PLANNING AND ENVIRONMENT COURT OF QUEENSLAND

CITATION:	*We Kando Pty Ltd v Maranoa Regional Council* [2021] QPEC 1
PARTIES:	**WE KANDO PTY LTD** **ACN 076 843 993** (applicant/appellant) **v** **MARANOA REGIONAL COUNCIL** (respondent)
FILE NO/S:	3784/2018 69/2019
DIVISION:	Planning and Environment
PROCEEDING:	Appeal and Originating Application
ORIGINATING COURT:	Planning and Environment Court, Brisbane
DELIVERED ON:	5 February 2021
DELIVERED AT:	Brisbane
HEARING DATE:	30 November 2020, 1-3 December 2020 and 20 January 2021
JUDGE:	Everson DCJ

ORDER:

1. **Appeal No 69 of 2019 is allowed.**
2. **Condition 4A of the Order dated 17 July 2017 is deleted.**
3. **The currency period for development approval is extended to two years from the date of this order.**
4. **The proposed development proceed pursuant to Green Tec Consulting Plan 1910-05 003, Revision B.**
5. **The ponds shown in the above drawing are permitted to hold K130 waste, drill muds and oily water as indicated therein, in accordance with environmental authority EPP R01208813.**
6. **The parties are to prepare amended conditions of approval which give effect to these orders and file them within 14 days of judgment.**

CATCHWORDS:	PLANNING AND ENVIRONMENT – ORIGINATING APPLICATION – application to further change a development approval for a regulated waste storage facility PLANNING AND ENVIRONMENT – APPEAL – appeal against the decision of the respondent to refuse an application to extend the currency period for the regulated waste storage facility
LEGISLATION:	*Planning Act 2016* (Qld) ss 78A, 81, 87 and Schedule 2 *Planning and Environment Court Act 2016* (Qld), ss 43 and 45
CASES:	*Richards & Ors v Brisbane City Council & Ors* [2020] QPEC 26 *Room2Moove.com Pty Ltd v Western Downs Regional Council* [2019] QPELR 1010
COUNSEL:	KW Wylie for the applicant/appellant ANS Skoien for the respondent
SOLICITORS:	Milne Legal for the applicant/appellant McInnes Wilson Lawyers for the respondent

Introduction

[1] In Appeal No. 69 of 2019 We Kando Pty Ltd ("We Kando") appeals the decision of the Maranoa Regional Council ("council") to refuse an application to further extend the currency period for a high impact industry and environmentally relevant activity for regulated waste storage on land at 1915 Canarvon Highway, Euthulla ("the site") and in originating application 3784 of 2018 the council opposes an application for a minor change to the waste facility ("no can do"). The proceedings are interrelated and thus were heard together.

[2] The proposed waste facility ("the waste facility") on the site has had a long and tortuous history which is set out in the originating application. It was originally approved by the council on 13 November 2013 in circumstances where it was stated "(t)he assessment manager does not consider that the assessment manager's decision conflicts with the relevant instrument."[1] As a consequence of litigation in this Court, the development approval referred to above was set aside by orders made on 23 January 2015. This resulted in a deemed refusal appeal which in turn resulted in orders dated 19 January 2015 approving the development application subject to

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1 Exhibit 1(a), p 98.

conditions ("the 2015 approval"). We Kando subsequently brought an originating application seeking to change the development approval which was the subject of a compromise negotiated by the parties which included the insertion of condition 4A by an order of the court dated 17 July 2017 ("the 2017 order"). It stated:

> "Any development application made prior to the approved material change of use, for any development permit for building work or operational work necessary for the approved material change of use to commence, must be made by 30 March 2018."[2]

[3] In originating application 3874/2018 currently before me, We Kando seeks the following changes to the 2015 approval:

> "(a) Altering the storage structure (which is currently approved as a single storage structure partitioned to form two separate ponds for the holding of K130 waste), to become a single storage structure (of an identical size), but instead partitioned to form five smaller ponds;
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> (b) Allowing the holding of K130 waste in two ponds, drill muds in two ponds and oily water in one pond;
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> (c) Amendment to the 2015 Approval Conditions 5 and 6 to reflect the matters described in sub-paragraphs (a) and (b) above; and
>
> (d) Deletion of Condition 4A."[3]

[4] In appeal 69/2019 currently before me, We Kando seeks an extension of the currency period for a further two years from the date of judgment.[4]

The approved development

[5] The waste facility is to be located in a remote area on a large parcel of land. It has not yet been constructed but as approved it utilises two large storage ponds which accept K130 regulated waste.[5] This is defined in Schedule 11 of the *Environmental Protection Regulation 2019* ("EPR") as "sewerage sludge and residues, including nightsoil and septic tank sludge." The K130 waste intended for the waste facility is to come from workers involved in planned and approved coal seam gas drilling, construction and operational activities within the Maronoa Region.[6] As currently proposed, the waste is to be brought to the site where it is to evaporate in the ponds

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2 Ibid 1(a), p 232.
3 Amended Originating Application filed 01/10/19, para 16.
4 Amended Notice of Appeal filed 13/08/20.
5 Exhibit 1(b), p 10.
6 Exhibit 14, pp 4-5.

leaving approximately 10 per cent of it as sludge which We Kando proposes to take to its Chinchilla facility for composting.[7]

The proposed changes

[6] Without increasing the size of the waste facility or the number of truck movements bringing waste to the facility, We Kando proposes a minor change to the development approval to reduce the size of the two K130 ponds and include two ponds to accept drill muds and one small pond to accept oily water, which are again waste products created by the coal seam gas industry within the Maronoa Region. Drill muds are identified as included within waste codes C100, D300 and N205 in Schedule 11 of the EPR. They are generated by well construction. Oily water waste is identified as being covered by waste codes J100 and J120 in Schedule 11 of the EPR and is generated by mechanical workshops, vehicle wash-down facilities and coal seam gas processing facilities.[8] The proposed changes to the ponds at the site are shown in Green Tec Consulting Plan 1910-05 003 Revision B.[9]

[7] We Kando has been issued with an environmental authority authorising all of the activities contemplated by the proposed changes.[10] The proposed facility would otherwise continue to operate as it would without the changes.[11] It is not alleged that there will be any increase amenity impacts on neighbouring properties, indeed the evidence of Mr Welchman, an engineer called by We Kando, predicts a reduction in net odour emissions as a consequence of the reduction in the area of the ponds which are to be utilised for the evaporation of K130 waste.[12]

[8] Essentially, it is proposed that the waste facility will continue as approved subject to the processing of the additional types of waste at the remote site. The site is located on unremarkable rural grazing land which is somewhat arid.[13] The current conditions of approval require the site to be remediated to its pre-development condition if the approval is cancelled or the approved use ceases for 12 months or more.[14]

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7 T1-78, ll 20-30.
8 Exhibit 14, p 5.
9 Exhibit 1(b), p 12.
10 Environmental Authority EPP R01208813, Exhibit 19, attachments p 12.
11 T1-78, ll 20-30.
12 Exhibit 11, p 15.
13 Exhibit 4
14 2017 order, Annexure A, Condition 19, Exhibit 1(a), p 237.

The statutory assessment framework

[9] So far as appeal 69/2019 is concerned, the *Planning and Environment Court Act 2016* ("PECA") provides that the appeal is by way of hearing anew.[15] We Kando must establish that the appeal should be upheld.[16]

[10] In the *Planning Act 2016* ("PA"), s 86 provides for the making of extension applications to extend the currency period of a development approval. Section 87 relevantly states:

> "**87 Assessing and deciding extension applications**
>
> (1) When assessing an extension application, the assessment manager may consider any matter that the assessment manager considers relevant, even if the matter was not relevant to assessing the development application."

As Williamson QC, DCJ observed *in Room2Moove.com Pty Ltd v Western Downs Regional Council,* the PA confers "a broad discretion on the assessment manager (and this Court on appeal) to assess and decide the extension application".[17] His Honour further observed:

> "An extension application is a different proposition to a development application. As was the case here, evidence of the applicant's personal circumstances may be required to explain why development was not started before an approval lapses. I regard such evidence as relevant to the assessment of an extension application. I also regard the explanation given by the appellant here, and the reasons underpinning it, as relevant to the assessment of its application, even though the application was, in part founded upon matters of '*private economics*' or '*personal circumstances*'".[18]

[11] I agree with the following observations of Williamson QC DCJ concerning the legislative purpose underlying these provisions:

> "Section 86 of the PA, in my view, is clear recognition by the legislature of circumstances where no town planning purpose is served by development repeating the statutory assessment and decision making process simply because the approval which authorises it has, or will lapse. It is a vehicle that serves the wholesome purpose of avoiding the public and private expense associated with the development application and approval process,

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15 *Planning and Environment Court Act 2016,* s 43.
16 PECA, s 45.
17 [2019] QPELR 1010 at 1028 [99].
18 Ibid at [103].

where, on balance, no town planning purpose would be served by it."[19]

[12] Pursuant to s 78A of the PA, the Court is the responsible entity for the change application.[20] Section 81 of the PA provides for assessing applications for a minor change and relevantly states:

"…

(2) In assessing the change application, the responsible entity must consider—

(a) the information the applicant included with the application; and

(b) if the responsible entity is the assessment manager—any properly made submissions about the development application or another change application that was approved; and …

…

(da) if paragraph (d) does not apply—all matters the responsible entity would or may assess against or have regard to, if the change application were a development application;[21] and

(e) another matter that the responsible entity considers relevant.

…

(4) The responsible entity must consider the statutory instrument, or other document, as in effect when the development application for the development approval was properly made.

(5) However, the responsible entity may give the weight the responsible entity considers is appropriate, in the circumstances, to—

(a) the statutory instrument or other document as in effect when the change application was made; or

(b) if the statutory instrument or other document is amended or replaced after the change application is made but before it is decided—

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19 Ibid at 1031 [124].

20 S 78A(2)

21 As the development application was impact assessable the assessment may also be carried out "having regard to any other relevant matter, other than a person's personal circumstances, financial or otherwise": s 45(5)(b).

> the amended or replacement instrument or document;…"

[13] Section 81A confers a wide discretion on the court in disposing of the originating application, providing it falls within the relevant definition of a minor change in Schedule 2 of the PA which requires that the change:

> "(i) would not result in substantially different development; and
>
> (ii) if a development application for the development, including the change, were made when the change application is made would not cause—
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> (A) the inclusion of prohibited development in the application; or
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> (B) referral to a referral agency, other than to the chief executive, if there were no referral agencies for the development application; or
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> (C) referral to extra referral agencies, other than to the chief executive; or
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> (D) a referral agency, in assessing the application under section 55(2), to assess the application against, or have regard to, a matter, other than a matter the referral agency must have assessed the application against, or had regard to, when the application was made; or
>
> (E) public notification if public notification was not required for the development application."

[14] During oral addresses counsel for both parties agreed that given the interrelated nature of the proceedings, they should be heard and determined such that they would "rise and fall together".[22] Indeed I note that part of the relief sought in the originating application, namely the deletion of Condition 4A of the 2017 order would have the same overall effect as the relief sought in the appeal, extension of the currency period.

The disputed issues

[15] The disputed issues were revised considerably during the course of the hearing. They are set out in Exhibit 2A. Importantly it is stated therein:

> "It is agreed between the parties that there has been no meaningful policy change between the former Bungil Scheme and the current Maranoa Scheme as it relates to the control of development of the type proposed in the Rural Zone."

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22 T1-11, ll 26–33, T1-14, ll 45–47.

The 2015 approval occurred in circumstances where the Bungil Shire Council Planning Scheme 2006 ("the Bungil Scheme") was in effect when the application for the development approval was properly made. Subsequently, the Maranoa Regional Council Planning Scheme ("the Maranoa Scheme") was adopted on 27 September 2017.[23] The site is located in the Rural zone in both the Bungil Scheme and the Maranoa Scheme. The two town planners who gave evidence, Mr Craven, called by We Kando and Mr Schneider, called by the council stated:

> "The experts agree that the existing approval is evidence of the Council's satisfaction, in 2013, that a combination of compliance with the Bungil Shire planning scheme, need, community expectation and economic circumstances justified the approval."[24]

[16] As noted above, in assessing the application for a minor change to the development approval, pursuant to s 81 of the PA, I must consider the Bungil Scheme but may give the weight I consider appropriate in the circumstances to the Maranoa Scheme. Moreover, s 81(2)(d)(a) requires me to assess against and have regard to all the matters which I would if the change application were a development application. Pursuant to s 45 of the PA, as the development application was impact assessable, this includes having regard to "any other relevant matter other than a person's personal circumstances, financial or otherwise".[25]

[17] Having regard to this, the council expressly relies upon non-compliance with various provisions of the Strategic Framework and the Rural Zone Code of the Maranoa Scheme in opposing the relief sought. It also submits that the relevant issues include whether there is a need for the waste facility, whether it is consistent with community expectations and whether it provides any net benefits. It further submits that the fact that We Kando consented to Condition 4A is a relevant matter and it is necessary to consider the community's awareness of the waste facility and the opportunity members of the community would otherwise have to exercise rights in respect of the development.

[18] Conversely, We Kando relies upon compliance with provisions of the Bungil Scheme which encourage economic activity in the Rural zone without adversely impacting on other rural uses, rural amenity and character and with no adverse

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23 Exhibit 23, p 95.
24 Exhibit 18, p 8, [30].
25 PA s 45(5)(b).

environmental impacts as well as the absence of these impacts and the existence of the environmental authority. So far as the extension application is concerned, it is submitted that the reasons for delay in commencing the waste facility and the prejudice to We Kando are relevant.

[19] In light of the concession quoted at paragraph [15] and the agreed position of the town planners quoted above, the focus of the council's case was on whether the circumstances had changed and the planning controls had changed such that the appeal and the originating application should be dismissed. As Mr Skoien stated in his written submissions at the conclusion of the hearing:

> "The Council's opposition to these proceedings turns principally upon consideration of two key issues: firstly, the planning strategies reflected in the Maranoa Planning Scheme with regard to the intended location of industrial uses (such as the Waste Storage Use) and, second, the absence of any real or material need for the Waste Storage Use on the subject land."[26]

Compliance with Maranoa Planning Scheme 2017

[20] The council submits that there are non-compliances with provisions in the Strategic Framework and the Rural Zone Code of the Maranoa Scheme.[27] These provisions are nominated in the context that, while there was no designated industrial land pursuant to the Bungil Scheme, there are now certain discreet areas near Roma which have been zoned in the Industry zone pursuant to the Maranoa Scheme where the waste facility, being a High Impact Industry use, would be code assessable."[28] Essentially the council asserts that the waste facility ought to locate in one of these Industry zoned areas.

[21] There are a number of broad statements which have been identified as relevant by the council in the Strategic Framework. For example under the leading "Protect agricultural land uses" in s 3.2.1 of the Maranoa Scheme it is stated:

> "Based on calculations of both historic and recent development rates, the industrial land provision identified by this plan is sufficient to meet the needs of the resource sector during the life of the scheme. This includes larger industrial lots for large lay-down areas and non-resident workforce accommodation sites. Non-resident workforce accommodation is acceptable within industrial areas for extended

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26 Outline of submissions on behalf of the respondent, p 9, [2.1].
27 Exhibit 2A, (2).
28 Exhibit 23A, p 11.

temporary periods, so that workers associated with the higher intensity exploration and construction phase of the energy sector can be accommodated, and the demand and supply of other land uses are not unduly affected.[29]

3.2.3 The themes and key policies

Development and construction

…

Continued provision of industrial land

Sufficient and continued provision of industrial land is maintained in order to ensure the presence of support industries and services for the agriculture and resource industries. Such provision is also a basic element in the growth of employment opportunities in the region. Industrial land is used to locate temporary workers accommodation during peak construction times.

Mining and extractive resources

Supporting role for the centres and townships

Mining and extraction takes place in rural areas, and is supported to the greatest extent possible by supportive industrial activities within the town areas. Through this process, the benefits of mining stay within the region and its towns, those towns providing industrial products and services, or temporary and permanent housing for mining industry workers."[30]

Pursuant to s 3.3 of the Maranoa Scheme the following provisions are nominated under the heading "Planning for economic growth":

"**Agriculture**

...

In rural areas, the circumstances in which business and industrial activities are appropriate are specific and limited. Business activities should service the needs of the local area or the travelling public while industrial activities are limited to intensive animal uses, livestock saleyards or other rural-based industries in appropriate locations that do not reduce the quantity of productive agricultural land.

…

Intensive rural industries

Intensive rural industries (Intensive animal industry, Animal keeping, Grain storage and distribution facilities and Saleyards), mining and Extractive industries, are to be located within the Rural

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29 Exhibit 23, pp 109-110.
30 Ibid, pp 114-115.

> Zone, taking advantage of the potential of the region's agricultural productivity and natural resources. ...
>
> **Mining and extractive resources**
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> The region's towns have successfully accommodated the growth in mining activity throughout the region, and are well placed to continue to do so, and to continue to develop additional support mechanisms that will further assist the mining industry into the future."

[22] The following provisions of the Rural Zone Code are nominated as relevant by the council:

> "**6.2.1.2 Purpose**
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> The purpose of the zone is to:
>
> …
>
> (b) provide opportunities for non-rural uses that are compatible with agriculture, the energy sector, the environment, and the landscape character of the rural area where they do not compromise the long term use of the land for rural purposes;
>
> …
>
> **6.2.1.3 Overall Outcomes**
>
> The overall outcomes sought for the Rural zone code are as follows:
>
> …
>
> (b) the establishment of a wide range of rural pursuits is facilitated, including cropping, intensive horticulture, intensive animal industries, animal husbandry and animal keeping and other compatible primary production uses, ensuring that land use and amenity impacts are minimised at sensitive receptors;"

[23] Other parts of the Maranoa Scheme were also nominated by the council but they do not bear sufficient relevance to the proposed use to warrant consideration.[31]

[24] The fact the waste facility is not expressly contemplated in the Rural zone does not mean that it is expressly discouraged either. It is simply impact assessable pursuant to the Maranoa Scheme as it was pursuant to the Bungil Scheme. As noted above, all of the potential adverse impacts of the proposed development are to be appropriately managed by conditions. To the extent that I am obliged to consider

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31 Exhibit 2A(2)(i)(B) 1. and 3.

the submissions made about the development application,[32] I note that each of the submissions received was concerned with potential impacts of the proposed development upon the amenity and on the environment in the vicinity of the site.[33] All of these concerns have been satisfactorily addressed.

[25] Conversely, were the waste facility to locate within Industry zoned land closer to Roma, the consequence of the necessary separation distance of 755 metres as assessed by Mr Welchman being implemented, would be to utilize 51 per cent of the largest Industry zoned area on the analysis of Mr Craven.[34] I accept the evidence of both these experts in this regard. As Mr Schneider, the planner called by the council conceded, a large area of industrial land for a buffer for a waste facility "could well be inefficient use of industrial areas".

[26] Accordingly, I find that there is simply no sound planning basis for asserting that the proposed development should occur in an Industry zoned area closer to Roma rather than at the current isolated location where it is proposed.

Need

[27] At the outset it must be emphasised that there is no requirement that We Kando demonstrate a need for the proposed development pursuant to the current or the former planning scheme. The relevance of it as a consideration in the exercise of the discretion conferred upon me must be seen in this context. The council desperately tried to demonstrate an absence of need for the waste facility, asserting an absence of planning, economic and community need for the proposed development.

[28] As I observed in *Richards & Ors v Brisbane City Council & Ors*:

> "Essentially, *planning need*, or the term *need* in a planning context without qualification, refers to whether there is a latent unsatisfied demand in an area for the proposed development which is not being adequately met by the planning scheme in its present form. Other terms address the demand in question. *Community need* refers to an assessment of the extent to which the physical wellbeing of the community would be improved by the proposed development. *Economic need* refers to an assessment of whether the extent of the

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32 PA s 81(2)(b).
33 Exhibit 19, Annexures pp 34–75.
34 Exhibit 19, p 6, [19].

> demand for the proposed development is sufficient to support it at a sustainable level."[35]

[29] Both resource industry experts who gave evidence, Mr Haylock who was called by We Kando and Mr Breitfuss who was called by the council, stated that as at 2019 drilling and maintenance activity in respect of coal seam gas wells was "almost back to the peak recorded in 2013".[36] The waste which We Kando intends to store at the site is generated in circumstances where a drilling workforce of up to 20, drills one well per week. An average of 300 wells are drilled per year for 30 years and each well is revisited every two to five years, or up to four times before the well is abandoned.[37]

[30] I accept the evidence of Mr Duane, the economist called by the appellant, that the location of the site and the demand for this type of facility will provide competition for the disposal of waste generated by the coal seam gas industry in the region and more convenience by being located closer to various wells. This will result in savings of both time and travel costs for transport operators.[38] His evidence in this regard was confirmed by the evidence of Mr Scott, a waste transport contractor, who said that he would use the proposed facility.[39] Mr Darbey, the operations supervisor for Veolia Environmental Services in the Surat Basin, also indicated it would be well located to create efficiencies in the operations of his company.[40]

[31] Conversely, the evidence of Mr Brown, the economist called by the council, included an assertion that the vast majority of maintenance camps dewatered their K130 waste onsite.[41] I found this evidence incredible and it was debunked by Mr Johnson, an engineer who gave evidence for the appellant, who stated that it would be pointless to dewater human effluent in the short period of time that it was onsite at a maintenance camp,[42] and that it would be necessary to have at least a 100 people onsite for three months for this to be a viable option.[43] Furthermore, I accept the evidence of Mr Haylock that the option of processing waste on the site of

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35 [2020] QPEC 26 at [22].
36 Exhibit 14, p4.
37 Ibid, p 6.
38 Exhibit 6, paras 8-10.
39 Exhibit 16, Maps 2, 3 and pp 54-55.
40 Exhibit 5, para 13.
41 Exhibit 21, p4, para 31.
42 T2-46, ll 5-15.
43 T2-47, ll 5-10.

drilling activities was complicated given the number of environmental conditions and requirements involved and that as a consequence there is a demand for offsite treatment.[44] I did not find the evidence of Mr Brown in this regard, and more generally, at all persuasive in light of the evidence of Mr Johnson, the resource industry experts and Mr Scott and Mr Darbey.

[32] I also accept the evidence of Mr Sweetlove, the engineer who manages the Roma sewerage treatment plant, that this facility is not set up to accommodate truck operators bringing in waste from outside the town[45] and that he is not aware of anyone seeking to deliver K130 waste to it.[46] I therefore find that disposal of K130 waste generated remotely by drilling and maintenance activities is not a viable option at this facility.

[33] In the circumstances, I find that there is a planning and economic need for the proposed development and the fact that there is not a demonstrated community need for it is of no consequence.

Conclusion

[34] I conclude that the proposed development is not only compliant with the planning controls in the Bungil Scheme but also the identified planning controls in the Maranoa Scheme. In my view, it is consistent with community expectations that a waste facility such as this be located in an isolated area where it will not cause adverse amenity impacts or environmental harm. The proposed use is also consistent with community expectations, given there are no particular requirements in respect of such a use which suggest that it should not locate in the Rural zone. It will provide benefits to the resources sector in terms of competition and efficiencies for the removal and treatment of waste generated by the coal seam gas industry. Nothing has materially changed since the development approval was originally given which suggests that the currency period should not be extended for a further two years from the date of this judgment. Every conceivable community concern is addressed by the conditions imposed on the proposed development, as impacts which were the subject of submissions have been appropriately managed, and the

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44 T3-12, ll 25-45 – T3-13, ll 1-10.
45 T2-62.
46 T2-63, ll 35-40

site is to be remediated to its pre-development condition upon the site ceasing to be used for the waste facility.

[35] To the extent that it may be viewed as appropriate to consider the circumstances of We Kando and the reasons for the delay, I accept the evidence of Mr Hooke, the operations manager of the We Kando Chinchilla facility, that significant mental health issues including suicidal ideation led to him making a mistake and failing to comply with the deadline imposed by Condition 4A of the 2017 order.[47] Furthermore, I accept that We Kando has spent a significant sum of money in pursuing its development rights in respect of the proposed development and there is no useful purpose to be served by requiring them to start again with a fresh development application when they are now ready to commence developing the site for the proposed use.[48] As for the changes to the proposed development, it is not submitted to me that the proposed changes, which are, in my view otherwise appropriate from an amenity, environmental and operational perspective do not come within the definition of a minor change in Schedule 2 of the PA. I note the evidence of Mr Craven in this regard which I accept.[49] It is necessary for me to be convinced that the proposed changes do not result in substantially different development and I am satisfied that they do not. The proposed use remains a waste facility with the same capacity but with a slightly different mix of biodegradable waste. The changes do not result in substantially different development.

[36] I therefore grant the relief sought by We Kando in each proceeding before me.

Orders

I order that:

1. Appeal No 69 of 2019 is allowed.
2. Condition 4A of the Order dated 17 July 2017 is deleted.
3. The currency period for development approval is extended to two years from the date of this order.

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47 T1-77, ll 35-47 and T1-78, ll 1-10.
48 Exhibit 3, para 29.
49 Exhibit 19, p 3, para 8.

4. The proposed development proceed pursuant to Green Tec Consulting Plan 1910-05 003, Revision B.

5. The ponds shown in the above drawing are permitted to hold K130 waste, drill muds and oily water as indicated therein, in accordance with environmental authority EPP R01208813.

6. The parties are to prepare amended conditions of approval which give effect to these orders and file them within 14 days of judgment.