

Pamela Soon
Executive Director, Regulation and Compliance
Independent Pricing and regulatory Tribunal
PO Box K35
Haymarket Post Shop NSW 1240

Dear Ms Soon

Re: D19/29720 Kyeema Wastewater Pty Ltd application

Friends Of Gundaroo Inc asks IPART to refuse an application by Kyeema Wastewater Pty Ltd for a network operator's licence and retail supplier's licence to provide sewerage infrastructure for a subdivision at Gundaroo for reasons that include: the lack of a sustainable water supply; the impact on vulnerable surface and groundwater supplies; potential physical and financial failure of the system and/or the company in the future with no backup; non-conformity with strategic plans; financial impact on Council and ratepayers; and the potential for anti-competitive behavior.

BACKGROUND

FOG Inc is a group of Gundaroo residents from various backgrounds including academia, architecture, the arts, horticulture, public service, retail, risk and town planning. We formed in 2015 in response to what we saw as threats to the future of our village as a special place with a significant history and an amenity not seen elsewhere in the shire. We're not anti-development – rather we're pro-good development based on sound planning and economic principles and organic growth that adds to what we have rather than damages it.

This current proposal stems from two subdivisions that will double the size of the village, proposed in 2013 and, after considerable contention from the community, approved by the Minister for Planning and Development in 2018. The Department's final version of its amended Gateway proposal, as put to the Gundaroo community for comment, stated that as a condition for the approval of 2000sqm blocks, sustainable water and reticulated sewerage must be provided. However, the Minister's approval document dropped the reference to sustainable water, stating only that minimum block sizes for the subdivisions must be 5,000sqm unless a reticulated sewerage system was provided. Kyeema wishes to create 2,000sqm blocks. Yass Valley Council investigated the option of providing such a sewerage system for the existing village and the new subdivisions, ultimately rejecting it because of financial risk to ratepayers and opposition from the community. It's the pursuit of the option for smaller blocks by Kyeema that FOG Inc is concerned about.

SHIRE-WIDE CONTEXT

FOG Inc believes it's important to see this sewerage proposal in a Shire-wide context. We remind IPART that the ratepayers of YVC have good reason to fear adverse consequences from this sewerage innovation given IPART found the Council to be financially Unfit For the Future some five years ago leading to ratepayers bearing real rate increases of 8% per annum for four years, and cuts in expenditure, including community programs, as Council attempts to catch up its financial position.

However, Council has continued with costly new commitments (this development, a similar new proposal for nearby Sutton, halving rural lot sizes shire wide) when NSW government planning guidance has pointed to the uneconomic nature of these types of commitments and the absence of need. In particular there's been no need for the housing developments at Gundaroo from the beginning. Adequate regional supply exists in more economic situations and strategic plans, both state and local, support development in these other locations.

The sewerage system in question has arisen because a developer wishes to push a consent (granted we believe oblivious to financial reality) towards a maximum housing outcome. Any priority for pushing to this limit lies solely with the developer not with the public interest. The public interest, in particular that of ratepayers, will be damaged enough with lots at 5000 sqm, let alone any higher density – that damage the result of the actions of a financially questionable council.

WATER

Strategic and planning documents from Yass Valley Council and others show that both surface and groundwater supplies in Gundaroo are vulnerable and “highly stressed” with supplies between 100% and 500% over sustainable yield and recommends “limited future development” for the village based on water constraints and the community’s desire to retain its existing village character. (*YVC Non-urban Lands Study, Yass Valley Settlement Strategy 2016-2036*). The Settlement Strategy specifically recommends that development only be allowed to occur north and south of the village “subject to availability of a secure water supply” (p87). A further study looking at rainfall patterns in the area finds wide variability in monthly rainfall totals over the past 150 years (1858-2008). According to the study this has “ramifications for the water supply of Yass...(from) less inflow into the Yass River from the increased dwelling catchments in Gundaroo” especially in “extreme events”. (*T.Ryan 2018*).

Kyeema is proposing a sewerage system that relies on tank water harvested from the roofs of the houses in the proposed subdivision or possible access to groundwater in a climate where water supplies are already stressed and any extra usage is likely to impact other ratepayers. The “extreme event” of the current drought is clear evidence of the impact of the extra housing that’ll be created by the smaller block sizes proposed. It’s not unusual in dry periods for the community to pay to have clean water trucked from Canberra into the village, but this drought has exacerbated the problem manifold. There are now more than 10 suppliers carrying water into the village with wait times from 4-6 weeks. One smaller company announced at the end of January that he’d delivered 1.2 million litres in one month into the village and surrounds. More houses will mean a bigger impact on water supplies.

Much of the documentation in the application concentrates on the protection of surface and ground water supplies from potential contamination from sewage. While this is important and the increase in houses will exacerbate that threat, it’s the impact on water quantity as well as quality that needs to be considered.

Not having a sustainable water supply raises the risk of failure of the system due to inadequate quantities of water. Also most people in the area use their grey water from washing machines and showers to water their gardens, something that won’t happen with the STEP system. Replacing this water source will add costs to ratepayers and waste a valuable resource that otherwise could be utilised on individual properties.

SUSTAINABILITY – LONG TERM OWNERSHIP AND OPERATION OF THE FACILITY - LACK OF A RETAILER OF LAST RESOURCE

There are concerns about the future sustainability and operation of the facility. The STEP system proposed was criticised by NSW Public Works Advisory in its Gundaroo Sewerage Options Study (September 2017). Among its concerns was that it was “reliant on a contractor to operate” (p51). At that time the report quoted the owner of Kyeema as proposing “ownership and operational responsibility” being a resident-owned body corporate style scheme or a “Build Own Operate Transfer (BOOT) plan whereby the developer initially operates and maintains the scheme with future transfer to Council or the residents” (p45). The current application document allocates

design, construction, operation and maintenance of the system to Innoflow Australia Pty Ltd for the first five years.

Yass Valley Council has publicly stated that it will not take the role of Retailer of Last Resort (ROLR), to avoid becoming responsible for ongoing functioning and maintenance of the scheme, should the current owner “abandon” or not be able to continue the supply of services to its customers (*documents presented to YVC Meeting May 2019*). And as stated earlier, the Council has found that sewerage Gundaroo is a financial risk it is unwilling to take.

With no strata or community-titling underpinning this land development, the reliance on a notional ‘body-corporate’ or cooperative-type entity to own, operate and sustain such a STEP system represents unmanaged risk. FOG Inc also understands that the management and operation of these medium-scale STEP systems is not a simple responsibility or a hands-off task and that reliance on a group of landowners to sustain a system is a weak strategy.

FOG Inc is concerned that there appears to be no real plan for the future operation of the scheme other than for the owner to not support it after five years. Before any approval of the application surely there must be something that will guarantee the long term operation of the system.

Should Yass Valley Council change its mind and take on the role of ROLR there must be questions about Council’s capacity to properly regulate the numerous performance dimensions and safe operating criteria for this sort of private/commercial system especially with IPART’s earlier assessment of the Council as being financially unfit.

OTHER IMPACTS ON RATEPAYERS

Council’s acknowledged financial weakness won’t be improved by the extra impositions on infrastructure created by the higher density of housing created by the sewerage scheme. Take roads for a start. “Under the WIC Act 2006 (i.e. s63) no annual or period charges or any special charges are payable by the licensed network operator to Council or road authority in respect of the space occupied by any infrastructure located within the public road reserves or public reserves” (*YVC Business Papers May 2019*). While repair of any damage to roads caused by a failure in the system (eg burst pipes) is the responsibility of the system owner, there’s no significant contribution to Council for the maintenance required by extra traffic on the surrounding roads, many of which are in a poor state already.

Ratepayers will not only be affected by this financial imposition but also by the disturbance to their amenity by the significant increase in traffic projected (32.5% on Gundaroo Road [1230vpd to 1630 vpd] and 26.7% on Rosamel Street [374vpd to 474vpd]).

And, because the proposal will be privately owned, the ratepayer will have no recourse to the legal rights as embodied in legislation created for government ownership of a large scale sewerage operation.

LACK OF COMPETITION IN THIS MARKETPLACE

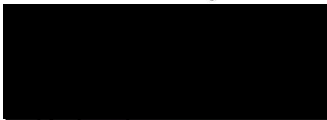
The object of the Water Industry Competition Act 2006 (WIC Act 2006) is to encourage competition in relation to the supply of water and the provision of sewerage services. At present at least 9 small business enterprises design, construct and maintain a diverse range of on-site sewerage systems in our local area. The proposed system will be a single large scale operation that will be the sole provider for these residences meaning its approval will be anti-competitive for these small, generally family-owned businesses, and some will struggle to continue because of denial of service

to this new sub-division. As such this proposal could be seen as being against the purpose of the Act.

WHAT FUTURE FOR THE DEVELOPMENT IF THE APPLICATION IS DENIED?

FOG Inc is asking for the Kyeema sewerage system to be rejected. What is the alternative for the developer if IPART rejects this proposal? The approval signed by the Minister states that without a reticulated sewerage system, lot size within the subdivision should be restricted to a minimum of 5000 square metres still providing more than adequate benefits to the developer and to those industries that will be involved in building the houses. This should then be the outcome that occurs with this subdivision.

Yours sincerely



Dr Ian Jones
President
Friends of Gundaroo Inc.