

Planning and Development (Foy Group Waste Plastic to Fuel Environmental Impact Statement Inquiry Panel) Terms of Reference 2017

Notifiable instrument NI2017–78

made under the

Planning and Development Act 2007, s 228 (Establishment of inquiry panels) and s 229 (How does the Minister establish an inquiry panel?)

1 Name of instrument

This instrument is the *Planning and Development (Foy Group Waste Plastic to Fuel Environmental Impact Statement Inquiry Panel) Terms of Reference 2017*.

2 Commencement

This instrument commences on the day after its notification day.

3 Inquiry Panel Terms of Reference

Under section 228 (1) of the *Planning and Development Act 2007* (the Act), I have decided to establish an inquiry panel to inquire about the Foy Group Waste Plastic to Fuel Environmental Impact Statement.

Under sections 228 (4) and 229 (1) of the Act, I have prepared terms of reference for the inquiry as set out in the schedule.

Mick Gentleman MLA
Minister for Planning and Land Management
17 February 2017

Schedule (see s 3)

Terms of Reference –
Inquiry panel for Foy Group EIS

Terms of Reference - Proposed plastic to fuel facility in Hume industrial zone: Inquiry panel for Foy Group EIS

I have established an inquiry panel to inquire about the Foy Group Limited waste plastic to fuel Environmental Impact Statement (EIS) in Hume. This will consist of further investigations into the extent of the health impacts in relation to air emissions, hazard and risks associated with the proposal and the technology used.

A. BACKGROUND TO THE PROPOSAL

1. The Foy Group has submitted an EIS to the planning and land authority (the authority) in relation to a proposed plastic to fuel facility in Hume. The proposed facility is to be located at Block 11 Section 21 Hume (36 Couranga Crescent) in the IZ1 General Industry Zone.
2. The proposed facility aims to convert landfill destined end of life plastics into road ready diesel, gasoline and gas (primarily LPG). The proposed facility intends to process waste plastic by heating the plastic waste (feedstock) and separating the components through a series of chambers to extract diesel (65%), fuel (20%) and LPG (15%).
3. The proponent plans to build the development in 4 stages, with the final stage intended to be completed in January 2018.
4. The facility is designed around a standard module (50 tonnes/day capacity) that can be expanded as suitable feedstock is sourced. The final stage will increase the facility to 200 tonnes per day by installing more modules on the site and sharing the same services and infrastructure.
5. The proposal consists of:
 - a. Earthworks and construction of structural foundations.
 - b. Construction of buildings including main office, workshop and storage sheds.
 - c. Installation of equipment (including modules, cooling system and lab).
 - d. Installation of water, diesel, fuel and LPG tanks including bunding (total fuel storage capacity of 1837KL).
 - e. Landscaping, driveway, parking and associated works.
6. The proposal was considered by the authority under the EIS process, in accordance with the *Planning and Development Act 2007* (the Act).
7. In addition, the draft EIS was publicly notified and 63 representations were received. Local residents and the wider community raised a number of concerns relating to potential social, economic and environmental impacts.
8. The authority concluded that the EIS sufficiently addressed the scoping document, however, there was still uncertainty about the wider, long term, health impacts due to the unprecedented nature of the facility within Australia.

B. BACKGROUND TO THE INQUIRY PANEL

9. The inquiry panel must undertake an independent review of the EIS.

10. The Foy Group submitted a number of reports in support of its EIS application. The proponent relied on its commissioned reports to conclude that:
 - a. The site is currently suitable for the proposed use as the facility will have a minimal impact on health in respect to air quality, waste, possible contamination and fire and hazards due to the technology used along with the proposed mitigation measures.
 - b. The development proposal is unlikely to sterilise the surrounding land.

11. The information provided by the Foy Group would appear to include untested hypotheses which leave a level of uncertainty on the extent of the impacts associated with the proposal. Further areas for investigation include the following:
 - a. Possible sterilisation of surrounding land including residential, rural and commercial/industrial land uses.
 - b. Possible health impacts on existing and future population and sensitive receivers.
 - c. Quantitative and qualitative review of the technology used.
 - d. Review of the technical reports that were provided as part of the EIS.

12. The scope of the inquiry is as follows:
 - a. Describe the existing environmental conditions on site, being baseline information in relation to existing air quality and noise conditions, including the effects of current surrounding land uses on those conditions.
 - b. Review existing literature in relation to impacts from comparable developments.
 - c. Review the approach in other jurisdictions (predominantly, but not exclusively, Australian) in relation to the suitability of such developments in proximity of residential areas.
 - d. Review the technology proposed for the facility in comparison to similar facilities in Australia and overseas.
 - e. Identify and assess the risks associated with the proposal in accordance with the *AS/NZS ISO 31000:2009 Risk Management – Principles and guidelines*.
 - f. Describe the types of potential industrial incidents and accidents that could require attendance from emergency services and how such incidents would impact on surrounding residents.
 - g. Set out your view on whether the proposal is consistent with ACT waste policy.
 - h. Review the climate change and greenhouse gas implications (considering both direct and indirect emissions) and triple bottom line sustainability considerations of the proposal.
 - i. Comment on the suitability of the site for the proposed use.

- j. Comment on the methodologies utilised in the reports commissioned by the proponent in relation to health impacts and whether they can reasonably support the conclusion that the site is, and would continue to be, suitable for the proposed use. More specifically provide your view on whether the EIS satisfactorily:
 - o identifies all hazards to health from the proposed development
 - o reduces or eliminates the potential risks to health arising from the hazards
 - o identifies the ways in which the proposed development can promote and enhance health
 - o identifies and addresses underlying social, environmental and economic impacts of the development that will have both direct and indirect impacts on health
 - o reduces health inequalities that may arise from this development and
 - o shows the use of appropriate guidelines for assessing health impacts in Australia.
- k. Any other relevant comments, including, but not limited to, untested hypotheses, validity and veracity of information and reasonableness of opinions expressed and mitigation processes for monitoring or reducing potential health impacts.

C. INSTRUCTIONS

- 13. The panel must undertake the inquiry in accordance with Part 4.2 of the *Planning and Development Regulation 2008* (the regulation).
- 14. The panel must report in writing to the minister for planning and land management on the result of the inquiry no later than 60 working days, unless further time is extended under Section 230(3) of the Act, at the request of the panel.
- 15. The following EIS documents will be provided for your reference:
 - a. The EIS Scoping document dated 27 June 2016.
 - b. Draft EIS that was submitted by the Foy Group to the authority.
 - c. Revised EIS that was submitted by the Foy Group to the authority.
 - d. The assessment report that was completed by the authority.
 - e. Entity advice submitted by:
 - i. Environment Protection Authority;
 - ii. ACT Health;
 - iii. Transport Canberra and City Services;
 - iv. Emergency Services Agency;
 - v. Queanbeyan-Palerang Regional Council;
 - vi. Conservator of Flora and Fauna; and
 - vii. Canberra Airport.
 - f. Public representations submitted to the authority during the draft EIS stage.
- 16. The panel must hold one half day hearing with representative groups. This hearing is to provide representative groups with an opportunity to put forward their issues of concern to be investigated.

Terms of Reference –
Inquiry panel for Foy Group EIS

17. Members of the community will be able to contact a panel secretariat throughout the inquiry.
18. The report of the inquiry panel must be made independently to the EIS, with any conflicts declared as soon as practicable.
19. If you consider it necessary, please attend the site and undertake any observations and or investigations.
20. Pursuant to section 78 of the regulation, arrangements can be made with the authority to use their staff or facilities if required. Any general questions to the above requirements can also be directed to the authority.
21. The Inquiry panel is limited to a review and assessment of information that is available at the time of the Inquiry.