

# 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"> <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:</i></li> </ul>

	<p>s79C(1)(a)(ii)</p> <ul style="list-style-type: none"> <li>○ No draft Environmental Planning Instruments apply to the site.</li> </ul> <ul style="list-style-type: none"> <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. SSWPP Attachment 1 - Revised site plan</li> <li>2. SSWPP Attachment 2 - Revised elevation plan</li> <li>3. SSWPP Attachment 3 - Revised landscape plan</li> <li>4. SSWPP Attachment 4 – Parking Development Overview Plan</li> <li>5. SSWPP Attachment 5 – Swept Path Analysis</li> <li>6. SSWPP Attachment 6 - Swept Path Analysis Sheet 2</li> <li>7. SSWPP Attachment 7 – Pavement, Signage and Linemarking Plan</li> <li>8. SSWPP Attachment 8 – Acoustic Response Letter</li> <li>9. SSWPP Attachment 9 – Precise Planning Cover Letter</li> <li>10. SSWPP Attachment 10 – EPA Letter to LCC dated 28 June 2017</li> </ol>
Recommendation	Approval
Report by	Marcus Jennejohn – Senior Development Planner
Report date	7 July 2017

## **1. EXECUTIVE SUMMARY**

On 10 April 2017 the Sydney South West Planning Panel (SSWPP) considered a supplementary report in relation to the subject application (DA-266/2015) for a Resource Recovery Facility at 25 Martin Road, Badgerys Creek. At the meeting the panel resolved that:

1. *Amended and detailed architectural plans, designed in consultation with the NSW Environment Protection Authority, shall be submitted. The required 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. The colours and materials of the structure shall be neutral so as to minimise visual impacts on the amenity of the area.*
  - 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 to be deleted from amended plans.*

*The required amended plans shall be submitted to Council within 30 days of today's date. If they are not received by Council by the due date the Panel will make a determination on the basis of the information available to it.*

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 was 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:

- Revised site plan (Castleage Drafting Services, A875-17, Issue 3: 13.3.2017)
- Revised landscape plan (HLS Pty Limited, Issue B, 17 Feb 2017)
- Revised elevation plan (Castleage Drafting Services, A875-17, Issue 2: 20.0.2017)
- Revised acoustic report (Wilkinson Murray, WM Project Number: 13317, PP04112015\_Ltr\_JW, 17 February 2017)
- Revised air quality report (Todoroski Air Science, Job Number 13100241C, 20 February 2017)
- Revised stormwater plans and assessment report (Martens Consulting Engineering, P1404242JR03V04, February 2017)
- Turning Movements

On 10 April 2017, the SSWPP considered the reports noted above in relation to the subject application and noted that further amendments are required which provides a more suitable building material than the sail cloth originally proposed, an updated colour and materials schedule, further details on plans and removal of a storage shed – a response was required in 30 days.

The applicant responded to the SSWPP resolution and provided the following information to Council on 10 May 2017 for assessment:

- Attachment 1 – Revised site plan (Castleage Drafting Services, A875-17, Dated 10.5.2017)
- Attachment 2 – Revised Elevation Plan (Castleage Drafting Services, A875-17, Dated 10.5.2017)
- Attachment 3 – Revised Landscape Plan (HLS Pty Limited, Issue C, 9 May 2017)
- Attachment 4 – Parking Development Overview Plan (Martens & Associates, PS02-A050, Revision D, 9/5/2017)
- Attachment 5 – Swept Path Analysis (Martens & Associates, PS-020-DZ00, Revision C, 8/5/2017)
- Attachment 6 – Swept Path Analysis Sheet 2 (Martens & Associates, PS-020-DZ071, Revision C, 8/5/2017)
- Attachment 7 – Pavement, Signage and Linemarking Plan (Martens & Associates, PS02-G400, 8/5/2017)

- Attachment 8 – Acoustic response letter, Wilkinson Murray, WM Project Number: 13317, Ref PP10052017\_Ltr\_NH, 10 May 2017)
- Attachment 9 – Precise Planning cover letter, Ref: 1035, 10 May 2016

Comments below relate to Council's and the EPA's assessments of the above plans and reports received 10 May 2017.

### **3. REFERRALS**

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

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

Council's Environmental and Health Section provided the following comments on 4 July 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 located at the above mentioned premises.*

*Environment and Health had historically provided comment (memo dated 6 June 2017) and recommended that the application is referred to NSW EPA for further comment. The applicant was required to provide an enclosure for the waste resource recovery facility. Amended plans and elevations were submitted to NSW EPA for their perusal.*

*NSW EPA responded via a letter (dated 28 June 2017) advising Liverpool City Council that NSW EPA are concerned the proposal in its current form will not meet conditions set out in the General Terms of Approval (Dated 21 March 2017).*

*Condition 05.1 states that 'All waste storage and processing must take place in an enclosed building and on a suitable hardstand.' Furthermore, condition 05.2 states that 'all internal haulage roads must comprise of a suitable hardstand, for example concrete'. Submitted drawings outline that the haulage roads inside the structure are proposed to be constructed with recycled concrete or crushed sandstone pavement. NSW EPA raises concern that the proposed use in its current form won't meet the conditions outlined in the General Terms of Approval.*

*The proposed use is considered as Integrated Development and would therefore require an Environmental Protection Licence.*

*Environment and Health of Liverpool City Council supports the above and requires the factory building to be fully enclosed in order to effectively minimise emission of dust.*

##### **Traffic and Transport Section Comments**

Council's Traffic and Transport Section reviewed the proposal and supported the revisions provided with no additional comments.

##### **Land Development Engineering Section Comments**

Land Development Engineering provided the following comments on 4 July 2017:

Requirement for a new condition prior to the issue of a Construction Certificate as follows:

1. *Amended stormwater plans must be prepared showing the deletion of the shed to the front boundary. Details should be included to accompany any application for a Construction Certificate.*

**(b) External Referrals**

**Environmental Protection Authority**

A re-referral was sent to the EPA to review the revised plans submitted by the applicant. Comments were received on 28 June 2017, where the EPA provided the following comments:

*The EPA notes it provided General Terms of Approval in relation to the Proposal on 21 March 2017.*

*The EPA has reviewed the additional information provided and is concerned the Proposal in its current form will still not meet conditions set out in the GTA's provided.*

*For example the building does not appear to be enclosed as the entire eastern side on figure DWG No:2 is listed as "Open Area" which may not comply with condition 05.1 that states "All waste storage and processing must take place in an enclosed building and on a suitable hardstand."*

*Additionally, condition 05.2 states that "All internal haulage roads must comprise of a suitable hardstand, for example concrete." The EPA notes Drawing PS02-G400 indicates that haulage roads inside the structure are proposed to be constructed with recycled concrete or crushed sandstone pavement. The EPA has reservations about whether this type of material will comply with condition 05.2 and may cause air quality issues including the emission of dust, particularly considering the entire eastern side of the building is proposed to be open.*

*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 proponent will be required to submit a separate EPL application with the EPA at a later date*

The EPA did not request any revisions to the already submitted GTAs.

**4. ASSESSMENT**

The applicant has now submitted additional information in response to the request of the SSWPP. The EPA has raised concern regarding the ability of the proposal to address GTA conditions (as noted above). In this regard, it is proposed that the application be approved as a deferred commencement consent 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 an operational consent. The required amended architectural plans shall address the following requirements:

- i. The eastern façade of the building shall be enclosed, subject to the material(s) providing the required noise attenuation outlined in the acoustic report accompanying the application.
- ii. The materials proposed for all internal haulage roads must comprise of a suitable hardstand such as concrete or asphalt pavement. An updated Pavement, Signage and Linemarking Plan is to be provided identifying the revised materials.

It is important to reiterate, 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 a prescribed zone under Clause 120 of the SEPP). Irrespective of permissibility under the SEPP and for completeness an updated assessment of provisions under the Liverpool Development Control Plan 2008 (LDCP 2008) is provided below.

PART 5 – RURAL AND E3 ZONES		
CONTROLS	PROVIDED	COMPLIES
<b>SETBACKS</b>  20m Front Setback 2m Side Setback 10m Rear Setback	<p>Complies except for the weighbridge room which is within the 2m side setback (approximately 600mm from the side setback).</p> <p>Part 5 of the DCP states that <i>Council may consider variations to setbacks if it will result in a better environmental outcome or enhance the ability to subdivide land within the Growth Centre.</i></p> <p>The proposed building envelope is provided to support a better environmental outcome however has resulted in limited options for the location of the weighbridge.</p> <p>The variation is considered reasonable given the low profile of a weighbridge and limited visibility having regard to the existing 2.5m high acoustic wall and proposed acoustic wall to extend along the northern side boundary (beginning at the weighbridge).</p>	Supported on merit
Site Coverage 10% except where otherwise specified for particular land uses	<p>The proposal provides for a building with approximately 63% site coverage (12,700m<sup>2</sup>) which significantly exceeds the DCP control.</p> <p>It is noted that proposed building is provided to address EPA, SSWPP and Council comments.</p> <p>The DCP does allow for variations to site coverage for particular land uses such as intensive plant agriculture (20%) however there is no site coverage control relating to the proposed land use.</p> <p>Site coverage is not defined in the DCP, however, the objectives of this section of the DCP are to a) <i>ensure appropriate development on site</i> and b) <i>that setbacks maintain the rural character.</i></p> <p>The acoustic wall acts to mitigate some of the visual impact of the proposed building however</p>	Supported on merit

## PART 5 – RURAL AND E3 ZONES

	<p>façade treatment would be required to ameliorate the visual impacts (addressed through proposed deferred conditions).</p> <p>Further south in the RU1 zoned land are existing commercial/industrial activities which include large building structures (18000m<sup>2</sup> structure at Boral, 5000m<sup>2</sup>x2 structures at Australian Landscapes). These sites are larger and have proportionally less site coverage, however, they also have significant stockpiles and associated machinery and/or vehicle movements which are uncovered.</p> <p>The proposed building is provided to address potential environmental impacts by encapsulating all activities within a structure to the maximum extent possible. The combination of perimeter screening landscaping and façade treatment will reduce the apparent bulk and scale of the proposed structure.</p> <p>A variation to the site coverage control is supported on the premise that it provides the most effective reduction to potential environmental impacts.</p>	
Building Design, Style and Streetscape		
<p>Height</p> <p>Non-residential maximum 8.5m (general maximum),</p> <p>heights are a guide only and merit based assessment will occur above 8.5m</p>	<p>The proposed building has a maximum height of approximately 13.6m with side walls at 12m. The building is being provided to address EPA, Council and SSWPP comments.</p> <p>The building height and form is consistent with what would be expected for a similar activity. Landscaping, setbacks and building materials/colours will assist in reducing the perceived bulk and scale of the structure.</p>	Supported on merit
<p>Roof Design</p> <p>Not to exceed 36 degrees</p> <p>Gabled and hipped rooflines to be incorporated into the design of a building</p>	<p>The proposed roof design is less than 36 degrees and is of an appropriate design for the proposed use.</p>	Supported on merit
<p>Building materials</p> <p>Must compliment the rural landscape</p>	<p>The proposed colourbond roof sheet is in keeping with the rural landscape.</p> <p>The façade treatment is to be addressed through deferred conditions of consent which will require the use of colours which are sympathetic to the rural landscape.</p>	Complies
Colours	<p>The proposal includes colourbond wall sheets in 'windspray grey'. This colour is not supported as it</p>	Supported on merit

<b>PART 5 – RURAL AND E3 ZONES</b>		
<p>Natural earth colours and natural vegetation colours are to be emphasised on all buildings.</p> <p>Highly reflective colours to be avoided</p>	<p>is not in keeping with the colour pallet identified in the DCP which emphasize earth and natural colours and which will act to reduce the apparent bulk of the building.</p> <p>Building colours which are in keeping with the DCP objectives are to be addressed through deferred conditions of consent.</p>	
<p>Streetscape</p> <p>Natural vegetation should be retained in setback to the street.</p> <p>Buildings shall directly address the street frontage.</p>	<p>Screening landscaping is proposed within the front setback and some existing mature trees are proposed to be retained.</p> <p>The proposal is not a form of development which includes buildings which can address the street.</p> <p>A deferred commencement condition is proposed which will require streetscape elevations and photomosaics to be provided to Council's satisfaction prior to operational consent approval.</p>	Supported on merit
<p>Rural landscape</p> <p>1. Except for driveways, no paved areas or "hard surfaces" are permitted in the front setback.</p> <p>2. All development should attempt to maintain the existing natural environment.</p>	<p>The proposed development includes car parking which incorporates hard surfaces in the front setback. With the inclusion of a building which encapsulates all the workings of a resource recovery facility, there are limited other locations available for the car park.</p> <p>The front setback also incorporates turfed areas, a cultivated planting area and retains existing mature trees where feasible.</p>	Does not comply
<p>Views, Scenic landscape and built features</p> <p>1. Buildings shall not be sited that obstruct views and vistas.</p> <p>2. Any significant natural and built features should be maintained.</p>	<p>The proposed building is unlikely to obstruct significant views or vistas. Streetscape views are to be provided as part of defe</p> <p>There are no significant natural or built features to be retained on the site.</p>	Supported on merit

An additional deferred commencement condition is proposed to support DCP objectives and to provide an appropriate response to the predominant rural character of the locality:

- iii. An external materials and finishes schedule will be provided which is sympathetic to the rural character of the locality and which minimises the visual impact of the building by incorporating natural earth colours and natural vegetation colours. This is to be accompanied by streetscape elevations from Martin Road and Lawson Road and a photomontage of the future built form.

## **5. CONCLUSION**

The applicant provided additional information in response to the SSWPP's deferral of the matter in the form of revised plans, including a structure which provides precast concrete walls 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 and is an improvement on the previously proposed plans which included shade cloth as opposed to full walls. 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 addressed through a deferred condition 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 an operative consent.

The revised plans and additional information were reviewed by the Council's Environmental Health, Engineering and Traffic & Transport Sections and found to be satisfactory subject to conditions. The EPA raised concerns which can be addressed through proposed deferred conditions of consent.

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.

## ATTACHMENTS

Items identified in green, bold and underlined have been added to the originally supplied plans and reports. Recommended Conditions of Consent have been amended to include plans and reports identified below and with new deferred conditions to address concerns raised by the EPA and Council's Health Section. A new condition has been added prior to Construction Certificate to address the Land Development Engineering requirement.

### Legend for listing below

Normal text – original documents (JRPP meeting)

**Bold** text – documents supporting first deferred meeting (SSWPP)

*Red* italics – documents supporting second deferred meeting (SSWPP)

Green, bold & underlined – documents supporting this report (third meeting of SSWPP)

### 7.1 Recommended Conditions of Consent

#### Plans

7.2 Site Plan (revised May) – Attachment 1

7.3 Landscape Plan (revised May) – Attachment 3

7.4 Elevation Plan (revised May) – Attachment 2

#### Reports

7.5 Environmental Impact Statement

7.6 Remediation Action Plan

7.7 *Air Quality Impact Assessment (revised February)*

7.8 Air Quality Management Plan

7.9 *Acoustic Report Addendum (revised February)*

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)*

7.15 Parking Development Overview Plan – Attachment 4

7.16 Swept Path Analysis – Attachment 5

7.17 Swept Path Analysis Sheet 2 – Attachment 6

7.18 Pavement, Signage and Linemarking Plan – Attachment 7

7.19 Acoustic response letter– Attachment 8

Precise Planning cover letter, Ref: 1035, 10 May 2016 – Attachment 9

EPA Letter to LCC dated 28 June 2017 – Attachment 10

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