



Extraordinary Meeting

Wednesday 9th June 2021 10:00-11:30am

Online

Attendees

Claire Sives, UMCN, Executive Officer – **Facilitator**

Julie Rogers, Yass Valley Council, Director Planning & Environment

Narelle Sargent, ACT Government, Environment Protection Authority

Tim Chaseling, Icon Water (UMCN Executive Committee Member)

Rebecca Widdows, Yass Valley Council (UMCN Executive Committee Member)

Jenilee De Landre, ACT Government (UMCN Executive Committee Member)

Gary Cheung, QPRC, Development Compliance Officer

Natasha Abbott, QPRC, Service Manager- Natural Landscape and Health

Nyree Hall, QPRC, Team Leader- Compliance

Vanessa Palmer, QPRC, Waste Minimisation Officer

Jenny Holcombe, Community

Paul Newell, Community, Wallaroo Resident

Sandy Lolicato, Community, Board Member Landcare ACT, Murrumbateman Landcare

Kat McGilp, Ginninderra Catchment Group

John Connelly, Community, Wallaroo Road (15)

Acknowledgement of Country

Thank you, Tim!

Minutes

Presentation from Julie Rogers (Appendix)

Discussion:

Nyree Hall

Are new compliance officers additional or are you setting up a compliance team?

Julie Roger

Setting up a compliance team.

John Connelly

Applaud YVC to take on new compliance officers, note that it is easy to track compliance using Google Earth maps.

Julie Rogers

Noted.

Sandy Lolicato

Do Canberra developers receive a benefit from this policy, for example is there a detriment to the Yass rate payers for this to go ahead, for example do road repair costs get fully covered? And other costs- compliance and environmental costs as well?

Julie Rogers

It definitely comes at a cost for our rate payers, because of the directive of the (NSW) state government around the compliance levee, this week we are trying to work out how to cover the costs, the \$180,000, does it come through another method or essentially is it just subsidised through our general fund. Development applications can be lodged for these activities just like every other activity that we get development applications for, so it is part of general business. We are hoping that the heavy haulage plan rate will increase so we will recover a bit more money in terms of heavy haulage contributions.

Narelle Sargent

Once it goes across the border, council can put conditions on the DA in terms of those requirements to recoup cost, I don't know if QPRC has done anything innovative in that space.

Vanessa Palmer

Is Yass using the [RIDonline](#) to report illegal dumping? We use that and it gives us an idea of where hotspots are, we may be able to track dumping better if we talk to each other if the same people are dumping on both sides.

Julie Rogers

Don't use it for the soil issue, but for dumping of lounges and rubbish, that sort of thing. I can't be certain of how well we use that portal, but we do keep our own internal records of complaints when we are tracking what has gone on.

Natasha Abbott

From QPRC point of view we have the same issues that Yass is facing, most of the properties that the fill is being taken to do not have a development application, they are unlawful waste facilities. In some situations we have delivered fines on the waste transporter for transporting to an illegal waste facility- \$4000. It's a lot of work to chase those transporters and then get the information we need to issue penalties, but the cost of a penalty nowhere near balances what the transporters are making moving material- it hardly hits them at all.

Nyree Hall

To add to that, we've currently got two properties that are going through the court process of importation of fill. One is going into court for a stop work order that we issued on the owners to stop

the importation of fill from the ACT, they still haven't been able to give us the [VENM](#) certificate. They've got over 20,000m³. The other property has over 35,000m³. The only way we can stop them from importing the fill was to approach the company that was importing fill from the ACT, from several development sites, we had one VENM certificate for 6,000m³, yet they used that for probably 300 truckloads, which is causing huge problems for us. So I understand that maybe in the ACT they've got a VENM certificate, and the ACT considers it legal for the fill to be taken out of the ACT, but once it crosses the border the properties receiving it have no consent or understanding and are under the belief that they can bring in copious amounts of fill without consent. We put in a letter to the minister, we had a verbal response that they were going to change the [SEPP](#), but when the letter that came back, the minister asked us to put a resubmission in for the next SEPP review, so that's not helping. Under the SEPP all the E-zones have no limitation on how much fill can be brought into these properties, regardless of (the impacts) on the property, which is causing a huge problem on how to stop them bringing fill when it's not covered under the SEPP and there is no DA. We have significant issues with the fill coming from the ACT.

Paul Newell

My question relates to two elements- the impacts on the catchment, and also the resource side- accepting that the council is resource constrained. When looking online and look for solutions for catchment related issues, we see opportunities through grants from state or federal bodies that enable action to protect our river ways and catchments. With the resource constraints, are these same (funding opportunities) available to councils?

Julie Rogers

Not aware of those funding resources only because there are other agencies that deal more in that Landcare-type space.

Rebecca Widdows

Most of the grants that come to my desk (as the Natural Resources and Sustainability Officer) are very constrained in terms of what you can pay for, they are looking for tree planting, fencing, pasture management, ground cover management, and you might be able to claim a maximum of 5% or 10% for staff time, and those grants need resourcing in terms of people to manage them as well. So were we to have compliance officers funded through another source, we may be able to fund activities through those grants, but usually they are pretty strict about what you can apply for.

Julie Rogers

You wouldn't necessarily get funding for compliance positions, that is seen as a council responsibility, funded through its general fund, (according to) the department of planning.

Natasha Abbott

I agree, there's no grant bodies out there that are going to fund compliance positions. We are having trouble with biodiversity officers atm there is no funding around to support staff resources.

John Connolly

Question for Narelle, so far we are talking about issues in Yass and Queanbeyan, would Narelle agree that the problem is from the ACT and the ACT has some responsibility to address it. Do you have any suggestions about what the ACT can do?

Narelle Sargent

So in terms of VENM which is basically a resource, because it is soil, it is not illegal and once it goes across the border into NSW it is then the responsibility of that jurisdiction as to where it goes. In terms of our requirements we have no jurisdiction into NSW.

John Connelly

So you're passing the buck?

Narelle Sargent

I'm stating what the legislation is. In terms of addressing the issue, Julie indicated that we do have a cross-border committee that deals with this, that the relevant agencies and councils sit on in terms of addressing the issue, you heard that Julie mentioned that it is a planning issue that they are trying to address, so we are working together to look at that and we are working with the Canberra Region Joint Organisation of Councils to look at how we can address that issue. In terms of the VENM approval, we've now put on there they need to tell us where the VENM is going to and when an approval is issued that could go across the border, we let the relevant council know.

Sandy Lolicato

To form good policy you need good strategy. Firstly, there needs to be some sort of regional based impact study done on the impacts of this fill- obviously, an independent study. What are the volume levels coming from developers in the next 10 years? There are projections for property growth. Secondly compliance strategy- good policy, good communication, good review. How does ACT and the council communicate with the developers?

Nyree Hall

The questions we are asking are more about the certification and what's actually on the ACT VENM certificate- it's just an email- we are getting a lot of cut and paste versions. (Fill) from the same property is going to various places. When is this going to be a proper certificate?

Narelle Sargent

It's not a certificate, it's an approval and that is issued as an email back to the person who submitted the application. VENM is a natural resource, so it's something that can be moved around. If they are cutting and pasting, that's something for you to pick up, once it goes into your jurisdiction it comes under the remit of your legislation and we can't tell if there has been a cut and paste on the approval. You could then come back and ask us whether or not it has been cut and pasted.

Nyree Hall

We have a property that was issued a VENM certificate, then another VENM certificate was issued to the same property, then an extension on time to use the certificate, and there's over 30,000m³ on that one property from that one certificate, therefore that's not really relevant. You received a complaint from residents in the area, which was passed onto us, but I don't see how it is our problem when one certificate is being issued and used for excessive amounts of fill. Shouldn't you then be issuing for every additional 6,000m³ that gets taken out of the ACT and brought into the QPRC area.

Narelle Sargent

Yes if they want to take additional they apply for additional.

Nyree Hall

That's not what is happening they are using one certificate

Narelle Sargent

I have no control over that, so make us aware that they are reusing the same one, if we aren't aware of them using the same one. However one thing I might do in light of what you just said I'll issue it as a PDF, not as an email.

Nyree Hall

That would be good. Can we number them?

Narelle Sargent

They are usually dated, so we could do a PDF with a date on it.

Nyree Hall

We have a list of nine points of things that we would like to see on the ACT certificates, have you seen that? That would help Yass and us.

Narelle Sargent

Some of those we can't put on, we can address these at a later time.

Sandy Lolicato

Is the cross-border committee going to have community representation?

Narelle Sargent

The cross-border group was established in 2013, in response to this issue, in particular in response to the illegal dumping of rubbish such as mattresses and lounge suites etc., the focus has moved onto cross-border movement of fill and VENM, so there is no community representative, it is not anticipated that there will be because council is on the committee.

Claire Sives

So people might be best off talking to their councils if they have any concerns, and that way those concerns will get passed on. Illegal Waste Dumping Steering Committee, see Appendix.

John Connelly

As far as I am aware, none of the dumping at Wallaroo have downstream batters to prevent the wash just going into the Murrumbidgee, seems to me that should be implemented as a matter of urgency.

Julie Rogers

Thanks John. When we receive complaints, in a majority of cases, we will do inspections. We've had a focus around putting soil erosion control measures in place so we are aware of it, doing what we can with the resources we've got, I suspect that will step up with compliance officers coming on board.

Natasha Abbott

Maybe CBR JO could be put on the Illegal Waste Dumping Steering Committee?

Narelle Sargent

They already are.

Vanessa Palmer

With the VENM, how do they know it's VENM? I presume it's not tested before it heads out of town. Also I know it's not considered a waste product, but ACT are putting stuff about tracking stuff going back and forth over their roads, at Queanbeyan we pay a fee, I think, to use the roads for all the waste that goes in and out cross there. Just wondering if there could be something put in place for VENM, so that it is also tracked. I think (at some stage) there will be a levee for ACT for waste, so couldn't (VENM) be included, so it's tracked where they are going.

Narelle Sargent

In terms of the first question, the VENM approval is only issued once the material has been classified in accordance with the information sheet that was actually sent out. So the material has to be classified, then we issue an approval basically saying it is VENM, then we include info about the requirements for other things they have to be made aware of. It has to be classified as VENM by an independent assessor.

Sandy Lolicato

If I could talk to someone afterwards about the questions I asked, that would be good. I just want to understand if there is a good framework in place. Secondly, I think it's really important, we are on country, it's critical that you consult with the aboriginal community on this please. I'm actually concerned about the breaches to date and we need to ensure that they are in the loop on all this.

Narelle Sargent

Can you clarify what loop you are talking about?

Sandy Lolicato

Well I suppose there's the NSW local group and in the ACT, it's important, they are a key stakeholder.

Narelle Sargent

The group we established was for a particular reason, in terms of the other issues, waste going into gullies, that's outside the remit of what the established group is looking at, however it may be that the CBR JO will have a look at that - they are involved in NRM. In terms of strategy, the group that's already established for what it's looking at. In terms of broader strategy that may fall into the remit of CBR JO.

Sandy Lolicato

Can I talk to you after the meeting?

Narelle Sargent

Yep, no worries.

Vanessa Palmer

Narelle, just wondering about the trucks being tracked, the waste tracking and levees.

Narelle Sargent

That's Transport Canberra City services, who are on the cross-border group, I'm not aware of where they are up to regarding that. On the information sheet (Appendix) they have to have a certificate, so the waste transporters are registered under the Waste Management and Resource Recovery Act, that's something that can be addressed with the CBR JO.

Vanessa Palmer

So the VENM approval they have, they have to prove that it is VENM

Narelle Sargent

It has to be assessed and they send us the information, it has to be classified as VENM

Vanessa Palmer

And that's by an independent person

Narelle Sargent

They have to classify it

Vanessa Palmer

Can the VENM certification be included in the email approval?

Narelle Sargent

The approval is saying that it has been classified as VENM.

Natasha Abbott

If the approval actually had the address of the property that was going to take it, that would be helpful. I think what they are doing is having one site that got one approval, then handing that out for all sorts of loads, so that loads that we receive may not have come from that site.

Narelle Sargent

They need to tell us where it's going to, within your council or Yass or another council.

Claire Sives

Question from Paul: If the VENM approval is for material to go across the border, is the outside local government advised, if so, Yass Valley Council, what is done with that notification.

Narelle Sargent

I will clarify that yes, when we have one, we have recently as part of working together, I let (local councils) know that we have issued the VENM approval.

Julie Rogers

When we would receive that information, we would read it and attach it against any consent or otherwise follow it up as illegal development.

Nyree Hall

I was going to say we've received notification of one which was actually to an approved facility, we've not received any for any other properties where fill has been dumped, at this stage.

Narelle Sargent

Since we've had the meeting, I don't think there's been any across.

Natasha Abbott

The last one we received didn't have an address on it, it just said: to be sent to a property that has a DA or is lawfully allowed to receive fill. There's no actual address on it.

Nyree Hall

We actually have one where we think is being used at three different properties, so that one certificate by that one developer or transport company is using the same certificate but has delivered to potentially three properties

Narelle Sargent

Like I said, once it goes across the border, it comes under the remit of that jurisdiction, because it's gone across the border.

Vanessa Palmer

The address should be on the approval, so that when we receive it, we can then double check that they are approved to receive it.

Narelle Sargent

That's something that we are looking at introducing, we can't change the ones we have already sent.

Vanessa Palmer

So you will be adding the address on

Narelle Sargent

Not necessarily the address- the facility

Nyree Hall

What are you classing as a facility?

Vanessa Palmer

We don't have any facilities

Narelle Sargent

The location where they intend to take it.

Nyree Hall

The address?

Narelle Sargent

Or the name of the facility, whatever.

Nyree Hall

We don't know because we're not sure what you mean by facility because most of the fill is turning up on private residential facilities

Narelle Sargent

One of the quarries is taking some at the moment, Natasha?

Natasha Abbott

They are mainly receiving material from Googong, not from the ACT.

Narelle Sargent

That's what I mean by a facility. A quarry or something like that.

Nyree Hall

Most of our problem is the rural or residential properties that are receiving the fill, so if someone comes to you with a residential address, can you put that on your approval? So when we get locals calling about truck movements and material being dumped in excessive amounts, we can them from the VENM approval we can track where it has come from. The problem is, with that, it makes it really hard for us to tell what VENM approval is going with what fill. The other problem is that once it crosses the border it's our problem, we've got an approval saying x amount of fill has come in then we have other contaminated fill coming in and being mixed into that fill that you have issued a VENM approval for, that makes it really hard. If you're getting test results for that approval that you are issuing, can we have a copy of those test results, so that when we go out and ask the owners who have received all the fill, when they do their test results, we can then (compare the two to see if) there is more than what has come from this property, or clearly there's other fill coming from another property and they are trying to get away with the VENM approval issued from the ACT, and then we can give you that information to help you.

Narelle Sargent

I will have a look into that one. Sometimes they need the approval to say that it has been agreed that it is VENM, and then they will find the location that they want to take it to, so sometimes it's a bit horse cart, that's why if it's a PDF and you are aware it is going across then you can decide where it goes. As you pointed out they don't need development approval, if it's below threshold. The other thing is about education of the community- to make them aware that they should be on the look out to make sure that it is actually VENM and that they should ask to see the approval before they accept the delivery. Some of the responsibility actually rests on the landholder accepting the fill, they are the ones taking, it's sort of buyer-beware. Sometimes it is up to the community, some of that (education) has been done through NSW EPA, some of that responsibility rests with the landholder themselves.

Nyree Hall

I'm also curious, what are your thought on, if it's been taken from one property in the ACT, stored somewhere else in the ACT and then crosses the border. Does your original VENM still stand, or do they need to get a new VENM approval.

Narelle Sargent

They need to get it reclassified to ensure that it is still VENM.

Nyree Hall

We are finding that some VENM approvals from October last year are getting brought onto properties now, that's well outside the 60 days that's on that approval.

Narelle Sargent

I'd suggest that the person don't accept it, some responsibility rests with the landholder.

Claire Sives

Question for Yass Valley Council: Regarding fill related DAs, when they say material is coming from the ACT, do they need the VENM approvals to support the DA consideration?

Julie Rogers

No they don't. They need to tell us what material they think they'll be bringing in and conditions go on the consent for the certification of that.

Claire Sives

Another question: There are differences in the fees between ACT and NSW with regards to receiving VENM, is there a prospect that ACT might reduce those fees?

Narelle Sargent

VENM doesn't go to landfill so there is no levee for VENM because it's actually a resource that's getting reused so I'm not too sure.

John Connelly

To dispose of this fill in the ACT, whether it's a resource or waste, the fees seem to be very high, you get \$1000 a truck load, whereas you can dump for free in NSW- so that is the root cause of the problem. Has the ACT any consideration for reducing their dumping fees.

Narelle Sargent

VENM is classed as a resource, not going to landfill, so what I said still applies.

John Connelly

So where can you put this resource in the ACT

Narelle Sargent

Somewhere they have agreed to take it, so it might go to someone who's doing works on their property erosion control, the same as it can go into Yass and Queanbeyan for that type of works

John Connelly

So there's a very large erosion gully on the Halls Creek that could be used to dispose of this so called resource, has the ACT considered any gully rehabilitation within the ACT?

Narelle Sargent

That's outside of my remit.

John Connelly

What's your view on why all this stuff goes outside the ACT and doesn't remain in the ACT?

Narelle Sargent

Because people are willing to take it.

John Connelly

And then make a lot of money vis a vis trying to get rid of it in the ACT.

Natasha Abbott

We were just going to add to that, it looks like a lot of these property owners are actually getting paid to receive waste, well the fill, we can't waste, because a lot of it is contaminated, obviously they think it is VENM and they think they're receiving a financial gain by receiving this material on their property and the transporters are dropping it there because it's cheaper than taking it to landfill.

Claire Sives

And the financial gain is coming from where?

Natasha Abbott

From the transporters and developers

Nyree Hall

I'm curious, if we ordered people to take the fill back to where they got it from, what would happen? Because I'm very tempted, I've got two big properties, I'm tempted to order them to take the fill back to the original place of origin, outside of NSW.

Natasha Abbott

It's not an easy problem, let's just put it that way.

Paul Newell

I was just struggling, having looked at the info on the ACT website, about trying to cost the value of this sort of trade that's occurring. I thought I heard Narelle suggest that VENM is a natural resource and not waste and isn't being accepted at ACT facilities

Narelle Sargent

It is accepted at waste facilities, but most don't take it there because it is classed as a resource.

Paul Newell

Whether it's classed as a resource or VENM or cabbage it still costs them \$12.80 a tonne at those facilities, if it is cheaper by the transport costs minus that, they'll take it across the border.

Narelle Sargent

Well that's their decision. So lots of people want it, as I said, for those sorts of activities, using it for rehabilitation, so that's an economic decision because then they have the haulage costs, as opposed to taking it to a landfill facility

Paul Newell

I suggest that there are people in the ACT who are having to pay for that material to be removed, in the case of development sites where an excavation is required, those home owners will be paying a portion of that site development and the ultimate home that they are trying to live in for someone to charge them for the removal of this material, the transport and receipt of this material somewhere outside of the ACT. So you can say it's a natural resource, the point is, it's waste, someone and ultimately the consumer, and all of us silly people running around trying to do compliance and pretend that it's something under control, spending a lot of time when it's a problem back in the ACT, look at the value chain through this industry, the people involved, all the loopholes, they're all clear, we are just dancing around the points. Sorry, but I appreciate everyone's time, but we are just dancing around the same problem. We know we can track it through, and it's buck passing, it's saying without legislative support whatever, but ultimately the problem will not go away while we continue to treat it the way we have been treating it.

Narelle Sargent

And that's why we've got the group to look at it and working in with CBR JO to try and see some innovative ways to address it and also, as Julie talked about, in terms of looking at the planning process within the NSW will fit with that as well.

Claire Sives

Paul we really appreciate your feedback and hopefully some outcomes from this meeting can go into further cross border meetings about this issue.

Vanessa Palmer

I've been on the cross-border illegal dumping (group) since it started in 2013, it's been the same problem since then, nothing's really happened, except for the SEPP that came into place, I know that Yass was really struggling with stuff that was coming across the border. When the SEPP came in I think everyone thought that would be good, there was media releases about it, residents were told about it, there was lots of information, I think trucks stopped for a little bit and then it all started again, and of course the whole time most of it comes from ACT. So this has been an on-going problem that's been danced around for years, and the councils that end up with all the mess don't have the resources to have lots of compliance and illegal dumping officers out there unfortunately. It would be good if there were some simple things that we could be put in place we've suggested around addressing so that we can at least follow them up a bit quicker. This has been going on a long time.

Natasha Abbott

We might just add that we haven't seen this material used for purposes such as gully rehab or anything like that, it's just basically piles coming onto properties, just stretching out and flattening it out, 1 metre high, 2 meters high, 10 metres high. It's just basically dumped and flattened across grasslands and all sorts of environments. And they don't have environmental controls around it either, so there's no sediment control or anything like that- it's just fill on land.

Claire Sives

We've covered a lot of ground today, it's obviously a very complex issue. We hope that moving forward that the groups working in a cross-border way can take some of these concerns and points

people have raised today and consider them in their future dealings. Any further questions, or we happy to leave it there? Thank you everyone for participating today.