

## JOINT REGIONAL PLANNING PANEL – SUPPLEMENTARY REPORT (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. Letter from Wilkinson Murray (vibration assessment)</li> <li>2. Hazardous Materials Protocol</li> <li>3. NSW EPA response to Vibration Assessment Report from the applicant</li> </ol>
Recommendation	Approval
Report by	Marcus Jennejohn
Report date	18 October 2016

## **1. EXECUTIVE SUMMARY**

On 3 August 2016 the JRPP considered a report in relation to the subject application (DA-266/2015). The panel resolved to defer the application as follows:

*The panel unanimously determined to defer the development application as described in Schedule 1 pursuant to section 80 of the Environmental Planning and Assessment Act 1979 and requires the applicant to provide to the Council within 28 days a hazardous materials protocol to the satisfaction of the Council and Environmental Planning Authority and then a further report be submitted by Council to JRPP.*

*Further the Panel requires confirmation that there would be no unacceptable amenity impacts upon local residential properties in the vicinity from vibration.*

The applicant has subsequently responded to the items requested by the panel. The requested information provided by the applicant has been reviewed by the NSW Environmental Protection Authority (EPA) and Council's Environmental Health Section. This report deals with the additional information provided by the applicant including the comments offered by Council's Environmental Health Section and the EPA.

## **2. History/Background**

The application was considered by the JRPP at its meeting on 3 August 2016. The JRPP deferred the application subject to the submission of a hazardous materials protocol to the satisfaction of Council and the EPA and confirmation that there would be no unacceptable amenity impacts upon local residence from vibration. A supplementary report addressing the above to be submitted to the JRPP.

The applicant responded to the JRPP comments and provided the following information to Council on 25 August 2016 for assessment:

- A letter from Wilkinson Murray dated 24 August 2016 (Reference No. PP17082016\_Ltr\_TC) addressing the JRPP requested '*confirmation that there would be no unacceptable amenity impacts upon local residential properties in the vicinity from vibration.*'
- A Hazardous Materials Protocol as prepared by Martens Consulting Engineers, entitled Hazardous Material Protocol: 25 Martin Road Badgerys Creek, NSW, reference No. P140424JR05V01, dated August 2016.

In accordance with the JRPP's direction, the reports were forwarded to Council's Environmental Health Section and the EPA for assessment.

## **3. Referrals**

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

#### **Environmental Health Section Comments**

Council's Environmental Health Section was advised of the documents provided in relation to the JRPP deferral. The following comments were received which advised that the EPA was the appropriate authority to review the material provided:

Reference is made to your request for Environment and Health to provide comment on the following addendum reports:

- 1) *Hazardous Material Protocol prepared by Marten's Consulting Engineers (report no: P1404242JR05V01) August 2016;*
- 2) *Vibration Assessment prepared by Wilkinson Murray (Project number: 13317) dated 24 August 2016;*

*The above were requested by Sydney West Joint Regional Planning Panel (dated 3 August 2016) and referred to Environment and Health for comment. Perusal of the above reports reveal that they relate to the operation of the proposed resource recovery facility. It shall be noted that the operation of the resource recovery facility is subject to an Environmental Protection Licence and is therefore regulated by NSW EPA. Perusal of Council records reveal NSW EPA had provided comment on Air, Odour, Noise and waste reports supporting the application pursuant to conditions of consent. Therefore, the above documents shall be referred to NSW EPA for assessment.*

## **(b) External Referrals**

### **Environmental Protection Authority**

A re-referral was requested to the EPA and comments were received on 11 October 2016. The EPA provided the following comments indicating in principle support of the application:

*I refer to the email from Mr Marcus Jennejohn to the Environment Protection Authority (**EPA**) dated 7 September 2016 requesting comments in relation to the adequacy of a Vibration Assessment (**VA**) and a Hazardous Materials Protocol (**HMP**) in relation to the above mentioned development application (**the Proposal**) that is currently being assessed by Liverpool City Council (**the Council**) as an Integrated Development. The EPA understands that the Sydney West Joint Regional Planning Panel who are reviewing the Councils assessment of the proposal, requested this information from the proponent.*

*The EPA notes that it has previously sent General Terms of Approval (**GTA's**) to the Council in relation to the Proposal on 24 February 2016. These GTA's remain unchanged.*

*The EPA has reviewed the additional information provided to it by Council and provides the following observations in relation to the VA and HMP:*

- *The EPA reviewed the letter from Wilkinson Murray (**WM**) (Ref PP17082016\_Ltr\_TC dated 24 August 2016) regarding the response to JRPP Vibration Request for 25 Martin Road, Badgerys Creek. The EPA note that the Joint Regional Planning Panel (**JRPP**) requested confirmation that there would be no unacceptable amenity impacts upon local residential properties in the vicinity from vibration. The WM letter concludes that there are not expected to be any such unacceptable impacts, either from ground-borne vibration or from noise induced rattling of fitting, referencing relevant guidelines. The EPA considers the report and its conclusions to be an adequate response to the JRPP request and do not have any issues requiring further comment.*
- *The EPA would expect the Proponent to demonstrate it has a strategy for the appropriate offsite disposal of, as it describes, unacceptable materials (eg. Asbestos waste), at the Premises before consent is issued.*

- *As described in the GTA's any waste should be stored on a suitable hardstand and not on "strong impermeable plastic" as suggested on page 15 of the HMP.*
- *The EPA's preference is for all activities at the Premises to be enclosed in a suitable building to assist the management of any environmental impacts including but not limited to noise, dust and water issues.*

*As previously stated the proponent should be aware that any statements or commitments made in the EIS and accompanying documents may be placed on a future environment protection licence.*

*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.*

In view of the response received from the EPA confirming that it is satisfied with the additional information provided by the proponent in respect to vibration assessment and hazardous material protocol, Council's Environmental Health Section has advised it concurs with the EPA's findings and provided the following concluding comments on 25 October 2016:

- *I understand that the EPA have reviewed the additional information provided by the applicant and have raised no objection, and*
- *that the applicant will need to obtain an environment protection licence (EPL) from the EPA to lawfully operate the site (with strict operating conditions), and*
- *that the EPA will be the appropriate regulatory authority for the site and therefore have the technical expertise to monitor various aspects of the sites operations.*

#### **4. CONCLUSION**

In conclusion, the following is noted:

The applicant provided information in response to the JRPP deferral of the matter which was reviewed by Council's Environmental Health Section and the EPA.

- The EPA considered the vibration report and its conclusions to be an adequate response to the JRPP request and do not have any issues with the proposal.
- Council's Environmental Health Section concurs with the EPA findings on the additional information.

With consideration of the supplementary information provided, it is considered that the proponent has sufficiently demonstrated that the proposed development is satisfactory and is unlikely to have an unacceptable amenity impact upon neighbouring residential properties.

Accordingly, it is recommended that the application be approved as per the previous town planning report and the draft conditions of consent be amended to also reference the letter from Wilkinson Murray relating to vibration, Hazardous Materials Protocol and the EPA Response to additional information.

## **5. ATTACHMENTS**

Items 7.14, 7.15 and 7.16 have been added to the originally supplied plans and reports. Recommended Conditions of Consent have been amended to include the vibration assessment and hazardous materials protocol.

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

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

**7.14 Letter from Wilkinson Murray assessing vibration**

**7.15 Hazardous Materials Protocol**

**7.16 EPA Response to additional information**