

## JOINT REGIONAL PLANNING PANEL (Sydney West)

JRPP No	2015SYW083
DA Number	DA-266/2015
Local Government Area	Liverpool City Council
Proposed Development	Construction and operation of a resource recovery facility and associated ancillary structures. The application is Designated Development under the Environmental Planning and Assessment Regulation 2000 and Integrated Development under the Environmental Planning Assessment Act 1979 requiring the activity to be licensed by the Environment Protection Authority. Liverpool City Council is the consent authority and the Sydney West Joint Regional Planning Panel has the function of determining the application
Street Address	Lot 1 DP 611519 25 Martin Road, Badgerys Creek NSW 2555
Applicant/Owner	Precise Planning
Number of Submissions	3
Regional Development Criteria (Schedule 4A of the Act)	Clause 8 Particular designated development Waste management facilities or works, which meet the requirements for designated development under clause 32 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000.
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> <li>• <i>List all of the relevant environmental planning instruments: s79C(1)(a)(i)</i> <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy No.55 – Remediation of Land</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997) (Deemed SEPP)</li> <li>○ State Environmental Planning Policy No. 33 – Hazardous and Offensive Development</li> <li>○ State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP 44)</li> <li>○ State Environmental Planning Policy (Sydney Region Growth Centres) 2006</li> <li>○ Contaminated Land Management Act 1997</li> <li>○ Native Vegetation Act 2003</li> <li>○ Threatened Species Conservation Act 1995</li> <li>○ Protection of the Environment Operations Act</li> <li>○ Commonwealth Environment Protection and Biodiversity Act 1999</li> <li>○ Liverpool Local Environmental Plan 2008</li> </ul> </li> <li>• <i>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii)</i></li> </ul>

	<ul style="list-style-type: none"> <li>○ No draft Environmental Planning Instruments apply to the site.</li> <li>• <i>List any relevant development control plan: s79C(1)(a)(iii)</i> <ul style="list-style-type: none"> <li>○ Liverpool Development Control Plan 2008: <ul style="list-style-type: none"> <li>- Part 1 – General Controls for all Development.</li> <li>- Part 5 – Rural and E3 Zones.</li> </ul> </li> </ul> </li> <li>• <i>List any relevant planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv)</i> <ul style="list-style-type: none"> <li>○ No planning agreement relates to the site or proposed development.</li> </ul> </li> <li>• <i>List any coastal zone management plan: s79C(1)(a)(v)</i> <ul style="list-style-type: none"> <li>○ The subject site is not within any coastal zone management plan.</li> </ul> </li> <li>• List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 <ul style="list-style-type: none"> <li>○ Consideration of the provisions of the Building Code of Australia.</li> </ul> </li> </ul>
Does the DA require Special Infrastructure Contributions conditions (s94EF)?	Not applicable
List all documents submitted with this report for the panel's consideration	<ol style="list-style-type: none"> <li>1. Recommended Conditions of Consent</li> <li>2. Site Plan</li> <li>3. Proposed Site Works</li> <li>4. Landscape Plan</li> <li>5. Proposed Storage Shed – Elevations and Perspective</li> <li>6. Site Stormwater Management Layout</li> <li>7. Stormwater Catchments – Existing Conditions</li> <li>8. Stormwater Catchments – Developed Conditions</li> <li>9. Sediment Erosion Control Detail</li> <li>10. Swept Path Analysis</li> </ol> <p>Reports</p> <ol style="list-style-type: none"> <li>11. Environmental Impact Statement</li> <li>12. Remediation Action Plan</li> <li>13. Air Quality Impact Assessment</li> <li>14. Air Quality Management Plan</li> <li>15. Acoustic Report Addendum</li> <li>16. Effluent Disposal Letter</li> </ol>
Recommendation	Approval
Report by	Marcus Jennejohn
Report date	20 July 2016

## **1. EXECUTIVE SUMMARY**

### **1.1 Reasons for the report**

The Sydney West Joint Regional Planning Panel is the determining body for the proposal as the proposed development is identified as a particular designated development pursuant to Clause 8(c) of Schedule 4A of the Environmental Planning and Assessment Act 1979.

### **1.1 The proposal**

The application seeks consent for the erection and operation of a Resource Recovery Facility ('RRF'), including ancillary structures (amenities shed (lunch room), storage shed and weighbridge) and associated civil and landscaping works.

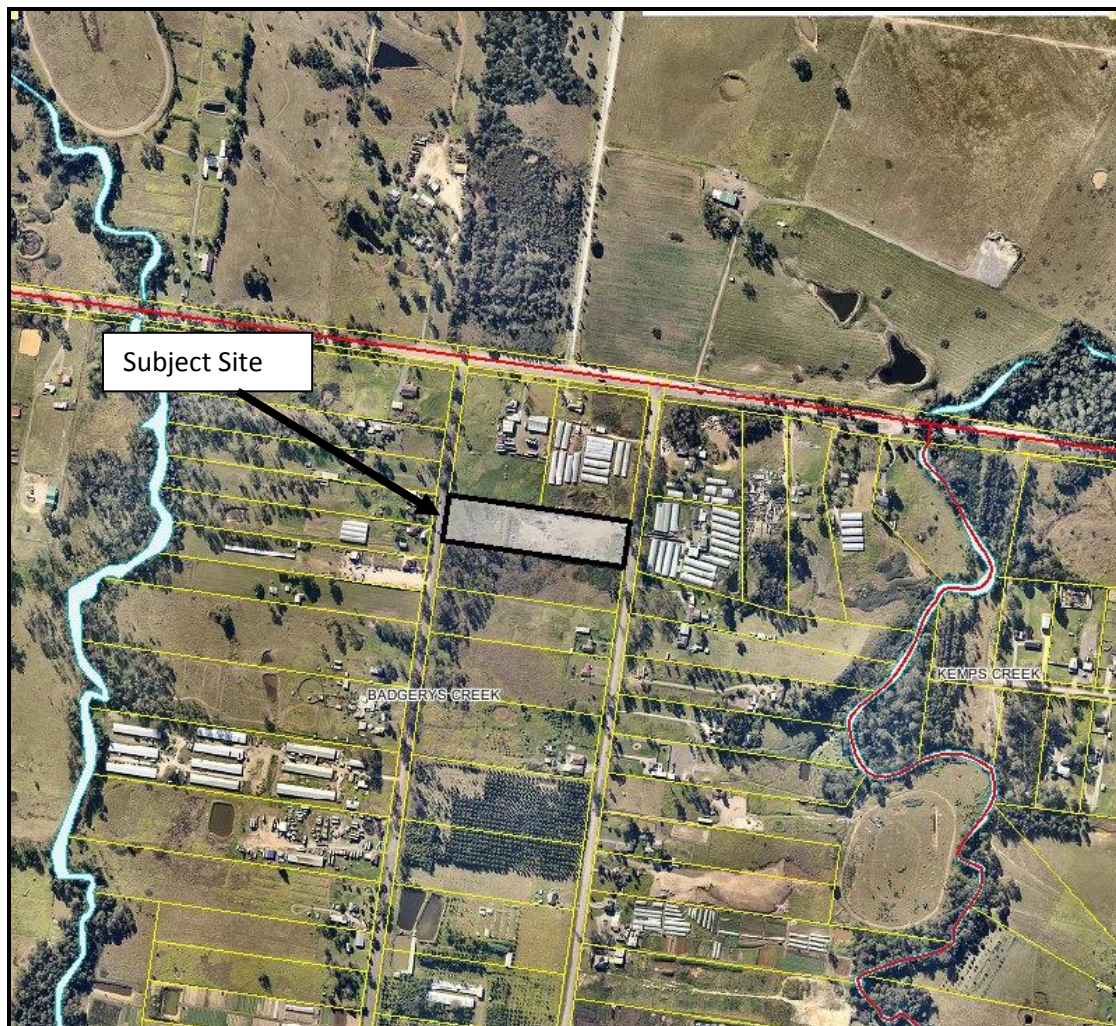
The facility intends to have a total handling capacity of 60,000 tonnes per annum, comprising 50,000 tonnes of construction and demolition waste (including general solid waste) and 10,000 tonnes of greenwaste.

The proposal is regarded as 'designated development' for the purposes of the Environment Planning and Assessment Regulation 2000 and requires development consent. The application is also regarded as 'integrated development' as it triggers requirements pursuant to s.91 *EPA Act 1979*, requiring approval from the Environment Protection Authority (EPA).

The Sydney West Joint Regional Planning Panel is the determining body due to the development being classified as "designated development".

### **1.2 The site**

The subject site is identified as Lot 1 in DP 611519 and is known as 25 Martin Road, Badgerys Creek. An aerial photograph of the subject site in relation to its context is provided below.



**Figure 1: Aerial photograph of the Site**

The site is rectangular in shape and comprises 2ha, with a frontage at its eastern end to Martin Road of 70.985 metres, a frontage at the western end to Lawson Road of 70.985 metres and a depth of approximately 281.75 metres.

### **1.3 The issues**

The proposed resource recovery facility (RRF) is a prohibited development in the RU1 Primary Production zone pursuant to LLEP 2008 for which the site is zoned. However, the application has been made pursuant to State Environmental Planning Policy (Infrastructure) 2007 which permits waste or resource management facilities within a prescribed zone.

RU1 Primary Production is listed as a prescribed zone and pursuant to Clause 121 of SEPP (Infrastructure) 2007, the proposed resource recovery facility is a permissible land use with consent. In addition, Part 1 Clause 8 of SEPP (Infrastructure) 2007 provides that in the event of an inconsistency between itself and any other Environmental Planning Instrument, the SEPP takes precedent to the extent of the inconsistency.

### **1.4 Exhibition of the proposal**

The development application was advertised for a period of 30 days between 10 June 2015 and 10 July 2015 on two occasions in accordance with the Environmental Planning and Assessment Regulations 2000 and Liverpool Development Control Plan 2008 (LDGP 2008).



Three submissions were received to the proposed development during the public consultation process. The issues raised within the submissions are discussed within the report.

## 1.5 Conclusion

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment (EP&A) Act 1979. Based on the assessment of the application, it is recommended that the application be approved subject to the recommended conditions of consent.

## 2. SITE DESCRIPTION AND LOCALITY

### 2.1 The site

The site is rectangular in shape and comprises 2ha, with a frontage at its eastern end to Martin Road of 70.985 metres, a frontage at the western end to Lawson Road of 70.985 metres and a depth of approximately 281.75 metres.



**Figure 2: Aerial photograph of the Site**

### 2.1 The locality

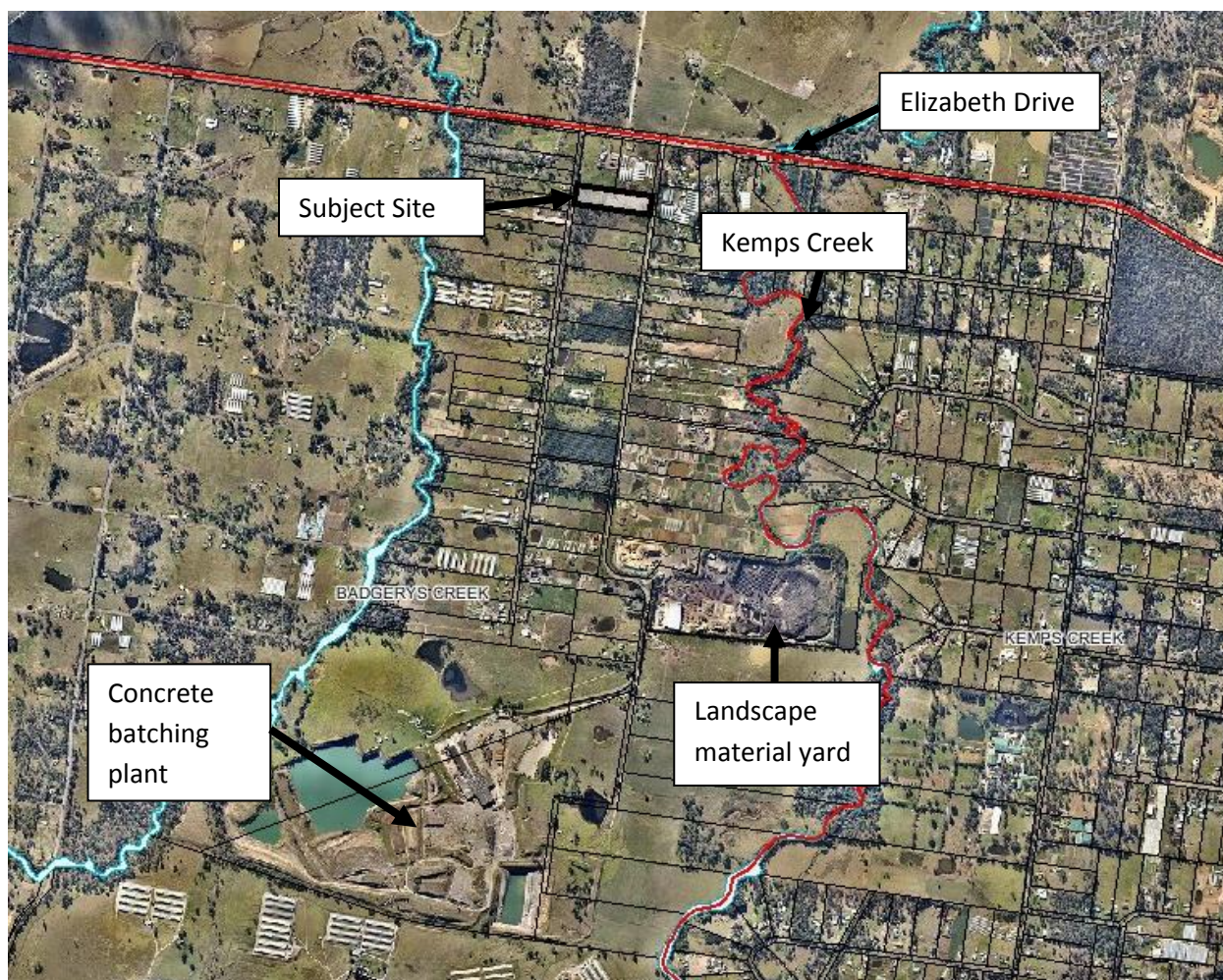
The subject site is located between Martin Road on the east and Lawson Road on the west, oriented east-west. The locality lies centrally between Badgerys Creek and South Creek, close to Elizabeth Drive. Surrounding land uses are predominantly made up of intensive horticulture, industrial-type storage and rural residential. In the locality is a large waste facility, a concrete batching plant, a landscape material yard, which includes processing of the material, as well as other uses of an industrial nature.



The subject site lies under the flight path for the proposed Badgerys Creek airport.

The subject site is currently used for storage of demolition materials. It slopes marginally to the southwest corner and contains some regrowth vegetation in this corner. Whilst the site has frontage to Martin Road and Lawson Road, it has a constructed access only from Martin Road. The boundaries are fenced partially by an acoustic fence and partially by a post and wire fence.

There are no dwellings or structures erected on the site.



**Figure 3: Surrounding locality**

## **2.2 Site affectations**

The subject site is not constrained. The following are provided for context only.

### **2.2.1 Heritage**

The subject site:

- is not listed as a heritage item under the Liverpool LEP 2008;
- is not located within the immediate vicinity of a heritage item; and
- is not located in a heritage conservation area.

In respect to heritage impact, the submitted documentation concludes that:

- there are no identified historical heritage places at the subject site or in the vicinity;
- no Aboriginal cultural heritage sites were identified on the subject lot; and
- the archaeological assessment concluded that the level of disturbance, the site type (low-lying floodplain) and the lack of evidence of Aboriginal sites during field inspection indicate that there is little to no likelihood of subsurface archaeological deposits.

### 2.2.2 Flooding

The proposed development is not located on flood prone land.

### 2.2.3 Bushfire

The subject site is not located within a Bushfire buffer zone.

## 3. History/Background

- 1) The subject DA was lodged with Council on 10 April 2015.
- 2) The subject DA was placed on exhibition on two occasions for a period of 30 days between 10 June 2015 and 10 July 2015 in accordance with the Environmental Planning and Assessment Regulation 2000 and the Liverpool Development Control Plan 2008 (LDCP 2008). During the exhibition period three submissions were received.
- 3) A stop the clock letter was issued on 7 August 2015 requesting an external referral payment and evidence of owner's consent.
- 4) A number of correspondence occurred with the applicant to resolve items relating to concerns raised by Council's internal departments.
- 5) The applicant responded on 23 November 2015 to redacted submissions received during the exhibition period.

## 4. DETAILS OF THE PROPOSAL

Development consent is sought for a Resource Recovery Facility (RRF), LLEP 2008 defines an RRF as follows:

**resource recovery facility** means a building or place used for the recovery of resources from waste, including works or activities such as separating and sorting, processing or treating the waste, composting, temporary storage, transfer or sale of recovered resources, energy generation from gases and water treatment, but not including re-manufacture or disposal of the material by landfill or incineration.

*Note. Resource recovery facilities are a type of waste or resource management facility—see the definition of that term in this Dictionary.*

The proposed operation of the RRF comprises:

- Dumping, sorting and separating of waste
- Removal of waste material to final destination

- Recovery and recycling of material (including temporary storage and sale of recovered resources by wholesale)
- Processing of concrete, bricks and the like by crushing for reuse off site (including temporary storage and sale of recovered resources by wholesale)
- Processing of green waste by mulching and chipping for reuse off site (including temporary storage and sale of recovered resources by wholesale)

The proposed structures associated with the RRF comprise the following on-site works:

- Weighbridge with attached office
- Removal of a small number of isolated trees
- Stormwater management structures
- Fencing
- Landscaping
- Portable lunch room and WC
- Storage shed

Proposed hours of operations:

Land use/activity	Proposed hours of operation
Transportation of material (inbound and outbound)	Monday – Friday 7am to 5pm Saturdays 8am – 2pm
Chipping/mulching of greenwaste	Monday – Friday 8am to 4pm
Crushing/grinding of concrete/bricks etc	Monday – Friday 8am to 4pm

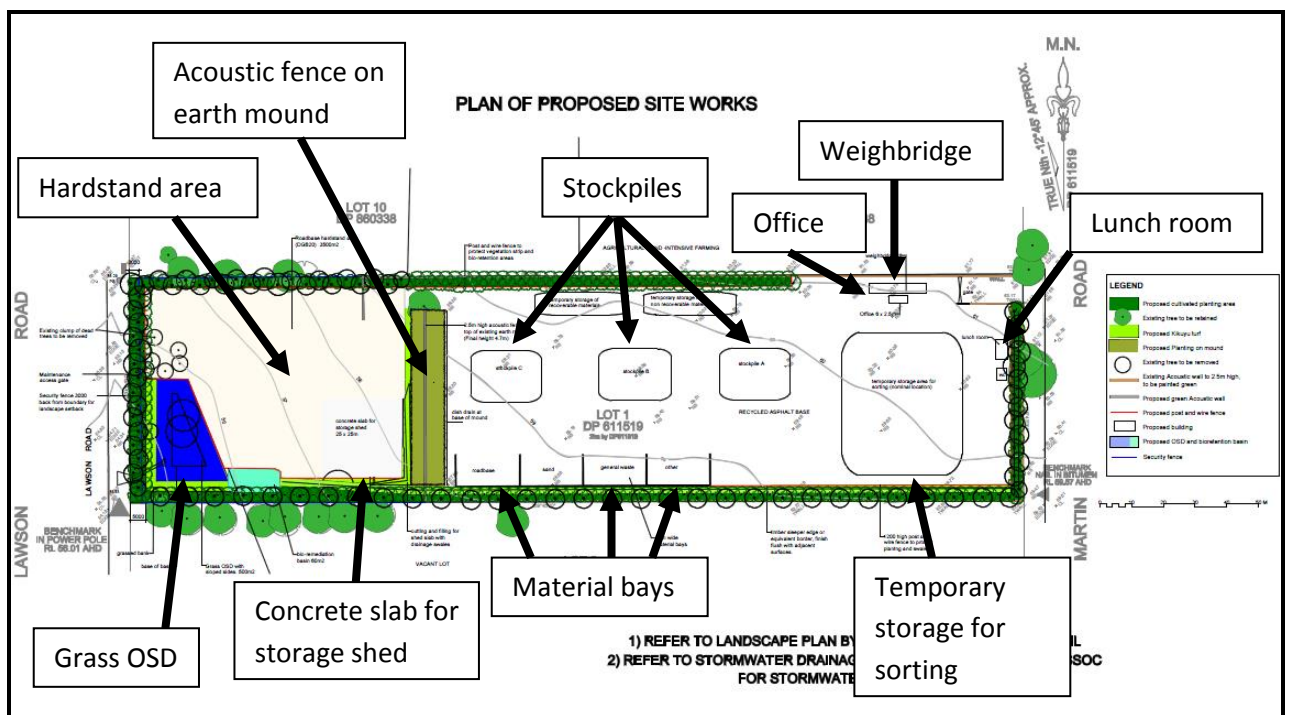


Figure 4: Proposed site works



## **5. STATUTORY CONSIDERATIONS**

### **5.1 Relevant matters for consideration**

The following Environmental Planning Instruments, Development Control Plans and Codes or Policies are relevant to this application:

#### Environmental Planning Instruments (EPI's)

- State Environmental Planning Policy No.55 – Remediation of Land
- State Environmental Planning Policy (Infrastructure) 2007
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997) (Deemed SEPP)
- State Environmental Planning Policy No. 33 – Hazardous and Offensive Development
- State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP 44)
- State Environmental Planning Policy (Sydney Region Growth Centres) 2006
- Contaminated Land Management Act 1997
- Native Vegetation Act 2003
- Threatened Species Conservation Act 1995
- Protection of the Environment Operations Act
- Commonwealth Environment Protection and Biodiversity Act 1999
- Liverpool Local Environmental Plan 2008

#### Draft Environmental Planning Instruments

- No draft Environmental Planning Instruments apply to the site.

#### Other Plans and Policies

- Metropolitan Plan for Sydney 2031;

#### Development Control Plans

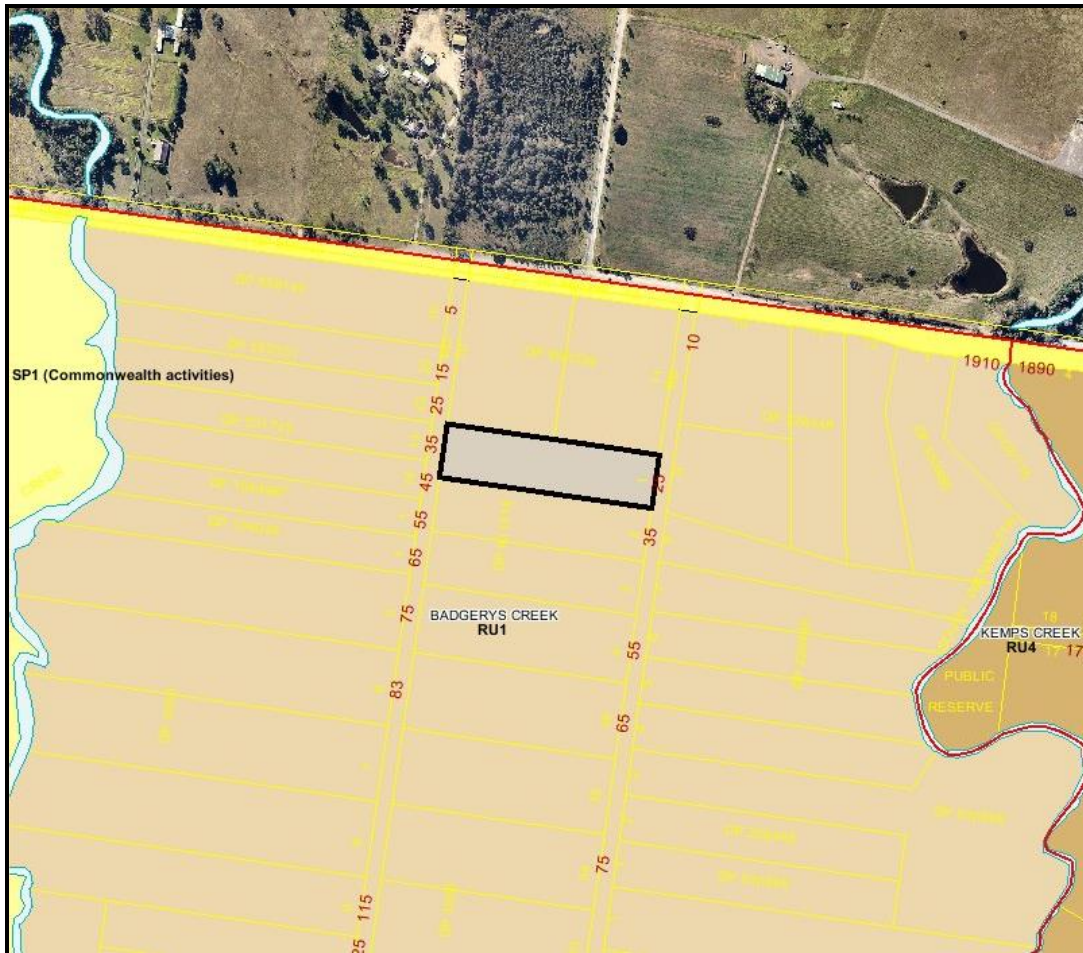
- *Liverpool Development Control Plan 2008*
  - Part 1 – Controls applying to all development
  - Part 5 – Development in Rural & Environmental Zones

#### Contributions Plans

- Liverpool Contributions Plans do not apply to the site, however, the Special Infrastructure Contribution – Western Sydney Growth Areas is applicable.

### **5.2 Zoning**

The site is zoned RU1 – Primary Production pursuant to LLEP 2008 as depicted in the figure below.



**Figure 5: Zoning map extract of Liverpool Local Environmental Plan 2008**

### **5.3 Permissibility**

The proposed RRF is a prohibited development in the RU1 Primary Production zone pursuant to LLEP 2008 for which the site is zoned. However, the application has been made pursuant to SEPP (Infrastructure) 2007 (the SEPP) which permits waste or resource management facilities within a prescribed zone.

Clause 120 of the SEPP lists RU1 Primary Production as a prescribed zone and pursuant to Clause 121 of the SEPP, the proposed resource recovery facility is a permissible land use with consent. In addition, Part 1 Clause 8(1) of SEPP provides that in the event of an inconsistency between itself and any other Environmental Planning Instrument, the SEPP takes precedent to the extent of the inconsistency.

## **6. ASSESSMENT**

The development application has been assessed in accordance with the relevant matters of consideration as prescribed by Section 79C of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000 as follows:

## 6.1 Section 79C(1)(a)(1) – Any Environmental Planning Instrument

### State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

The objectives of SEPP 55 are:

- *to provide for a state wide planning approach to the remediation of contaminated land.*
- *to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.*

Pursuant to the above SEPP, Council must consider:

- whether the land is contaminated.
- if the land is contaminated, whether it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the proposed use.

In respect to compliance with the provisions of SEPP 55, the application was referred to Council's Environmental Health Section for assessment. A detailed discussion is provided in the referral section of this report. Conditions have been imposed to ensure the site will be suitable after remediation for the proposed use.

Pursuant to Clause 7 of SEPP 55, Council is also required to undertake a merit assessment of the proposed development. The following table summarises the matters for consideration in determining a development application (Clause 7).

<b>Clause 7 - Contamination and remediation to be considered in determining development application</b>	<b>Comment</b>
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	A contamination assessment was submitted as part of the application for the subject site. The documentation were reviewed by Council's Environmental Health Department and the EPA, and considered satisfactory subject to the submission of a satisfactory Remediation Action Plan. A Remediation Action plan was submitted and reviewed by Council's Environmental Health Staff, and considered satisfactory subject to conditions of consent.
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and	Remediation works must be carried out in accordance with remediation plan (ref: P1404242JR04V01) prepared by (Martens Consulting) dated April 2016.
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	As above.



Based on the above assessment the proposal is considered to satisfy the relevant objectives and provisions of SEPP 55 and therefore it is considered the subject site is suitable for the proposed development subject to remediation works being undertaken.

### **State Environmental Planning Policy (Infrastructure) 2007**

The proposed development is best described as a resource recovery facility (RRF) which is defined by the SEPP (Infrastructure) 2007 as:

*a facility for the recovery of resources from waste, including such works or activities as separating and sorting, processing or treating the waste, composting, temporary storage, transfer or sale of recovered resources, energy generation from waste gases and water treatment, but not including re-manufacture of material or goods or disposal of the material by landfill or incineration.*

As noted earlier in this report, while the proposed RRF is a prohibited development in the RU1 zone pursuant to LLEP 2008, the SEPP (Infrastructure) 2007 nominates the RU1 Primary Production zone as a prescribed zone and RRF is a permitted land use within a prescribed zone. As the SEPP prevails to the extent of any inconsistency between itself and the LLEP 2008, the proposal would be permissible with consent.

#### **Clause 123 of the SEPP**

In relation to (e), it is noted that the matters to be considered in Clause 123 of the SEPP relate to landfill proposals and so are not relevant to this proposal.

### **Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997) (Deemed SEPP)**

The subject land is located within the Hawkesbury Catchment and as such the Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997) applies to the application.

The Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997) generally aims to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

When a consent authority determines a development application, planning principles are to be applied (Clause 4). Accordingly, a table summarising the matters for consideration in determining development applications (Clause 5 and Clause 6), and compliance with such is provided below.

<b>Clause 5 General Principles</b>	<b>Comment</b>
(a) the aims of this plan,	The plan aims to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.
(b) the strategies listed in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy	The strategies are applied to this planning assessment in the table under Clause 6

(c) whether there are any feasible alternatives to the development or other proposal concerned	<p>The proposed construction and stormwater works are appropriate and no alternatives need be considered.</p> <p>The State Environmental Planning Policy (Infrastructure) 2007 SEPP nominates the RU1 Primary Production zone as a prescribed zone and the proposal is considered to provide an appropriate and feasible form of development on the subject site.</p>
(d) the relationship between the different impacts of the development or other proposal and the environment, and how those impacts will be addressed and monitored	A stormwater concept plan was submitted and reviewed by Council's development engineers. Conditions of consent will be applied aiming to improve the quality of expected stormwater discharge from the site. Additionally, the applicant's EIS addresses: flora and fauna, noise, air quality, soils, traffic and Aboriginal cultural heritage.
<b>Clause 6 Specific Planning Policies and Recommended Strategies</b>	Comment
(1) Total catchment management	Based on the conclusions of the various expert reports accompanying the application, specifically the stormwater management, it is considered that the proposal is unlikely to result in a significant adverse environmental impact on the catchment.
(2) Environmentally sensitive areas	The site is not identified as part of an Environmentally Sensitive area as defined in this plan
(3) Water quality	Council's Development Engineers have provided conditions of consent aiming to improve the quality of expected stormwater discharge from the site.
(4) Water quantity	<p>The proposed development will result in minimal overall change to flow characteristics of surface or groundwater in the catchment.</p> <p>Council's Development Engineers have provided conditions of consent aiming to reduce the impact from the expected stormwater runoff and flow characteristics through the site, on down-stream aquatic ecosystems,</p>
(5) Cultural heritage	The site is not identified as being of or containing Aboriginal / cultural heritage.
(6) Flora and fauna	The site is identified as Biocertified, which means it is unnecessary to provide a flora/fauna assessment report.
(7) Riverine scenic quality	Not applicable.
(8) Agriculture/aquaculture and fishing	Not applicable.
(9) Rural residential development	Not applicable.
(10) Urban development	Not applicable.
(11) Recreation and tourism	Not applicable.

(12) Metropolitan strategy	The proposal is consistent with the Metropolitan Strategy, the land is zoned as 'future industrial' and a detailed response is provided in the applicant's EIS.
----------------------------	---

It is considered that the proposal satisfies the provisions of the Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997), subject to appropriate sedimentation and erosion controls being implemented during construction of the proposed development.

### **State Environmental Planning Policy No. 33 – Hazardous and Offensive Development**

The Secretary's Environmental Assessment Requirements (SEARs) issued by the NSW Department of Planning and Environment (DPE) require a Preliminary Risk Screening Assessment, as outlined in the document entitled *Applying SEPP 33 Hazardous and Offensive Development Application Guidelines (2011)*, prepared by Department of Planning. A Risk Screening Assessment was provided with the EIS.

There will be no diesel fuel stored at the facility. Diesel fuel transported to the site for use by the machinery is not of sufficient quantity or regularity to warrant further investigation under SEPP 33. The RRF will not accept hazardous or contaminated waste.

The risk assessment concludes that the site does not constitute a hazardous industry or a potentially hazardous industry and that a preliminary hazard assessment is not required.

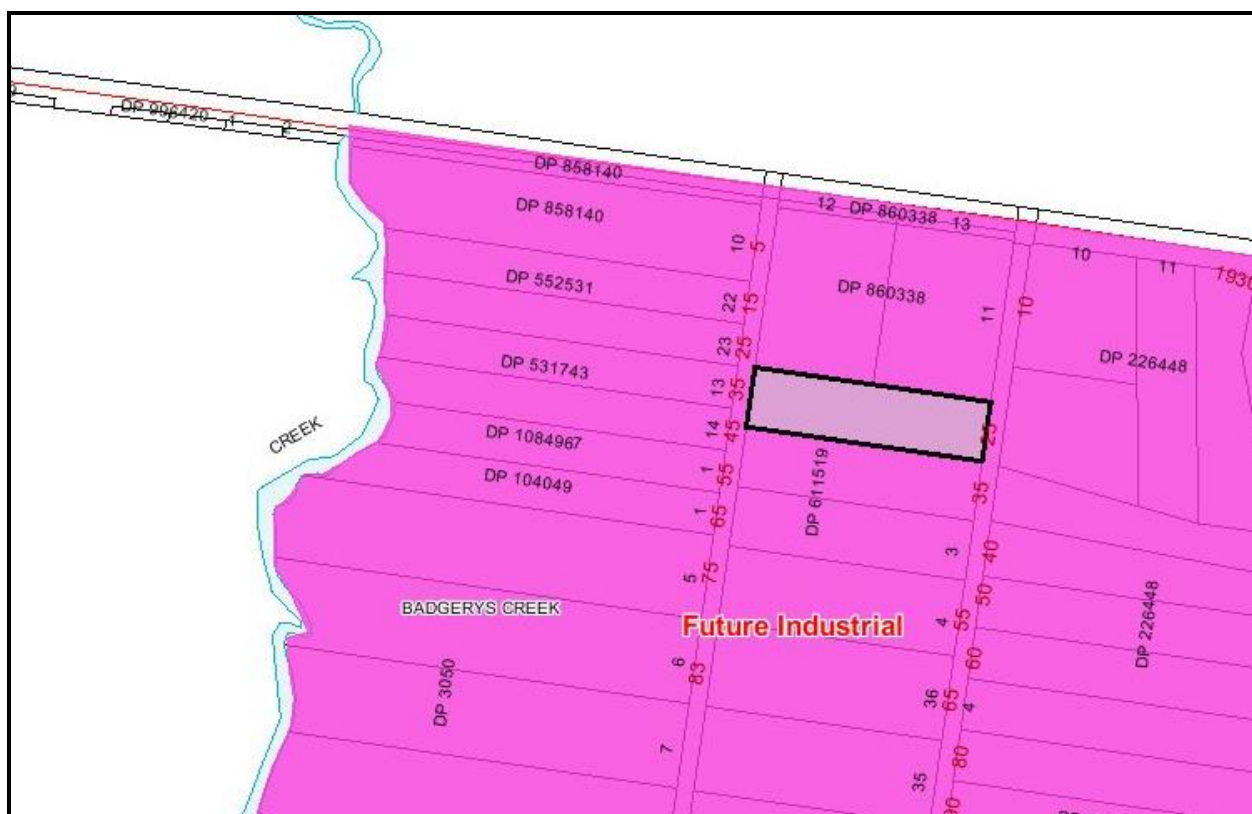
### **State Environmental Planning Policy No. 44 – Koala Habitat Protection (SEPP 44)**

The applicant's EIS has addressed SEPP 44 and identified that the site does not constitute 'core Koala habitat'.

### **State Environmental Planning Policy (Sydney Region Growth Centres) 2006**

The applicant's EIS has addressed the Growth Centres SEPP and identified that the land is located within the South West Growth Centre. The subject land and surrounding area has not been rezoned by the Growth Centres SEPP, however, it is identified as 'future industrial' on the South West Growth Centre Development Control Map (Edition 2) – Sheet DVC 006.





**Figure 6: Council's GIS presenting the South West Growth Centre Development Control Map (Edition 2) 'Future Industrial' area**

As precinct planning for the area where the subject land is situated is not yet finalised, pursuant to Clause 16 of the Growth Centres SEPP, certain matters must be considered in the assessment of this application.

Clause 16 Consideration	Response
(a) whether the proposed development will preclude the future urban and employment development land uses identified in the relevant growth centre structure plan,	The South West Growth Centre Structure Plan identifies the area where the subject land is located as "industrial/employment" land. The proposed development has characteristics of industrial-type development and is therefore consistent with the structure plan
(b) whether the extent of the investment in, and the operational and economic life of, the proposed development will result in the effective alienation of the land from those future land uses,	The proposal is not of such a scale that it would preclude alternative development of the land at some future time. With the exception of the storage shed, other structures are portable
(c) whether the proposed development will result in further fragmentation of land holdings,	The proposal does not involve subdivision and therefore will not result in fragmentation of land holdings
(d) whether the proposed development is incompatible with desired land uses in any draft environmental planning instrument that proposes to specify provisions in a Precinct Plan or in clause 7A,	The proposed development has characteristics of an industrial-type development and is therefore consistent with the proposed future industrial use identified in the Growth Centres SEPP
(e) whether the proposed development is consistent with the precinct planning strategies and principles set out in any publicly exhibited document that is relevant to the development,	Refer to comments above
(f) whether the proposed development will hinder the orderly and co-ordinated provision of	Refer to comments above. The land is located under the flight path for the proposed Badgerys

infrastructure that is planned for the growth centre,	Creek Airport. The proposed development is unlikely to hinder the construction or operation of the airport.
(g) in the case of transitional land—whether (in addition) the proposed development will protect areas of aboriginal heritage, ecological diversity or biological diversity as well as protecting the scenic amenity of the land.	The subject land is not transitional land

The proposal is considered consistent with the provisions of the Growth Centres SEPP.

### **Contaminated Land Management Act 1997**

The applicant's EIS provides the following response in relation to the Contaminated Land Management Act 1997.

The SEAR's issued by the DPE require a Preliminary Risk Screening Assessment, as outlined in the document entitled *Applying SEPP 33 Hazardous and Offensive Development Application Guidelines (2011)*, prepared by Department of Planning. A Risk Screening Assessment was provided with the EIS.

The risk assessment concluded that the site does not constitute a hazardous industry or a potentially hazardous industry and that a preliminary hazard assessment is not required.

### **Native Vegetation Act 2003**

The applicant's EIS provides the following response in relation to the Native Vegetation Act 2003.

Part 3, Division 4, Clause 25 (f) of the NV Act states; *"any clearing that is, or is part of, designated development within the meaning of the EPA Act 1979, for which development consent has been granted under that Act"* is considered excluded clearing. Therefore, upon the granting of development consent for this application, the clearing of the minor native vegetation on this site will be excluded from the provisions of the NV Act.

### **Threatened Species Conservation Act 1995**

The applicant's EIS provides the following response in relation to the Threatened Species Conservation Act 1995 (TSC Act).

The land is located in the area covered by the South West Growth Centre – Biodiversity Certification. Consequently, the provisions of section 126I(3) of the TSC Act apply, which state:

*A consent authority, when determining a development application in relation to development on biodiversity certified land under Part 4 of the Planning Act, is not required to take into consideration the likely impact of the development on biodiversity values (despite any provision of the Planning Act or any regulation or instrument made under that Act).*

Therefore, the proposal is consistent with the provisions of the TSC Act.

## **Protection of the Environment Operations Act**

The proposal is a “scheduled activity” pursuant to the *Protection of the Environment Operations Act 1997*, (POEO Act) and therefore is required to be licensed. The following clauses apply and are considered in detail in the applicant’s EIS.

- Clause 12 – Composting (relating to the chipping and mulching);
- Clause 16 – Crushing, grinding or separating;
- Clause 34 – Resource recovery;
- Clause 41 – Waste Processing (non thermal treatment); and
- Clause 42 – Waste storage

The clauses noted above relate to activities which require management and mitigation measures. The applicant has addressed this through management and mitigation measures identified in the EIS and specialist reports specifically related to the management of stormwater, stockpiles, waste, ecology, Aboriginal Cultural significance, acoustic amenity/vibration, traffic, air quality, visual landscape, Badgery’s Creek Airport, community and economic effects and contamination.

## **Commonwealth Environment Protection and Biodiversity Act 1999**

The applicant’s EIS provides the following response in relation to the Threatened Species Conservation Act 1995 (TSC Act).

The subject site is covered by the South West Growth Centre – Biodiversity Certification and does not require a referral to the Minister.

## **Liverpool Local Environmental Plan 2008**

The proposed RRF is a prohibited development in the RU1 Primary Production zone pursuant to LLEP 2008 for which the site is zoned. However, the application has been made pursuant to SEPP (Infrastructure) 2007 (the SEPP) which permits waste or resource management facilities within a prescribed zone. RU1 is identified as a prescribed zone under SEPP (Infrastructure).

## **Zone Objectives**

The objectives of the RU1 - Primary Production Zone are as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To ensure that development does not unreasonably increase the demand for public services or public facilities.*
- *To ensure that development does not hinder the development or operation of an airport on Commonwealth land in Badgery’s Creek.*
- *To preserve bushland, wildlife corridors and natural habitat.*

The proposed development is consistent with several objectives of the RU1 zone:



- The proposed development is unlikely to increase the fragmentation and alienation of resource lands. The land has not historically been used for resource purposes in terms of primary production or extraction of resources from under the ground. Approval of the development will not sterilise the land from such purposes in the future, albeit environmental and economic factors make future use of the land for such resource-based purposes unlikely.
- Fragmentation arises principally from the subdivision of land. The proposed development does not involve subdivision.
- The proposed facility is unlikely to create conflict between land uses within the RU1 zone and land uses within adjoining zones.
- The proposal is unlikely to increase the demand for public services or public facilities.
- The minor area of vegetation to be cleared will have no significant impact, according to the assessment accompanying the proposal.

### ***Principal Development Standards***

The following principal development standards are applicable to the proposal:

CLAUSE	REQUIRED	PROPOSED	COMPLIANCE
Clause 5.9 – Preservation of Trees or Vegetation	Council's consent is required prior to the removal of any existing trees of vegetation.	Three tree species are proposed to be removed from the site.	Yes, see comment below.
Clause 7.6 - Environmentally significant land	Consider impacts of development on environmentally significant land, bed and banks of waterbody, water quality and public access to foreshore.	No ESL identified.	N/A
Clause 7.17 – Development in flight paths	To provide for effective and on-going operation of airports and ensure such operation is not compromised.	The controls of this Clause relate to Bankstown Airport flight paths. The proposal is not in the vicinity of the Bankstown Airport flight paths.	Yes

CLAUSE	REQUIRED	PROPOSED	COMPLIANCE
<p>Clause 7.18 – Development in areas subject to potential airport noise</p>	<p>The objectives of this clause are to ensure that development in the vicinity of Bankstown Airport and the proposed Badgery's Creek airport site:</p> <p>(a) has regard to the use or potential future use of each site as an airport, and</p> <p>(b) does not hinder or have any other adverse impact on the development or operation of the airports on those sites.</p> <p>The following development is prohibited:</p> <p>c) business premises, entertainment facilities, office premises, public administration buildings, retail premises and tourist and visitor accommodation on land where the ANEF exceeds 30.</p> <p>Office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.</p>	<p>The land is shown on the Airport Noise Map (LLEP 2008) being affected by Australian Noise Exposure Forecast (ANEF) between 30 and 35 units.</p> <p>The proposed use is not prohibited by the Clause and is consistent with the objectives of the Clause in that the proposal is unlikely to hinder or have any adverse impact on the development or operation of the proposed Badgery's Creek Airport.</p> <p>The LLEP definition of an office is not pertinent to the proposal as the proposed office (ancillary to the principal use of the site) will deal with members of the public on a regular basis and is immediately adjacent to the proposed weighbridge.</p>	<p>Yes</p>

CLAUSE	REQUIRED	PROPOSED	COMPLIANCE
Clause 7.31 – Earthworks	<p>(1) The objectives of this clause are as follows:</p> <p>(a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,</p> <p>(b) to allow earthworks of a minor nature without requiring separate development consent.</p> <p>(2) Development consent is required for earthworks unless:</p> <p>(a) the work is exempt development under this Plan or another applicable environmental planning instrument, or</p> <p>(b) the work is ancillary to other development for which development consent has been given.</p>	<p>Site earthworks are considered ancillary to the proposed construction and operation of a resource recovery facility and associated ancillary structures.</p> <p>The earthworks and landscaping will minimise the concentration of direct runoff to proposed stormwater OSD and bioremediation basin and minimise potential erosion from site surface flows and overflows from stormwater tanks / basins.</p>	

### Preservation of Trees or Vegetation

Council's Natural Resource officer reviewed the proposal and provided the following comment: *Given the apparent degraded condition of the vegetation and habitats present, it is considered that further consideration of ecological matters is not warranted. Pertinent conditions are recommended to minimise impacts to adjacent vegetation.*

### **6.2 Section 79C(1)(a)(ii) - Any Draft Environmental Planning Instrument**

No draft Environmental Planning Instruments apply to the site.

### **6.3 Section 79C(1)(a)(iii) - Provisions of any Development Control Plan**

Part 1 - General Controls for all Development and Part 5 – Rural of the Development Control Plan apply to the proposed development.

The following compliance table outlines compliance with these controls.

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
CONTROLS	PROVIDED	COMPLIES
2. TREE PRESERVATION	Three trees are proposed for removal as part of the application.	Yes
3. LANDSCAPING	The proposal provides a detailed landscape plan, which provides for an adequate amount of landscaping.	Yes
4. BUSHLAND AND FAUNA HABITAT	The proposal was accompanied by an EIS and an Environmental Assessment (Flora and	Yes

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
PRESERVATION	Fauna). The reports were reviewed by Council's Natural Resource Planner and no objections were raised to the proposal.	
5. BUSHFIRE RISK	The subject site is not bushfire affected.	N/A
6. WATER CYCLE MANAGEMENT	The proposed development provides a concept storm water design. The proposed design was reviewed by Council's Development Engineers and considered acceptable subject to conditions.	Yes
7. DEVELOPMENT NEAR CREEKS AND RIVERS	<p>The subject site is over 400m from the nearest creeks (Badgerys Creek to the east and South Creek to the west).</p> <p>The proposed development is considered to be acceptable in terms of its impacts on these creeks.</p>	Yes
8. EROSION AND SEDIMENT CONTROL	The applicant has provided sediment control plans which have been reviewed by Council's Development Engineers and are considered acceptable.	Yes
9. FLOODING RISK	<p>The subject site is not flood affected. Council's Flooding Engineers have reviewed the proposal, noting the site is located within Badgerys Creek catchment. The development site is outside Probable Maximum Flood (PMF) extent. From a mainstream flooding perspective, no condition applies for the proposed development.</p> <p>The Flooding Engineers considered the application to be worthy of support.</p>	Yes
10. CONTAMINATION LAND RISK	An assessment under SEPP 55 was detailed previously in this report. It is considered that the proposed development satisfactorily addresses clause 7 of SEPP 55.	Yes
11. SALINITY RISK	<p>The Salinity Map for Western Sydney (2002) identifies the site in an area of 'moderate' salinity.</p> <p>The EIS accompanying the application notes that a subsequent onsite assessment has been undertaken.</p> <p>Soil testing undertaken revealed that the site's silty clay fill topsoil is non to slightly saline whilst the underlying natural clays range from non to moderately saline.</p>	Yes
12. ACID SULFATE SOILS RISK	The subject site is not identified to contain Acid Sulphate Soils.	Yes
13. WEEDS	The proposal was accompanied by a weed eradication management plan. The plan was reviewed by Council's Weed Management Officer and considered acceptable. This plan	Yes

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
	will form part of a consent condition.	
14. DEMOLITION OF EXISTING DEVELOPMENT	No demolition proposed as part of the development application.	N/A
15. ON-SITE SEWERAGE DISPOSAL	The proposed on-site sewerage disposal has been reviewed by Council's Environmental Health Officer and considered acceptable – additional comments below.	Yes
16. ABORIGINAL ARCHAEOLOGY	No items of Aboriginal Archeological significance identified on the subject site.	Yes
17. HERITAGE AND ARCHAEOLOGICAL SITES	The application was reviewed by Council's Heritage Officer.  There are no identified historical heritage places at the subject site or in the vicinity.	Yes
18. NOTIFICATION OF APPLICATIONS	The development application was advertised on two occasions for a period of 30 days between 10 June 2015 and 10 July 2015 and in accordance with the Environmental Planning and Assessment Regulations 2000 and Liverpool Development Control Plan 2008 (LDCP 2008).  During the exhibition period three submissions were received. The issues raised within the submissions are discussed further within the report.	Yes
20. CAR PARKING & ACCESS	Council's DCP does not stipulate parking requirements for a resource recovery facility but indicates 'traffic report required' for 'materials recycling or recovery centre'. The proposal includes provisions for the parking of 5 staff members on site.  Council's Traffic Engineers reviewed the Parking and Traffic Report – Traffic Impact Assessment and provided support subject to conditions of consent.	Yes
22. WATER CONSERVATION	A stormwater management plan was submitted with the application that was reviewed by Council's Development Engineers and considered worthy of support.	Yes
23. ENERGY CONSERVATION	Conditions will be imposed requiring the proposed development to comply with the BCA, which includes standards for energy conservation for non-residential development.	Yes
25. WASTE DISPOSAL AND RE-USE FACILITIES	A waste management plan was submitted as part of the proposal. The WMP was reviewed and considered acceptable. Conditions of consent have also been imposed stipulating the provision of appropriate waste disposal facilities during construction and appropriate sediment erosion control measures be	Yes



**PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT**

	implemented during construction.	
--	----------------------------------	--

**Bushland and Fauna Habitat Preservation**

The proposal was accompanied by an Environmental Impact Statement (Precise Planning, March 2015) and an Environmental Assessment (Flora and Fauna) (Woodlands Environmental Management, 3/12/2014). The reports were reviewed by Council's Natural Resource Planner whom provided the following comments:

*Council mapping indicates that part of the site contains a threatened ecological community. However, Evview indicates that the site is biocertified. Based on NSW Planning documents available in TRIM (NSW Planning Biocertification map, TRIM doc 043937.2010 & NSW Planning advice re Biocertification, TRIM doc 004253.2011), the need for threatened species assessment under State legislation appears to be 'switched off' for all biocertified land. Notwithstanding the biocertification, the Secretary's Environmental Assessment Requirements saved as TRIM ref 084228.2015 include the following pertinent matters:*

- *biodiversity - including:*
  - *identification and assessment of potential impacts to any identified threatened species, populations, ecological communities or their habitats; and*
  - *protection (including from indirect effects) of existing remnant vegetation presently existing on the site and in surrounding areas.*

*Given the apparent degraded condition of the vegetation and habitats present, it is considered that further consideration of ecological matters is not warranted. Pertinent conditions are recommended below to minimise impacts to adjacent vegetation.*

**On-site Sewerage Disposal**

Council's Environmental Health Section reviewed the information relating to proposed on-site sewerage disposal and provided the following summary comments.

*This (wastewater proposal) report does not meet the requirements of a wastewater report yet instead provides an appraisal of different system types and makes the recommendation that a pump out system is installed. A plan showing the proposed location of the septic tank(s) has also been provided. This information is considered to be adequate information at the DA stage and further information including the specific tank(s) to be installed can be provided along with the s68 application to install which will be required prior to CC.*

**PART 5 – RURAL AND E3 ZONES**

<b>CONTROLS</b>	<b>PROVIDED</b>	<b>COMPLIES</b>
<b>SETBACKS</b>  20m Front Setback 2m Side Setback 10m Rear Setback	Complies except for the lunch room and WC which are within a 20m setback to Martin Road (approximately 4.5m from the front setback). Variation is considered reasonable given their low profile and limited visibility having regard to the existing acoustic wall located along the front boundary. Proposed shed is 7.5m from the side boundary.	No, supported on merit
<b>BUILDING DESIGN, STYLE AND STREETSCAPE</b>	The storage shed has a maximum height of approximately 9.5m. The setback of the shed, particularly from the roads, combined with proposed perimeter landscaping will ensure	No, supported on merit

## PART 5 – RURAL AND E3 ZONES

Non-residential maximum 8.5m	there are no adverse character or amenity impacts arising from the variation. Building colours can be conditioned to comply.	
<p><b>LANDSCAPING AND FENCING</b></p> <p>Maximum height for solid fences at the front of site: 1.2m</p> <p>Fences alongside and rear boundaries shall have a maximum height of 1.8m</p>	<p>The proposed security fence will be 2.4m, this height is required to provide sufficient height to be an effective safety and security barrier. The security fence will be chain wire so will not present as a solid wall. It will also be integrated with landscaping as shown on the plans.</p> <p>The 2.5m acoustic fencing already exists along the front of the property and to an extent along both north and south boundaries. The proposed acoustic fencing is proposed to extend across the top of an existing earth mound behind the proposed stockpile C. Extensions to the acoustic fence will be consistent with the height and style of existing fencing around the eastern section of the site and will provide safety and acoustic benefits. Variation to the control is therefore warranted.</p> <p>The post and wire fence set in from the boundary to protect the planting is 1.2m in height.</p>	No, supported on merit
<b>CAR PARKING AND ACCESS</b>	Refer to discussion in Part 1	Yes
<b>NOISE</b>	<p>To reduce the noise impact of the proposed development the following reasonable and feasible noise mitigation measures are proposed:</p> <ul style="list-style-type: none"> <li>• A 2.5m high acoustic barrier is to be installed on the earth mound. The final height of the earth mound plus the proposed fencing will be 4.7m</li> <li>• The existing Hebel fences on the northern and southern boundaries are extended at the same height as shown on the latest site plan.</li> </ul> <p>Noise emission from the site, with all reasonable and feasible noise mitigation measures applied (as stated above), would comply with the project specific noise levels at all receivers.</p>	Yes
<b>AIR</b>	<p>It is predicted that emissions of PM2.5, PM10, TSP and dust deposition will comply with the applicable assessment criteria at all sensitive receptors and would therefore not lead to any unacceptable level of environmental harm or impact in the surrounding area.</p> <p>The site will apply appropriate dust management measures to minimise the potential occurrence of excessive dust</p>	Yes

## PART 5 – RURAL AND E3 ZONES

	<p>emissions from the site. Management and mitigation measures identified in the EIS are replicated below.</p> <ul style="list-style-type: none"> <li>• Measures to modify or suspend dust-generating activities will be implemented during periods of high wind speeds or whenever dust plumes from the works are visible;</li> <li>• Engines of on-site vehicles and plant will be switched off when not in use;</li> <li>• Vehicles and plant will be fitted with pollution reduction devices;</li> <li>• Vehicles will be maintained and serviced according to the manufacturer's specifications;</li> <li>• Water suppression as required</li> <li>• Apply covers for stockpiles in adverse conditions;</li> <li>• Imposition of speed limits;</li> <li>• Covering of vehicle loads when transporting material off-site</li> </ul> <p>Overall, the assessment shows that the project can operate without causing any discernible air quality impact at the sensitive receptors in the surrounding environment. Also noting that the applicant will be required to apply for an environmental protection license (EPL) to lawfully operate.</p>	
WATER CYCLE	<p>The Water Cycle Management Plan prepared by Martens and Associates provides a treatment and water strategy which achieves post development flows equal to or less than pre development flows, as well as water quality measures designed to achieve stormwater pollutant retention targets set by Liverpool Council as follows:</p> <p>Total suspended solids 80% retention target  Total phosphorus 45% retention target  Total nitrogen 45% retention target  Gross pollutants 90% retention target</p>	Yes
HAZARDOUS MATERIALS	<p>It is not intended that the facility would store hazardous materials.</p>	Yes
SITE SERVICES	<p>Waste management will be provided by the proponent;  A numbered letterbox will be installed at the gate in Martins Road;  All works will be funded by the proponent;  Existing electrical supply is adequate;  A portable WC is proposed</p>	Yes

#### **6.4 Section 79C(1)(a)(iia) - Any Planning Agreement or any Draft Planning Agreement**

There is no planning agreement or draft planning agreement.

#### **6.5 Section 79C(1)(a)(iv) – The Regulations**

The proposal is designated development, based on the following clauses from the *Environmental Planning and Assessment Regulations 2000*:

- Sch 3, cl. 16(1)(b) – crushing, grinding or separating works that are located within 250 metres of a dwelling not associated with the development;
- Sch 3, cl. 32(1)(b)(iii) – Waste management facilities or works that store, process, recycle, recover, use or reuse material from waste and that sort, consolidate or temporarily store waste at transfer stations for transfer to another site for final disposal, permanent storage, recycling, use or reuse and that have an intended handling capacity of more than 30,000 tonnes per year of waste such as glass, plastic, paper, wood, metal, rubber or building demolition material;
- Sch 3, cl. 32(1)(c) – Waste management facilities or works that store, treat or dispose of waste or sort, process, recycle, recover, use or reuse material from waste and that recover, reprocess or process more than 5,000 tonnes per year of solid organic materials (in this case greenwaste); and
- Sch 3, cl 32(1)(d)(ii) – Waste management facilities or works that store, treat, or dispose of waste or sort, process, recycle, recover, use or reuse material from waste and that are located in an area of sodic or saline soils. NB the sodicity and saline levels in the soil exceed threshold levels (waste management facilities or works).

The Environmental Planning and Assessment Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. If approved appropriate conditions of consent will be imposed requiring compliance with the BCA.

#### **6.6 Section 79C(1)(a (v) – Any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates**

There are no or there are Coastal Zones applicable to the subject site.

#### **6.7 Section 79C(1)(b) – The Likely Impacts of the Development**

##### **(a) Natural and Built Environment**

##### ***Built Environment***

The proposed development is considered to be a reasonable form of development given the desired future character of the site. It is considered to be an industrial development that is of an appropriate bulk and scale, given the size of the development site. The proposed development does not generate any detrimental impacts in terms of overshadowing or privacy on adjoining properties. It is considered the proposed industrial development to be well suited within the immediate surrounding locality and will not be out of place within the surrounding built environment.

## **Natural Environment**

As part of the proposal a survey, assessment and report was prepared with reference to the NSW Office of Environment and Heritage *Threatened species survey and assessment guidelines*. The environment surrounding the site will be protected through mitigation measures proposed in the EIS. The minor area of vegetation to be cleared will have no significant impact, according to the Woodlands report. The proposed RRF is environmentally sustainable, will increased re-use and recycling of materials and has manageable impacts. The applicant's EIS also notes the following:

- Tree planting around the perimeter of the site will provide a positive improvement to the visual character of the site and to the streetscape.
- The recycling activities will be screened from residential and road users on Lawson Road by the planted mound in the middle of the site.
- The vehicle depot and shed will be partially screened by fencing and planting. This land use is similar to other uses along Lawson Road, so not visually out of character with the area, and similar to use on the adjacent corner property, and No 55 Lawson Road.
- The eastern portion of the site is currently being used for material storage so this land use will only intensify and be formalised. There is currently only limited visibility to this portion of the site, back-dropped by surrounding built elements or bamboo plantation. Proposed boundary planting will eventually screen the site from adjacent users.
- The land use is visually consistent with similar uses in the area and along Martin Road.
- The visual appearance of the Martin Road portion of the site is, and will continue to be of higher quality than the site opposite, when viewed from Martin Road.
- The truck users of Martin Road will view over the fence until vegetation grows. These truck users will have been to similar sites at ANL or Boral along Martin Road, so are not considered to be impacted by the proposed changes in visual use.

### **(a) Social Impacts and Economic Impacts**

#### **Social Impacts**

The proposed facility will result in a minor intensification of activity in the immediate vicinity. The specialist reports that have been prepared in order to inform the EIS have demonstrated that the proposed RRF will create manageable impacts related to noise, dust, visual amenity and road safety / congestion. In relation to noise and air quality, the reports provided demonstrate compliance with the relevant guidelines.

#### **Economic Impacts**

The proposal will provide employment during the construction of the facility and will provide ongoing employment to operate the facility, which will have a trickle-down effect on the local economy. Additional benefits include the provision of infrastructure at no economic cost to the community; relieving of pressure on the local and state government to locate an



appropriate site and fund a RRF; and expenditure of the operator for ongoing maintenance of equipment and supply of services.

### **Liverpool Contributions Plan**

A Section 94 is not applicable to the site.

### **6.8 Section 79C(1)(c) – The Suitability of the Site for the Development**

The site is considered suitable because mitigation / management measures can be designed and implemented in a cost effective manner to satisfactorily ameliorate potential adverse impacts. The site is also considered to be of an appropriate bulk and scale for the proposal. The proposed development demonstrates compliance with the provisions of the LDCP 2008, Part 1 and 5. Any variation from the LDCP 2008 has been well founded and worthy of support, as stipulated throughout this report. Having regard to the above the proposal is considered suitable for the site.

### **6.9 Section 79C(1)(d) – Any submissions made in relation to the Development**

#### **(a) Internal Referrals**

The following comments have been received from Council's Internal Departments:

<b>Internal Department</b>	<b>Status and Comments</b>
Land Development Engineering	No objection, subject to conditions
Landscape	No objection, subject to conditions
Street trees	No objection
Environmental Health	No objection, subject to conditions, see further comments below.  A site specific EMP shall be prepared to ensure the works do not negatively impact on potential receptors (humans and environment) and comply with applicable environmental legislation. The EMP shall address noise, odour, and air quality.
Flooding	No objection
Traffic Engineering	No objection, subject to conditions
Strategic Planning	No objection
Heritage	No objection, subject to conditions
Community Planning	No objection
Bushland and Weeds	No objection
Natural Resources	No objection, subject to conditions  Given the apparent degraded condition of the vegetation and habitats present, it is considered that further consideration of ecological matters is not

	warranted.
Building & Fire Safety	No objection, subject to conditions

## **Environmental Health Referral Comments**

### **1st Referral to Health**

The documentation prepared by Precise Planning was reviewed by Council's Environmental Health Section. Council's Environmental Health Section requested that the following be addressed:

*Based on the submitted information, Environment and Health is unable to support DA-266/2015. Further consideration will be given to the application when additional information is provided to Council including:*

- *The NSW Environment Protection Authority is the appropriate regulatory authority for schedule activities that include Crushing, Grinding and Separating at the subject premises.*
- *Pursuant to Section 91A(2) of the Environmental Planning and Assessment Act 1979 and Regulations, the application shall be referred to the NSW Environment Protection Authority for comment. It is requested that the NSW Environment Protection Authority reviews the proposed development. The application is to be referred to the Environment and Health Section once a suitable response has been received from the NSW Environment Protection Authority.*

### **2<sup>nd</sup> Referral to Health**

A second referral was requested following a referral response from the NSW Environmental Protection Authority (EPA) requesting their comments on the proposal. The EPA provided support for the proposal subject to their GTA which addressed a number of issues raised by Council's Environmental Health Section in their second referral, including:

#### **1) Noise**

EPA notes that the Noise impact assessment lists nearest residences as R1, R2, etc without any street addresses or other. The proponent should be asked to provide street addresses and/or LoUDP numbers for all receiver locations in the assessment.

#### **2) Air Quality**

The EPA notes that the proponent has prepared an Air Quality Management Plan (AQMP) dated 9<sup>th</sup> November 2015. The AQMP lists sources of dust and odour emission from the proposal and sets a framework for: managing these emissions; measuring performance; and responding to excess emissions identified either from the measurements or from complaints. The AQMP is an operational tool for the proponent to potentially use to ensure their activities are carried out in a manner that minimises emissions. It should operate for the life of the project.

#### **3) Waste Management**

The EPA notes that the following waste items will be removed from the permitted waste types to be received:

- *Tyres;*

- Glass;
- Clean fill and typical household waste to be replaced with General Solid Waste (non-putrescible)

NSW EPA requires hardstand in areas that waste is stored to assist in the management of environmental impacts. This includes the dry material storage bays and temporary storage areas.

NSW EPA notes green waste are proposed to be stored on a hard stand area under a canopy and to isolate stormwater by using bunds to divert surface water around it.

#### 4) Stormwater/Water

The EPA notes that an environment protection licence will require testing of discharges from the premises in accordance with section 3.8 of the "Stormwater Management Assessment: Proposed Materials Recycling Facility, 25 Martins Road, Badgerys Creek, NSW dated March 2014.

The EPA requires the proponent adopt the recommendations described in section 3-8 (page 25) of the "Stormwater Management Assessment; Proposed Materials Recycling Facility, 25 Martins Road, Badgerys Creek, NSW, dated March 2014, which include:

- Quarterly water/groundwater monitoring for the first year of operations.
- Annual water/groundwater monitoring thereafter.
- Annual reporting of water/groundwater monitoring.
- Daily inspections of all stockpiles and bunds
- Monthly maintenance of site swales, bioremediation basins and stormwater pipes and pits.

The EPA notes that the proponent has adopted the above recommendations and agreed to install a third groundwater monitoring.

Council's Environmental Health Officers provided comments regarding contamination as follows:

*A Preliminary Site Contamination Assessment has been prepared by Martens Consulting Engineers (report no: P1404242JR01V01) dated March 2015.*

*The contamination assessment was undertaken to address the requirements of SEPP 55 (Remediation of Land) and determine whether the land is suitable for its proposed use.*

*No notices for the site or nearby surrounding areas under the Contaminated Land Management Act (1997) or the Environmentally Hazardous Chemicals Act (1985). No site within the suburb of Badgerys Creek was listed on the register.*

*Photos indicate that it is unlikely that the site has sustained any intensive land use, although some site filling has occurred. The site has been generally vacant since at least 1947.*

*The report outlines that a site walkover inspection was undertaken on 8 July 2014 and revealed the following:*

- Site currently used as a sorting and storage yard with temporary stockpiles of gravel, concrete, topsoil and other materials located on the eastern half of the site;
- Two grassed bunds in western section of lot;
- Extensive filling appears to be spread across majority of the property, consisting of ripped sandstone or gravelling sand with silt;
- Previous dam along southern boundary filled with material from unknown source;
- Crushed sandstone placed across 2/3 of the site to provide working platform for storage of stockpiles and vehicular movement;

- *Potentially Asbestos Containing Materials (PACM) fibrous cement sheeting fragments observed in south east corner of lot (from illegal dumping noted by site owner and documented within Council);*
- *Surface water/ponding (with sulphur odour) observed along northern boundary where neighbouring dam discharges;*
- *Concrete 'hebel' works around the north east, east and south east perimeter sections of the site;*
- *Stockpile of 'hebel' blocks in eastern portion of the site;*
- *Some vegetation observed.*

*Based on the above, the report outlines areas of environmental concern and potential for contamination. It is revealed that asbestos materials identified at the subject premises is likely to be high. Contaminants such as Heavy metals and pesticides are considered low to medium.*

*Results illustrate the following contaminants of concern were below Health based Investigation Levels for Commercial/Industrial land use;*

- *Heavy metals;*
- *TPH/BTEX;*
- *OC/OP pesticides;*
- *PCB;*
- *PAH;*

*It should be noted that asbestos had been detected and were above the adopted SAC limit in the south east corner of the subject premises. The report further indicates that bonded ACM fragments will require remediation prior to development. It is likely this area of contamination is localised and represents only surface contamination, however, this shall be confirmed during remedial works by additional testpits in the impacted area.*

*Marterns Consulting provides the following recommendation:*

*Completion of an asbestos survey and preparation of a RAP to detail removal of identified ACM in vicinity of BH106 and validation procedures to ensure site is suitable for proposed development.*

Having reviewed the submitted information from the applicant Council's Environmental Health Section requested that the following be submitted:

*1) Submit to Liverpool City Council a Stage 3 Remedial Action Plan (RAP) prepared by a suitably qualified and experienced contaminated land consultant for the remediation of the premises at: Lot 1 DP 611519 No 25 Martin Road, Badgery's Creek. This includes a completion of an asbestos survey to be prepared by an appropriately licenced contractor. The report shall be prepared in accordance with the EPA Contaminated Sites Series.*

### 3<sup>rd</sup> Referral to Health

Council's Environmental Health Officers completed a third referral of the proposal with the following comments:

*A RAP was prepared subsequent to Marterns Consulting recommendations to ensure completion of an asbestos survey and preparation of a RAP to detail removal of identified ACM and validation procedures to ensure the site would be suitable for the proposed development.*

*Based on the completed onsite investigations by Marterns Consulting, asbestos contamination in the form of bonded cement fibre fragments was identified at the surface in the south east corner of the site. Remediation is required to render the site fit for the proposed commercial industrial use.*

*A number of remediation strategies were proposed to establish which technology or combination of technologies would be most suitable to meet the site remediation objectives. The preferred method of remediation is 'offsite disposal'.*

*Marten Consulting concludes that a site validation report will be prepared by the appointed environmental consultant at the completion of remediation works. This report shall document the remediation and validation sequence, detail all validation works (visual survey or sampling) and results of assessment.*

*The document shall also include details regarding any remaining site contamination, and identify residual risks posed by remaining contaminants.*

*The proposed development is also subject to Section 91 of the EP & A Act 1979 being 'integrated development'. Therefore, a referral was made to NSW EPA for comment. The EPA notes that the proposal will require an environment protection licence (EPL) with the EPA to lawfully operate. The EPA notes that the proponent will be required to submit a separate EPL application with the EPA at a later date.*

Council's Environmental Health Section is now satisfied with the proposal and has no further concerns with it. Accordingly, it has provided recommended conditions of consent to be incorporated into any approval in order to ensure the site will be suitable, following remediation, for the proposed use.

#### **(a) External Referrals**

The following comments have been received from External agencies:

<b>External Department</b>	<b>Status and Comments</b>
EPA	General Terms Of Approval issued.
Endeavour Energy	No response received.
RMS	General Terms Of Approval issued.  RMS raised no concern with regards to the referral seeking concurrence pursuant to schedule 3 of the Infrastructure SEPP.
Department of Planning and Environment (DPE)	No objection.  Secretary's Environmental Assessment Requirements (SEAR's) in respect of the proposal were issued on 12 September 2014.  A number of Government agencies were consulted by the Department of Planning and Environment (DPE) during the preparation of the SEARs. Such consultation sought to identify key issues for assessment and discuss specific issues relevant to the proposal. At the request of the SEARs, additional



	<p>consultations were undertaken with additional agencies and service providers. This EIS seeks to be responsive to the matters raised during these consultations.</p> <p>The DPE identify the EPA General Terms of Approval to be incorporated into any development consent granted by Council.</p>
Department of Infrastructure and Regional Development (DIRD)	<p>No objection.</p> <p>The DIRD raised two issues as part of their assessment:</p> <ul style="list-style-type: none"> <li>• Height of buildings; and</li> <li>• Potential for the activities at the proposed facility to attract wildlife, particularly birds.</li> </ul> <p>The applicant's EIS has responded to these concerns, noting the proposed shed will not impede the safe flow of aircraft. A detailed ecological report was also provided and the DIRD was supportive of management and mitigation measures proposed subject to their inclusion in any conditions of consent.</p>

## **(b) Community Consultation**

The development application was advertised for a period of 30 days on two occasions between 10 June 2015 and 10 July 2015 in accordance with the Environmental Planning and Assessment Regulation 2000 and the Liverpool Development Control Plan 2008 (LDCP 2008). During the exhibition period three submissions were received. The issues raised in the submissions, and a response to each, are summarised as follows:

### **Noise from operations and machinery affecting quality of life**

An acoustic assessment was prepared and submitted with the application, the acoustic assessment models operational scenarios and proposes mitigation measures including construction of an earth mound with fencing to mitigate noise to the west. The existing acoustic fences on the northern and southern boundaries extended west, up to the existing mound on the southern side and beyond the mound on the northern side.

Should the activities of any future tenant proposing a different use, warrant further consideration in respect to noise, the necessary studies will be undertaken to demonstrate that the specific operations are acceptable on the surrounding environment.

The acoustic assessment submitted with the application was reviewed by Council's Environmental Health Section and the NSW EPA and considered satisfactory. It is also noted that the proponent will be required to obtain an environmental protection license (EPL) with the EPA to lawfully operate. The EPL will include a list of noise monitoring locations and noise limits which must be achieved. Conditions of consent have been imposed requiring the proposed development demonstrate compliance with the approved acoustic assessment.

A condition of consent has been imposed requiring the hours of operation to be limited to 7am to 5 pm Monday to Friday and 8 am to 2 pm on Saturday and no work to be undertaken

on Sundays. These operating hours are also stipulated in the General Terms of Approval issued by the EPA. These hours of operation are considered to be within the acceptable timeframes to reduce any detrimental impacts on residential allotments within the surrounding area.

### **Concerns over hazardous materials**

The RRF will not accept hazardous or contaminated waste. The applicant's EIS included a SEPP 33 Risk Screening Assessment as required by the Secretary's Environmental Assessment Requirements (SEARs) issued by the NSW Department of Planning and Environment. The risk assessment concludes that the site does not constitute a hazardous industry or a potentially hazardous industry and that a preliminary hazard assessment is not required.

### **Pollution impact on the health of residents (dust and airborne materials)**

To assess the potential cumulative 24-hour average PM<sub>10</sub> impacts for the Project, the NSW EPA assessment method as outlined in the *Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales* (NSW DEC, 2005) was applied to examine the potential maximum total (cumulative) 24-hour average PM<sub>10</sub> impacts for the proposed Project. Results indicate that the predicted maximum impact at all sensitive receptors is not likely to exceed the relevant criteria.

The mitigation of dust and airborne pollutants is addressed in the applicant's EIS. The EPA notes that the proponent has prepared an Air Quality Management Plan (AQMP) dated 9<sup>th</sup> November 2015. The AQMP lists sources of dust and odour emission from the proposal and sets a framework for: managing these emissions; measuring performance; and responding to excess emissions identified either from the measurements or from complaints. The AQMP is an operational tool for the proponent to potentially use to ensure their activities are carried out in a manner that minimises emissions.

### **Proposing to operate in a zoned Rural/Residential area**

Industrial-type developments are located within the immediate area, including a Boral concrete batching plant, the ANL landscape supplies facility, the Kemps Creek waste disposal facility and a range of land use activities that are beyond that which would be expected of a RU1 Primary Production zone.

The proposed activity can be defined as a "waste or resource management facility" which is permissible under the Infrastructure SEPP (Infrastructure) 2007 in a prescribed zone. RU1 is a prescribed zone as detailed earlier in this report.

### **Impact from increase in heavy vehicles**

A traffic report has been submitted as part of the application and reviewed by Council's Traffic Engineers. The traffic assessment report indicates that the traffic impact of the proposal would not be expected to have unacceptable traffic impacts on the adjoining local road network.

### **Section 79C(1)(e) – The Public Interest**

The development has incorporated methods and design initiatives to alleviate any potential detrimental impacts on the surrounding locality. The proposal will allow for the provision of additional employment within the locality and create a positive economic impact. The proposal will increase resource recovery and is unlikely to result in rural land use conflict.

Having regard to the above the proposed development is considered to be in the public interest.

## **6 CONCLUSION**

In conclusion, the following is noted:

- The subject Development Application has been assessed having regard to the matters of consideration pursuant to Section 79C of the Environmental Planning and Assessment Act 1979 and is considered satisfactory.
- The Development Application seeks development consent for a resource recovery facility at Lot 1 DP611519, 25 Martin Road, Badgerys Creek.
- The proposal is permissible under the Infrastructure SEPP (Infrastructure) 2007 and the site is identified as 'future industrial' by the Growth Centre SEPP.
- The proposal predominately complies with the provisions of the LDCP 2008. The variations proposed to the DCP are considered acceptable on merit.
- The application was referred to a number of external authorities with no objections raised, subject to imposition of conditions.
- The EIS accompanying the application has satisfactorily demonstrated that the proposal is a permitted form of development for the site and that adequate environmental measures are proposed to mitigate any potential environmental impact upon the locality.

It is for these reasons that the proposed development is considered to be satisfactory and notwithstanding the submissions received, the subject application is recommended for approval, subject to conditions.

## **7 ATTACHMENTS**

### **7.1 Recommended Conditions of Consent**

#### **Plans**

##### **7.2 Site Plan**

##### **7.3 Proposed Site Works**

##### **7.4 Landscape Plan**

##### **7.5 Proposed Storage Shed – Sheet 1 – Elevations and Perspective**

##### **7.6 Proposed Storage Shed – Sheet 2 – Elevations and Perspective**

##### **7.7 Swept Path Analysis**

#### **Reports**

##### **7.8 Environmental Impact Statement**

##### **7.9 Remediation Action Plan**

##### **7.10 Air Quality Impact Assessment**

##### **7.11 Air Quality Management Plan**

##### **7.12 Acoustic Report Addendum**

##### **7.13 Effluent Disposal Letter**