

Submission Cover Sheet

North East Link Project EES IAC

383A

Request to be heard?: yes

Full Name: James Earle

Organisation: Nagambie Resoures Limited

Affected property:

Attachment 1:

Attachment 2:

Attachment 3:

Comments: Addendum to original submission dated 4 July 2019 – see attached.

3 July 2019

The Inquiry and Advisory Committee
North East Link Project
Planning Panels Victoria
Department of Environment, Land, Water and Planning

via online submission portal: *Engage Victoria*

Dear Committee

RE: ADDENDUM SUBMISSION TO SUBMISSION NO. 383

Introduction

This document is an addendum to submission no. 383. Nagambie Resources Limited (NRL) provided submission 383 to inform the Inquiry and Advisory Committee (IAC) that the Environment Effects Statement for the North East Link Project (the NELP EES) describes the management of waste acid sulfate soils (WASS) in a manner that is highly inconsistent with legislated policies and guidelines.

Since this submission was provided, additional information has been considered by NRL that is relevant to NRL's original submission, including:

- Submission 600 – North East Link Project, EPA submission June 2019;
- Tabled Document 10: CB1C Brief Written Statement – Contamination and Soil, 18 June 2019
- Code of Practice for Managing the Beneficial Reuse of Acid Sulfate Soil Materials on Development Sites, Ver 2 June 2019, Rev 1.

This addendum submission addresses issues relating to the management of waste acid sulfate soil arising from the additional information reviewed by NRL.

Discussion

EPA's submission raises the issue of legislation transformation during the life of the NELP. In particular, legislation changes will introduce the *general environmental duty*. Submission 600 also states (p8):

Statutory instruments such as State Environment Protection Policies (SEPPs) and Waste Management Policies (WMPs) will not be retained, with some possible exceptions which have not yet been confirmed (s 502(4) New EP Act). Although any new subordinate instruments are yet to be made, EPA expects that aspects of the SEPPs that describe "beneficial uses" are likely to be translated into "environmental

values” under a separate legislative instrument called the Environment Reference Standard. Other components of the SEPPs and WMPs are expected to be translated into regulations or will otherwise be absorbed in substance by the operation of the general environmental duty.

The Industrial Waste Management Policy (Waste Acid Sulfate Soils), 1999 (the WASS Policy) is therefore not likely to be retained and may be replaced by some other yet-to-be-prepared subordinate legislation, regulations or policies; or its requirements could ‘otherwise be absorbed in substance by the operation of the general environmental duty.’

Tabled Document 10, prepared by the Inquiry and Assessment Committee’s (IAC) expert, refers to an ‘incoming new National Code for re-use of Acid Sulfate Soil/Rock’ (p4). NRL requested a copy of this document from IAC and was kindly provided with the *Code of Practice for Managing the Beneficial Reuse of Acid Sulfate Soil Materials on Development Sites* (the CoP).

The CoP was prepared by Australasian Land and Groundwater Association (ALGA), a professional body whose members are typically professional soil and groundwater assessment and remediation technical experts. The CoP essentially seeks to change the regulatory system by replacing the regulator’s control of the management of acid sulfate soils to ‘qualified persons’ (such as members of ALGA) with some approval oversight by the regulator.

Given that IAC’s expert referenced the CoP, it suggests that this document is being or will be adopted in Victoria (despite it not being a subordinate legislation to the current Environment Protection Act), and applied to the NELP. It might also be speculated that the approach to the management of WASS detailed in this CoP, potentially coupled with the general environmental duty, may be adopted by the EPA in the legislation transformation.

However, the CoP *‘applies to soil, sediments or dewatered dredge spoil that contains sulfide minerals or sulfide oxidation products and where the net acidity, as measured using the chromium reducible sulphur method, exceeds the Action Criteria, or that require treatment under relevant State regulatory guidance’* (clause 3.2). Although some acid sulfate soil may be generated by the construction of the NELP, the great majority of the WASS material that would be generated would be acid sulfate rock (typically siltstones and sandstones containing pyrite). As such, if the CoP is to be considered in the EES, it is only applicable to the small quantity of acid sulfate soil and not to the great majority of WASS (rock) that would be generated.

The CoP also appears to be prepared in isolation to other relevant factors which apply to large projects. For example, in the case of the NELP where approximately 6.6 million tonnes of WASS will be generated requiring around 260,000 truck movements, impacts such as traffic, noise, safety and amenity should be considered when selecting a WASS management site.

Conclusion

NRL are of the opinion that the CoP should not be considered as a relevant WASS management guide or policy for the management of waste acid sulfate rock. The actual intent of the WASS Policy and EPA publication 655.1 should be the applicable policy.

I would be happy to present this information in person to the Committee.

Correction to the original submission

Please note that point 5 on p13 of the original submission, '(294,000 truck trips)' should be '(264,000 truck trips)'.

Yours faithfully



CEO

Nagambie Resources Limited

Declaration:

Nagambie Resources Limited operates Victoria's largest *prevent oxidation* WASS management facility. This facility is one of several that operates in Victoria.