms of socio-economics and health
- Outline risk and mitigation measures relating to potential health impacts associated with harbouring vermin and pest animals

A1. ACT Health

The Health Protection Service (HPS) requests that the EIS for the project consider the following:

- Any influence upon the existing air quality, particularly the likelihood of cumulative effects of the development within the locality including on surrounding businesses
- Potential dust generation or dust movement while the site is under construction
- Potential for harbourage of vermin and pests at the facility.
- All health implications, both positive and negative. The HPS therefore requests that a formal health impact assessment (HIA) is carried out as part of the process.

My position is that there was no legitimate HIA done for this Development which satisfies either the Director General's Scoping Document or the ACT Department of Health.

The HIA offered in support of this development was a useless and flawed document. It was neither a quantitative or qualitative assessment, nor was it a suitable desk top study with academic references or comparative studies that could be accessed and read. What it was, was a mere paraphrase of two other studies done for this EIS. This is not good enough and fails completely to satisfy the Requirements of the Scoping Document and the Department of Health.

The HIA provided a glossary of terms such that I would expect to find in a reputable health study but a search of the body of the text found no use of the most significant terms such as dose, exposure, exposure pathway, detection limits, toxicity. This is inexplicable.

It failed to consult with relevant stakeholders who might be impacted by the proposal. It failed to provide maps; ignored the contaminated status of the land and its potential health impacts on workers during excavation and construction and operating the development while working inside the shed. It failed to analyse the nature of these risks and the pathways by which they may be exposed so that mitigation measures could be implemented. It failed to consider, as required, the dust from construction works and its potential impacts for an increase in respiratory disease. It should have considered the added impact of the dust being

contaminated by hydrocarbon pollutants.

It failed to take into account the nature of the development being a high traffic generating development and the impact of the additional toxic diesel emissions. The cumulative impact of these with the dust and BTEX pollutions should have been assessed.

Other than some independent socio-economic observations, it failed to adequately and independently assess any risks other than those identified by other consultants. Those observations must however be rejected. The proposed project will have negligible positive impacts on the economic values of the Fyshwick region through increased employment. However the proposal will have significant negative social impacts on residents, local business owners and consumers. Increased congestion, noise and odour has the potential to deter consumers thus resulting in negative impacts on local business which will outweigh any positive social and economic impacts.

This EIS should be returned to the proponent and the HIA done again.

8.1.11 Hazard and risk

Provide examples of other similar developments within Australia including:

- A comparative technology review
 - Processing capacities and proximity to other developments and sensitive receivers
 - Impacts or failures that they have encountered
- Current status of the operations

Had the proponent supplied these examples it would have been very useful but he did not, again failing to meet the legislative obligations of the Scoping Document.

- Describe how the site is suitable for the proposed use

The EIS has failed completely to describe in sufficient detail the nature and management of the risk from the contaminated soils and groundwater as a result of its previous use by Shell as a bulk fuel depot. A brief mention without details of manufacturer of, materials or methods of installation for the vapour barrier does not fulfil this requirement. How it will mitigate this risk is not specified and it must be as part of the environmental assessment of this project. The Scoping Document demanded all risks and hazards be identified and described in the EIS, not at a later stage of the DA process. Risks to workers in the building from the intrusion of BTEX vapours is a serious risk that has not been dealt with in the EIS Hazard and Risk analysis. More information is needed on this risk and the barrier that is proposed to mitigate it. The Department of Health should be involved in assessing this risk and the efficacy of its treatment.

The EPA will require a site Audit by an independent and certified auditor of this site to pronounce on the suitability of the site for the proposed use as a MRF and waste transfer station. The Site audit report done by CRS did not endorse the proposed use unless the present configuration of the site was unaltered and the existing buildings used. In other words the findings of that auditor applied only to the site in its present condition. The EIS has somewhat misrepresented this. CRS proposes to drastically alter the site with large earth works, demolition, new concrete construction and a new large building. According to CRS's own audit, the site would therefore not be suitable for the intended new purpose.

A new Audit and Site Assessment should be done based on the intended purpose.

- Outline impacts on aircraft from the MRF vent plume

While the EIS briefly but unconvincingly dealt with this issue, the equally important hazard and risk of bird strike on air safety was not dealt with at all and it should have been. The Scoping Document included a proviso that additional impacts should be addressed separately in an additional appendix.

The proximity of the waste transfer station to Canberra Airport and the Airport's own policies and activities to ensure that bird strike does not pose a danger to aircraft and their passengers, demands it be assessed fully.

Part of the reason the facility is fully enclosed is to keep vectors and scavenging birds outside. The risks of doors being left open and spilled waste outside must be assessed against the proximity of the airport and the Air Safety Guidelines which govern its safe operation.

8.2.4 Mitigation

Discuss the proposed safeguards and mitigation measures proposed to be taken for the environmental management of the land to which the proposal relates for the environmental themes identified in Table 1. This is to include:

b) A description of the expected or predicted effectiveness of the mitigation measures.

There was no detailed description of the expected or predicted effectiveness of the Air Ventilation System (with manufacturers specifications), the flexible membrane vapour barrier (with type, characteristics and performance history), the hazardous waste separation management and disposal, and leachate collection and management system. These important features of the proposal therefore could not be assessed.

Storm water mitigation measures were also unclear and not assessed for effectiveness.

d) An outline of an environmental management plan (EMP) that sets out the framework for continuing management, mitigation and monitoring programs for the relevant impacts of the action, including any provisions for independent environmental auditing

The EMP offered in this EIS should be rejected as inappropriate to this proposal. It was not site specific in that it was written for the site in its present condition and not for the proposal in its intended use. "The EMP presents management measure to mitigate potential risks associated with the existing contamination at the Site." It dealt with the existing contamination but did not cover any other aspect of the site operation.

e) The frequency, duration and objectives of monitoring proposed

No monitoring plan was offered; indeed no commitment to future monitoring at all was offered, as required in the Scoping Document 10. There were no details of noise monitors, odour monitors, dust monitors or continuing monitoring of the underground water quality into the future. There was no provision for monitoring points; no discussion of frequency of monitoring, data collection or reporting proposals as required by the Scoping Document 10.2. It is particularly concerning that the amount of construction and disturbance will probably destroy the monitors placed there by Shell and no replacements were suggested.

11. Other relevant information

The proponent may wish to include issues outside the scope of the EIS as a separate section of the EIS. This allows the proponent to identify matters not required to be addressed in the EIS, but that would be subject to development assessment consideration and notification. This can provide additional context for members of the public regarding management of environmental issues, by ensuring that the public is aware that these issues will be addressed in the detailed design of the proposal.

The proponent did not do this though there were additional issues he should have recognised as having environmental significance and as being of interest to the public as indicated in this submission above.

The Office of the National Rail Safety Regulation required that the installation and operation of the hardstand for railway operation should be carried out with the Rail Safety National Law. It is difficult to assess whether the railway use does comply since there are no details supplied in this EIS pertaining to the construction of the terminal.

13.2 Scoping Document Reference

Include a table that cross-references the EIS to the scoping document.

This is a serious omission. Due to the length and complexity of the EIS this would have been of considerable assistance to me and to others including the government, in assessing the proposal

Not only was this omission significant, the general organisation and presentation of the EIS was deficient, appearing to have been hastily put together and poorly proofed.

It was not presented in a legible form, providing diagrams, maps and figures too small for close scrutiny.

It does not help that the files were excessively large, exceeding the 10Mb limit set in the Scoping Document, two of which were 22.8 Mb and 20.1 Mb respectively.

There were references in Appendix H to other appendices which were not included. Appendix H was a hotchpotch of reports some of which were related, others not.

The figures offered by the ghdSAR were figures for an earlier AECOM report and this was not made clear, misleading further since they appeared in a separate volume (part 2).

DOES NOT SUFFICIENTLY ADDRESS REQUIRED MATTERS

5.1 Project Description

Provide a description of the proposal, including:

- a. The objectives and justification for the proposal.

The justification of the proposal is not convincing. It is clear that the developer's interests would be satisfied in terms of rail freight of scrap metal to Botany but is not convincing that the wider public interest is served by this development. He exaggerates several claims regarding the future of the Mugga Lane landfill, its effectiveness in methane collection and the success or otherwise of the Canberra community in recycling their waste.

There was no serious consideration of alternatives to this proposal in waste management technologies, waste separation at the kerbside or for an alternative site for either railway use or a waste transfer station.

8.1.4 Materials and waste

- Describe the nature, sources, location and quantities of all materials to be handled, including the storage, stockpiling and disposal of materials and waste
- Provide further advice on waste management, including assessment, management and disposal
- Outline management procedures in case of oversupply of waste and any consideration to the measures in place when/if the facility ceases operation

The lack of detail on each of the above is inadequate to meet the requirements of sufficient information to allow assessment. Exact placement of each kind of waste is relevant for fire risk. The precise type and source of the waste was not adequately described.

Exact placement and separation of unwanted hazardous waste in the waste stream is important as is the security of the storage of these materials. The EIS is vague on all these matters most importantly on the length of time dangerous waste will be held and exactly what is proposed for its disposal.

Every resident of the ACT deserves to know that their waste service is secure and that should any oversupply occur or the facility cease to operate, that service can continue. Provisions to ensure this must be described in detail. The future of Mugga Lane must be tied to these provisions. This must be addressed.

The current and future markets for recycled materials were not adequately analysed so that the economic viability of the enterprise can be assessed and the security for the ACT as mentioned above can be evaluated.

8.1.7 Water quality and hydrology

- Describe the current groundwater quality and measures proposed to maintain and monitor ground water quality

The Groundwater quality was not adequately described.

No monitoring measures were proposed.

There was no map of the catchment or consultation with the Catchment Authority and Volunteers.

There was no clear description of the stormwater management during construction and mitigation measures against contamination through contact with the contaminated soils, and shallow groundwater when it is disturbed.

8.1.10 Noise, vibration and lighting

- An acoustic impact assessment must be completed by a suitably qualified acoustic consultant.
- The acoustic impact assessment should consider the ACT Government's proposed East Lake residential development and other surrounding development
- Identify any potentially sensitive receivers (including residential dwellings and road users) which may be affected by the construction and operation of this proposal
- Discuss the types, magnitude, duration and frequency of any noise and/or vibration during operation phases of the proposal

including noise from operation of the facility and vehicle movements (including trains)

The Acoustic Impact Assessment failed to consider the proposed developments at Dairy Road and the East Lakes which will eventually house 9000 extra residents, some less than 300 metres from the facility.

It failed to recognise the high rise component of those developments and potential noise impact on residents.

It failed to consider rail noise in spite of a specific requirement to do so.

It failed to assess the magnitude, duration and frequency of noise in different meteorological conditions. The days on which monitoring was done were all calm days. No wind roses for noise propagation were included.

8.1.11 Hazard and risk

• Describe the potential for hazard and risk associated with the construction and operation of the project including flooding, vandalism and accidents

- Describe how the site is suitable for the proposed use by considering identified hazards and risks including risk of fire and adequate fire suppression

The risk Assessment identified bushfire as a risk and methods of suppression but did not adequately deal with the very high risks of waste fires. This was a topic that both partners in CRS have had personal experience of. The analysis of fire risk on site must be done again quantifying all the harmful consequences, social, economic and environmental, which follow those kinds of fires and how each consequence is proposed to be dealt with.

