



Our reference: DOC17/172935

The Chief Executive Officer
Liverpool City Council
Locked Bag 7064
LIVERPOOL BC NSW 1871

Attention: David Smith

EMAIL & STANDARD POST
21 March 2017

Dear Mr Smith

EPA comments - Development Application DA-266/2015
Lot 1 DP 611519, 25 Martin Road, Badgerys Creek NSW 2555

I refer to the email from Mr Marcus Jennejohn to the Environment Protection Authority (EPA) dated 20 February 2017 requesting comments in relation to the above mentioned development application (**the Proposal**) that is currently being assessed by the Joint Regional Planning Panel as an Integrated Development.

History

Table 1 provides a summary of actions taken to date in relation to the above mentioned development application.

TABLE 1

Date	Action
9 June 2015	EPA receive a request from council to review information in relation to DA-266/2015 under IDA.
8 September 2015	EPA letter to Council - Reject Proposal in current form as issues with noise, air quality, waste and stormwater management.
18 December 2015	Council provide EPA with additional information from Applicant.
24 February 2016	EPA letter to Council - Issue GTAs.
7 September 2016	Council inform EPA that Joint Regional Planning Panel (JRPP) will be consent authority and they have requested a Vibration Assessment (VA) and a Hazardous Materials Protocol (HMP). Applicant has provided for EPA to review and provide comments to the JRPP.
11 October 2016	EPA letter to Council providing comments on VA and HMP
20 February 2017	Council submit updated documents from applicant including Air, Stormwater, Noise and site layout plans
21 March 2017	Given the new documents provided by the applicant, the EPA wrote to council cancelling the GTA's issued 24 Feb 2016 and issued new GTA's to reflect the current proposal.

The EPA has reviewed the additional information provided to council by the proponent and forwarded to the EPA on 20 February 2017.

The EPA's General Terms of Approval are provided in Attachment A.

The EPA's general comments are provided in Attachment B.

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.

Please note that the EPA has not reviewed any matters relating to Aboriginal heritage or ecological impacts as these are the purview of the Office of Environment and Heritage. If you have any questions in relation to this matter, please contact Simon Matthews on (02) 9995 6158.

Yours sincerely



21 March 2017

CELESTE FORESTAL
Unit Head Waste Compliance
Environment Protection Authority

Encl. Attachment A – GTA's
 Attachment B – EPA comments

Attachment A - General Terms of Approval - Issued



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Consent authority

Attention: Marcus Jennejohn

Notice Number 1537500
File Number EF15/11384
Date 21-Mar-2017

Re: "Proposed Resource Recovery Facility - 25 Martin Road Badgerys Creek"

Issued pursuant to Section 91A(2) Environmental Planning and Assessment Act 1979

I refer to the development application and accompanying information provided for the proposed resource recovery facility at 25 Martins Road Badgerys Creek received by the Environment Protection Authority (EPA) on 12 June 2015 and updated information on 18 December 2015, 7 September 2016 and 20 February 2017.

EPA has reviewed the information provided and has determined that it is able to issue a licence for the proposal, subject to a number of conditions. The applicant will need to make a separate application to EPA to obtain this licence.

The general terms of approval for this proposal are provided below. If Liverpool City Council or the Joint Regional Planning Panel or any consent authority grants development consent for this proposal these conditions should be incorporated into the consent.

These general terms relate to the development as proposed in the documents and information currently provided to EPA. In the event that the development is modified either by the applicant prior to the granting of consent or as a result of the conditions proposed to be attached to the consent, it will be necessary to consult with EPA about the changes before the consent is issued. This will enable EPA to determine whether its general terms need to be modified in light of the changes. Please note if/when the consent is issued the EPA has no ability to modify the GTA's.

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In assessing the proposal EPA has also identified a number of environmental issues that the consent authority may wish to consider in its overall assessment of the application. These issues are discussed in Attachment B.

If you have any questions, or wish to discuss this matter further please contact Simon Matthews on (02) 9995 6158.

Yours sincerely

A handwritten signature in black ink, appearing to read 'CF', with a large, stylized loop at the end.

Celeste Forestal
Unit Head
Waste & Resource Recovery
(by Delegation)

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Administrative conditions

Note: Mandatory conditions for all general terms of approval

A1. Information supplied to the EPA

A1.1 Except as expressly provided by these general terms of approval, works and activities must be carried out in accordance with the proposal contained in:

- the development application DA 266/2015 submitted to Liverpool City Council on 31 March 2015;
- any environmental impact statement relating to the development; and
- all additional documents supplied to the EPA in relation to the development, including documents listed at <http://www.liverpoolplanning.com.au/Pages/XC.Track/SearchApplication.aspx?id=298244>

A2. Fit and Proper Person

A2.1 The applicant must, in the opinion of the EPA, be a fit and proper person to hold a licence under the Protection of the Environment Operations Act 1997, having regard to the matters in s.83 of that Act.

Limit conditions

L5. Waste

L5.1 The licensee must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the Protection of the Environment Operations Act 1997.

L5.2 This condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the premises if it requires an environment protection licence under the Protection of the Environment Operations Act 1997.

Note: Condition L5.2 is included to ensure that a premised based activity is not used as a waste facility (unless that scheduled activity is permitted by another condition).

L6. Noise limits

L6.1 Noise generated at the premises must not exceed the noise limits in the Table below. The locations referred to below have been sourced from the Noise Impact Assessment prepared by Wilkinson Murray (Report 13351 Version B) and Table 2 of the Response to EPA Noise Issues prepared by Wilkinson Murray (WM Project 13317 Ref PP04112015_Ltr_JW dated 4 November 2015).

Note: The Proponent must provide street addresses and/or folio identifiers for all receiver locations for insertion into the Environment Protection Licence.

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Location	NOISE LIMITS dB(A)
	Day LAeq (15 minute)
R1	41
R2	38
R3	37
R4	44
R5	43
R6	42
R7	46
R8	45
R9	49
R10	46
R11	44
R12	43
R14	43
R15	37
R16	37
R17	36
R18	47

L6.2 For the purpose of condition L6.1;

- Day is defined as the period from 7am to 6pm Monday to Saturday and 8am to 6pm Sunday and Public Holidays.

L6.3 The noise limits set out in condition L6.1 apply under all meteorological conditions except for wind speeds greater than 3 metres/second at 10 metres above ground level.

L6.4 For the purposes of condition L6.3:

- a) Data recorded by a meteorological station installed on site must be used to determine meteorological conditions; and
- b) Temperature inversion conditions (stability category) are to be determined by the sigma-theta method referred to in Part E4 of Appendix E to the NSW Industrial Noise Policy.

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L6.5 To determine compliance:

- a) with the Leq(15 minute) noise limits in condition L6.1, the noise measurement equipment must be located:
 - approximately on the property boundary, where any dwelling is situated 30 metres or less from the property boundary closest to the premises; or
 - within 30 metres of a dwelling façade, but not closer than 3m, where any dwelling on the property is situated more than 30 metres from the property boundary closest to the premises; or, where applicable
 - within approximately 50 metres of the boundary of a National Park or a Nature Reserve.
- b) with the LA1(1 minute) noise limits in condition L6.1, the noise measurement equipment must be located within 1 metre of a dwelling façade.
- c) with the noise limits in condition L6.1, the noise measurement equipment must be located:
 - at the most affected point at a location where there is no dwelling at the location; or
 - at the most affected point within an area at a location prescribed by conditions L6.5(a) or L6.5(b).

L6.6 A non-compliance of condition L6.1 will still occur where noise generated from the Premises in excess of the appropriate limit is measured:

- at a location other than an area prescribed by conditions L6.5(a) and L6.5(b); and/or
- at a point other than the most affected point at a location.

L6.7 For the purposes of determining the noise generated at the premises the modification factors in Section 4 of the NSW Industrial Noise Policy must be applied, as appropriate, to the noise levels measured by the noise monitoring equipment.

Hours of operation

L6.8 All construction work at the premises must only be conducted between 7am and 5 pm Monday to Friday and 8 am to 2pm Saturdays and at no time on Sunday or public holidays.

L6.9 Activities at the premises, other than construction work, may only be carried on between 7am and 5 pm Monday to Friday and 8am to 2pm Saturdays and at no time on Sunday or public holidays. Chipping/mulching of green waste and crushing/ grinding of concrete/bricks may only be carried out between 8am and 4pm Monday to Friday and at no time on Saturday, Sunday or public holidays.

L6.10 This condition does not apply to the delivery of material outside the hours of operation permitted by condition L6.4 or L6.5, if that delivery is required by police or other authorities for safety reasons; and/or the operation or personnel or equipment are endangered. In such circumstances, prior notification is provided to the EPA and affected residents as soon as possible, or within a reasonable period in the case of emergency.

L6.11 The hours of operation specified in conditions L6.4 and L6.5 may be varied with written consent if the EPA is satisfied that the amenity of the residents in the locality will not be adversely affected.

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Operating conditions

O1. Odour

Note: The POEO Act states that no offensive odour may be emitted from particular premises unless potentially offensive odours are identified in the licence and the odours are emitted in accordance with conditions specifically directed at minimising the odours are permitted. Where it is appropriate for a licence to identify and control offensive odours, conditions for the licence should be developed in consultation with Air Policy.

O2. Dust

O3.1 Activities must be carried out in a manner that minimises the generation of dust.

O3.2 The premises must be maintained in a condition which prevents the emission of dust from the premises.

O3.3 The licensee must ensure that no material, including sediment or oil, is tracked from the premises.

O3.4 Trucks entering and leaving the premises that are carrying loads must be covered at all times except during loading and unloading.

O3. Stormwater/sediment control - Construction Phase

O3.1 An Erosion and Sediment Control Plan (ESCP) must be prepared and implemented. The plan must describe the measures that will be employed to minimise soil erosion and the discharge of sediment and other pollutants to lands and/or waters during construction activities. The ESCP should be prepared in accordance with the requirements for such plans outlined in *Managing Urban Stormwater: Soils and Construction* (available from the Department of Housing).

Note: ESCPs are required generally for smaller sites, typically involving the disturbance of less than 2,500 square metres. SWMPs are necessary for large scale developments (greater than 2,500 square metres disturbed area).)

O4. Stormwater/sediment control - Operation Phase

O4.1 A Stormwater Management Scheme must be prepared for the development and must be implemented. Implementation of the Scheme must mitigate the impacts of stormwater run-off from and within the premises following the completion of construction activities. The Scheme should be consistent with the Stormwater Management Plan for the catchment. Where a Stormwater Management Plan has not yet been prepared the Scheme should be consistent with the guidance contained in *Managing Urban Stormwater: Council Handbook* (available from the EPA).

Note: This condition would normally only be used where a SWMP is required and stormwater management would be incorporated into EPA's licence. For other proposals the EPA may suggest that the consent authority include a similar condition where appropriate. Information relating to structural and non-structural options for managing site stormwater is provided in the "Managing Urban Stormwater: Source Control" and "Managing Urban Stormwater: Treatment Techniques" documents respectively.

O5. Enclosed Building and Hardstand - Operation Phase

O5.1 All waste storage and processing must take place inside an enclosed building and on a suitable hardstand.

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O5.2 All internal haulage roads must comprise of a suitable hardstand, for example concrete.

Monitoring and recording conditions

Note: Conditions should be used where applicable (ie where the general terms of approval have indicated limits). If it is proposed to include monitoring conditions in the general terms of approval, condition M1 will need to be included as a general term.

M1 Monitoring records

M1.1 The results of any monitoring required to be conducted by the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, in relation to the development or in order to comply with the load calculation protocol must be recorded and retained as set out in conditions M1.2 and M1.3.

M1.2 All records required to be kept by the licence must be:

in a legible form, or in a form that can readily be reduced to a legible form;

kept for at least 4 years after the monitoring or event to which they relate took place; and

produced in a legible form to any authorised officer of the EPA who asks to see them.

M1.3 The following records must be kept in respect of any samples required to be collected: the date(s) on which the sample was taken;

the time(s) at which the sample was collected;

the point at which the sample was taken; and

the name of the person who collected the sample.

M2. Requirement to monitor concentration of pollutants discharged

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:

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

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Reporting conditions

Note: Mandatory condition to be used on all general terms of approvals

R1.1 The applicant must provide an annual return to the EPA in relation to the development as required by any licence under the Protection of the Environment Operations Act 1997 in relation to the development. In the return the applicant must report on the annual monitoring undertaken (where the activity results in pollutant discharges), provide a summary of complaints relating to the development, report on compliance with licence conditions and provide a calculation of licence fees (administrative fees and, where relevant, load based fees) that are payable. If load based fees apply to the activity the applicant will be required to submit load-based fee calculation worksheets with the return.

General Conditions

To be determined.

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Administrative conditions

Other activities

This licence applies to all other activities carried on at the premises, including:

- Resource recovery
- Waste Storage
- Waste processing

Operating conditions

Activities must be carried out in a competent manner

Licensed activities must be carried out in a competent manner.

This includes:

- a. the processing, handling, movement and storage of materials and substances used to carry out the activity; and
- b. the treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activity.

Maintenance of plant and equipment

All plant and equipment installed at the premises or used in connection with the licensed activity:

- d) must be maintained in a proper and efficient condition; and
- e) must be operated in a proper and efficient manner.

Monitoring and recording conditions

Recording of pollution complaints

The licensee must keep a legible record of all complaints made to the licensee or any employee or agent of the licensee in relation to pollution arising from any activity to which this licence applies.

The record must include details of the following:

- the date and time of the complaint;
- the method by which the complaint was made;
- any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;

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- the nature of the complaint;
- the action taken by the licensee in relation to the complaint, including any follow-up contact with the complainant; and

if no action was taken by the licensee, the reasons why no action was taken.

The record of a complaint must be kept for at least 4 years after the complaint was made.

The record must be produced to any authorised officer of the EPA who asks to see them.

Telephone complaints line

The licensee must operate during its operating hours a telephone complaints line for the purpose of receiving any complaints from members of the public in relation to activities conducted at the premises or by the vehicle or mobile plant, unless otherwise specified in the licence.

The licensee must notify the public of the complaints line telephone number and the fact that it is a complaints line so that the impacted community knows how to make a complaint.

This condition does not apply until 3 months after this condition takes effect.

Reporting conditions

Annual Return documents

What documents must an Annual Return contain?

The licensee must complete and supply to the EPA an Annual Return in the approved form comprising:

- a. Statement of Compliance; and
- b. Monitoring and Complaints Summary.

A copy of the form in which the Annual Return must be supplied to the EPA accompanies this licence. Before the end of each reporting period, the EPA will provide to the licensee a copy of the form that must be completed and returned to the EPA.

Period covered by Annual Return

An Annual Return must be prepared in respect of each reporting, except as provided below

Note: The term "reporting period" is defined in the dictionary at the end of this licence. Do not complete the Annual Return until after the end of the reporting period.

Where this licence is transferred from the licensee to a new licensee,

- a. the transferring licensee must prepare an annual return for the period commencing on the first day of the reporting period and ending on the date the application for the transfer of the licence to the new licensee is granted; and
- b. the new licensee must prepare an annual return for the period commencing on the date the application for the transfer of the licence is granted and ending on the last day of the reporting period.

Note: An application to transfer a licence must be made in the approved form for this purpose.

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Where this licence is surrendered by the licensee or revoked by the EPA or Minister, the licensee must prepare an annual return in respect of the period commencing on the first day of the reporting period and ending on

- a. in relation to the surrender of a licence - the date when notice in writing of approval of the surrender is given; or
- b. in relation to the revocation of the licence – the date from which notice revoking the licence operates.

Deadline for Annual Return

The Annual Return for the reporting period must be supplied to the EPA by registered post not later than 60 days after the end of each reporting period or in the case of a transferring licence not later than 60 days after the date the transfer was granted (the 'due date').

Notification where actual load can not be calculated

(Licences with assessable pollutants)

Where the licensee is unable to complete a part of the Annual Return by the due date because the licensee was unable to calculate the actual load of a pollutant due to circumstances beyond the licensee's control, the licensee must notify the EPA in writing as soon as practicable, and in any event not later than the due date.

The notification must specify:

- a. the assessable pollutants for which the actual load could not be calculated; and
- b. the relevant circumstances that were beyond the control of the licensee.

Licensee must retain copy of Annual Return

The licensee must retain a copy of the annual return supplied to the EPA for a period of at least 4 years after the annual return was due to be supplied to the EPA.

Certifying of Statement of Compliance and Signing of Monitoring and Complaints Summary

Within the Annual Return, the Statement of Compliance must be certified and the Monitoring and Complaints Summary must be signed by:

- a. the licence holder; or
- b. by a person approved in writing by the EPA to sign on behalf of the licence holder.

A person who has been given written approval to certify a Statement of Compliance under a licence issued under the Pollution Control Act 1970 is taken to be approved for the purpose of this condition until the date of first review this licence.

Notification of environmental harm

Note: The licensee or its employees must notify the EPA of incidents causing or threatening material harm to the environment immediately after the person becomes aware of the incident in accordance with the requirements of Part 5.7 of the Act

Notifications must be made by telephoning the EPA's Pollution Line service on 131 555.

The licensee must provide written details of the notification to the EPA within 7 days of the date on which the incident occurred.

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Written report

Where an authorised officer of the EPA suspects on reasonable grounds that:

- a. where this licence applies to premises, an event has occurred at the premises; or
- b. where this licence applies to vehicles or mobile plant, an event has occurred in connection with the carrying out of the activities authorised by this licence,

and the event has caused, is causing or is likely to cause material harm to the environment (whether the harm occurs on or off premises to which the licence applies), the authorised officer may request a written report of the event.

The licensee must make all reasonable inquiries in relation to the event and supply the report to the EPA within such time as may be specified in the request.

The request may require a report which includes any or all of the following information:

- a. the cause, time and duration of the event;
- b. the type, volume and concentration of every pollutant discharged as a result of the event;
- c. the name, address and business hours telephone number of employees or agents of the licensee, or a specified class of them, who witnessed the event; and
- d. the name, address and business hours telephone number of every other person (of whom the licensee is aware) who witnessed the event, unless the licensee has been unable to obtain that information after making reasonable effort;
- e. action taken by the licensee in relation to the event, including any follow-up contact with any complainants;
- f. details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event;
- g. any other relevant matters.

The EPA may make a written request for further details in relation to any of the above matters if it is not satisfied with the report provided by the licensee. The licensee must provide such further details to the EPA within the time specified in the request.

General conditions

Copy of licence kept at the premises or on the vehicle or mobile plant

A copy of this licence must be kept at the premises or on the vehicle or mobile plant to which the licence applies.

The licence must be produced to any authorised officer of the EPA who asks to see it.

The licence must be available for inspection by any employee or agent of the licensee working at the premises or operating the vehicle or mobile plant.

ATTACHMENT B

The proposal

The proposal is for the construction and operation of a resource recovery facility (RRF) at Lot 1 on Deposited Plan 611519, 25 Martin Rd Badgerys Creek. The RRF will process 60,000 tonnes per year, consisting of 50,000 tonnes of construction and demolition waste, and 10,000 tonnes of greenwaste. The Proponent is Mulgoa Excavations Pty Ltd. Waste will be received at the RRF for initial sorting and separating. Concrete and bricks will be sorted and crushed and greenwaste will be mulched and chipped.

The EPA notes that the proposal will require an environment protection licence with the EPA to lawfully operate.

The EPA has reviewed the additional information provided to council and forwarded to the EPA dated 20 February 2017 in relation to the Proposal. The EPA's comments to this additional information are listed below.

EPA's comments

Noise

1. Comments

The 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 Lot/DP numbers for all receiver locations in the assessment.

Air Quality

2. Comments

The EPA notes that the proponent has prepared an Air Quality Management Plan (AQMP) dated 20 February 2017. 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 use to ensure their activities are carried out in a manner that minimises emissions. It should operate for the life of the project.

