

SYDNEY SOUTH WEST PLANNING PANEL

SUPPLEMENTARY REPORT

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 South West 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"> • <i>List all of the relevant environmental planning instruments: s79C(1)(a)(i)</i> <ul style="list-style-type: none"> ○ 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 • <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:</i>

	<p><i>s79C(1)(a)(ii)</i></p> <ul style="list-style-type: none"> ○ No draft Environmental Planning Instruments apply to the site. <ul style="list-style-type: none"> • <i>List any relevant development control plan: s79C(1)(a)(iii)</i> <ul style="list-style-type: none"> ○ Liverpool Development Control Plan 2008: <ul style="list-style-type: none"> - Part 1 – General Controls for all Development. - Part 5 – Rural and E3 Zones. • <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"> ○ No planning agreement relates to the site or proposed development. • <i>List any coastal zone management plan: s79C(1)(a)(v)</i> <ul style="list-style-type: none"> ○ The subject site is not within any coastal zone management plan. • List any relevant regulations: s79C(1)(a)(iv) eg. Regs 92, 93, 94, 94A, 288 <ul style="list-style-type: none"> ○ Consideration of the provisions of the Building Code of Australia.
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"> 1. SWPP Attachment 1 - Revised site plan 2. SWPP Attachment 2 - Revised landscape plan 3. SWPP Attachment 3 - Revised elevation plan 4. SWPP Attachment 4 - Revised acoustic report 5. SWPP Attachment 5 - Revised air quality report 6. SWPP Attachment 6 - Revised stormwater plans 7. SWPP Attachment 7 – Turning movements 8. SWPP Attachment 8 – Revised GTAs from the EPA
Recommendation	Approval
Report by	Marcus Jennejohn – Senior Development Planner
Report date	22 March 2017

1. EXECUTIVE SUMMARY

On 24 November 2016 the Sydney South West Planning Panel (SSWPP) considered a report in relation to the subject application (DA-266/2015) for a Resource Recovery Facility at 25 Martin Road, Badgerys Creek. The panel resolved as follows:

The unanimous decision of the panel is to defer determination of this application to allow the applicant to consider an amended proposal reflecting the EPA's preference 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..

The applicant has responded to the items requested by the panel. The requested information has been reviewed by the NSW Environmental Protection Authority (EPA) and Council's various departments: Environmental and Health, Traffic and Transport and Land Development Engineering. This report deals with the additional information provided by the applicant.

2. HISTORY/BACKGROUND

The application was considered by the Joint Regional Planning Panel (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.

On 24 November 2016, the SSWPP (previously JRPP) considered the reports noted above in relation to the subject application and noted that an amended proposal is required reflecting the EPA's preference for all activities at the premises to be enclosed in a suitable building.

The applicant responded to the SSWPP resolution and provided the following information to Council on 20 February 2017 for assessment:

- Attachment 1 - Revised site plan (Castleage Drafting Services, A875-17, Issue 3: 13.3.2017)
- Attachment 2 - Revised landscape plan (HLS Pty Limited, Issue B, 17 Feb 2017)
- Attachment 3 - Revised elevation plan (Castleage Drafting Services, A875-17, Issue 2: 20.0.2017)

- Attachment 4 - Revised acoustic report (Wilkinson Murray, WM Project Number: 13317, PP04112015_Ltr_JW, 17 February 2017)
- Attachment 5 - Revised air quality report (Todoroski Air Science, Job Number 13100241C, 20 February 2017)
- Attachment 6 - Revised stormwater plans and assessment report (Martens Consulting Engineering, P1404242JR03V04, February 2017)
- Attachment 7 – Turning Movements

Comments below relate to Council's and the EPA's assessments of the above plans and reports received 20 February 2017.

3. REFERRALS

(a) Internal Referrals

Environmental Health Section Comments

Council's Environmental and Health Section provided the following comments on 10 March 2017 in respect to the additional information and amended plans received from the applicant:

Reference is made to your request for Environment and Health to provide comment on the proposed use of a resource recovery facility. NSW EPA have recommended for the site to be fully enclosed to ensure that dust does not cause a nuisance to neighbouring properties. These were provided through correspondence (dated 11 October 2016).

Perusal of Council records reveal comments made by NSW EPA (dated 21 February 2017). A preliminary review revealed that the activities are not proposed to be in an enclosed building and not on suitable hardstand. NSW EPA have recommended council not to grant approval.

Environment and Health concurs with comments made by NSW EPA.

Traffic and Transport Section Comments

Council's Traffic and Transport Section provided the following additional conditions:

- *The applicant to submit swept path of the longest vehicle that would be expected to enter and exit the subject site including manoeuvrability through the site in accordance with AUSTROADS.*
- *The developer to provide an appropriate level of lighting to the vehicular entry and exit location.*
- *The access driveway along Martin Road must be designed to cater for heavy rigid vehicles in accordance with AS 2890.2 – 2002.*
- *The developer must construct half the width of the road pavement of Martin Road along the full length of the front boundary.*
- *The Developer to provide Type "BAR" (Basic Right Turn) treatment on Martin Road for safe manoeuvrability of trucks.*

Land Development Engineering Section Comments

Land Development Engineering provided the following comments on 13 March 2017:

I have reviewed the application and plans by Martens & Associates P/L, reference PS01-A000, B300, B301, E100, E101, E102, EZ00, revision A, dated 20-02-2017 against the Land Development Engineering Referral Checklist attached. I have no objection to the proposed application.

(b) External Referrals

Environmental Protection Authority

A re-referral was sent to the EPA to review the revised plans submitted by the applicant. Preliminary comments were received on 21 February 2017, where the EPA provided the following comments:

as previously stated in correspondence to council in relation to the Proposal dated 24 February 2016 and 11 October 2016, the EPA's preference is for all activities at the Premises to be enclosed in a building and on suitable hardstand.

A preliminary review of the information provided to the EPA by council indicate that activities at the Premises are not proposed to be in an enclosed building and not on suitable hardstand. Therefore the EPA recommends council NOT approve the Proposal in its current form.

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. 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.

Subsequent to comments above, the EPA responded on 21 March 2017 with additional comments and revised GTAs in light of the amended proposal. The EPA provided the following key GTA revisions:

05. Enclosed Building and Hardstand – Operational Phase

05.1 All waste storage and processing must take place inside an enclosed building and on a suitable hardstand.

05.2 All internal haulage roads must comprise of a suitable hardstand, for example concrete.

The EPA also retained comments requiring the applicant to provide street addresses and/or Lot/DP numbers for all receiver locations in the noise impact assessment. This request has been incorporated into recommended conditions of consent. The EPAs revised GTAs are included as Attachment 8.

4. ASSESSMENT

The applicant has now submitted additional information in response to the request of the SSWPP. Although the additional information is found to be acceptable by EPA and Council's internal Departments, subject to conditions, the proposed combined metal, precast concrete panels and sail cloth structure to house the proposed resource recovery facility is considered to be conceptual and lacking details. In this regard, it is proposed that a

condition be incorporated into any approval requiring the applicant to submit detailed architectural drawings, developed in consultation with the EPA, to and approved by the Manager Development Assessment of Liverpool City Council prior to the issue of a Construction Certificate. The required amended architectural plans shall address the following requirements:

- i. The sail cloth component of the building shall be replaced with a more suitable material(s) including concrete or metal cladding subject to the material(s) providing the required noise attenuation outlined in the acoustic report accompany the application.
- ii. Details of the proposed schedule of finishes, materials and colours of the proposed structure.
- iii. Details of the proposed hardstand for the building, driveways and car parking areas.
- iv. Details of the car park layout, driveways, vehicle manoeuvring areas and entry and exit points.
- v. Submission of a detailed landscape plan prepared by a landscape architect providing additional landscaping along the Martin Road and Lawson Road frontages of the site in order to provide suitable screening of the proposed development from Martin Road and Lawson Road.
- vi. The proposed storage shed adjacent to the Martin Road frontage is not approved and is to be deleted from amended plans.

5. CONCLUSION

The applicant provided additional information in response to the SSWPP's second deferral of the matter in the form of revised plans, including a structure which provides a combination of precast concrete walls and sail cloth and a colour bond roof sheet to enclose the proposed activities.

The proposed structure provides a partially enclosed building which did not exist in the original proposal, the purpose of the structure is to address potential environmental impacts relating to noise and air quality associated with the operation of the proposed resource recovery facility as requested by the EPA. The adequacy of the structure is at the discretion of the EPA as they are the licensing authority for the proposed resource recovery facility. However, and as outlined above, it is to be conditioned in any approval that amended plans in respect to the proposed structure, to be developed in consultation with the EPA, shall be submitted to and approved by the Manager Development Assessment of Liverpool Council prior to the issue of a Construction Certificate.

The revised plans and additional information were reviewed by the EPA, Council's Environmental Health, Engineering and Traffic & Transport Sections and found to be satisfactory subject to conditions.

In view of the assessment of the application, it is recommended that this report be received and noted by the panel in its determination of the application.

6. ATTACHMENTS

Items identified in red and italics have been added to the originally supplied plans and reports. Recommended Conditions of Consent have been amended to include plans and reports identified below including the revised General Terms of Approval issued by the EPA.

7.1 Recommended Conditions of Consent

7.2 *Site Plan (revised February)* – Attachment 1

7.3 *Landscape Plan (revised February)* – Attachment 2

7.4 *Elevation Plan (revised February)* – Attachment 3

Reports

7.5 Environmental Impact Statement

7.6 Remediation Action Plan

7.7 *Air Quality Impact Assessment (revised February)* - Attachment 5

7.8 Air Quality Management Plan

7.9 *Acoustic Report Addendum (revised February)* – Attachment 4

7.10 Effluent Disposal Letter

7.11 **Letter from Wilkinson Murray assessing vibration**

7.12 **Hazardous Materials Protocol**

7.13 **EPA Response to additional information – Revised GTA**

7.14 *Stormwater Report and Plans (February 2017)* – Attachment 6

GTAs – Issued by the NSW EPA (dated 21 March 2017) – Attachment 8