

DATE OF DETERMINATION	27 July 2017
PANEL MEMBERS	Sheridan Dudley (Chair), Bruce McDonald, Nicole Gurran, Karress Rhodes and Tony Hadchiti
APOLOGIES	John Griffin
DECLARATIONS OF INTEREST	None

Public meeting held at Liverpool City Council on 27 July 2017, opened at 11:37 AM and closed at 1:50 PM.

MATTER DETERMINED

2015SYW083 – Liverpool City – DA 266/2015 AT 25 Martin Road, Badgerys Creek (AS DESCRIBED IN SCHEDULE 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined approve the development application as a deferred commencement consent as described in Schedule 1 pursuant to section 80(3) of the *Environmental Planning and Assessment Act 1979*.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The decision was 3:2. In favour – Sheridan Dudley, Nicole Gurran and Bruce McDonald.

Against the decision – Karress Rhodes and Tony Hadchiti.

REASONS FOR THE DECISION

The reasons for the decision of the Panel were:

1. The proposed development will contribute a facility providing resource recovery and recycling sustainability service and associated additional employment capacity within the Sydney South West District on land which has been identified for future industrial/employment purposes.
2. The proposed development, subject to the conditions imposed, adequately satisfies the relevant State legislation and State Environmental Planning Policies including the Contaminated Lands Management Act 1997, the Threatened Species Conservation Act, the Protection of the Environment Operations Act, SEPP 55 – Remediation of Land, SEPP (infrastructure) 2007, SEPP 33 Hazardous and Offensive Development, SEPP (Sydney Region Growth Centres) 2006 and SREP No. 20 Hawkesbury Nepean River (Deemed SEPP).
3. The proposal adequately satisfies the provisions and objectives of Liverpool LEP 2008 and Liverpool DCP 2008. In this regard the Panel notes the proposed use is not permitted within the RU1 zone under the LEP but is permitted by the prevailing provisions of SEPP (Infrastructure) 2007.
4. The proposed development is consistent in character with that of the development anticipated within the precinct.
5. Given the proposed development is permitted on the site, the Panel considers the conditions imposed will acceptably moderate adverse impacts on the natural and built environments.

In this regard the applicant will need to obtain an environmental protection license from the EPA to lawfully operate the site.

6. In consideration of conclusions 1-5 above the Panel considers the proposed development is a suitable use of site and approval of the proposal is in the public interest.

Clrs Karress Rhodes and Tony Hadchiti disagreed with the majority decision for the following reason:

1. The application is not in the public interest.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments.

- 1. Amendment to Deferred Commencement Condition 1:**

After the words “designed in consultation” add “and to the satisfaction of”.

- 2. Amend condition 11 to read:**

A total of 11 off street car parking spaces must be provided.

- 3. Amendment to condition 115 so the condition now reads:**

Development the subject of this determination notice must be carried out strictly in accordance with the following:

- a) Environmental Impact Statement prepared by Precise Planning (ref no: 1305) dated March 2015, particularly the cap of 60,000 tonnes of total materials per annum which has been generated by the activities of the proponent and their immediate contractors.

Reason: To ensure clarity with the EIS requirements.

- 4. Amendment to condition 118 to remove the word “internal” before lighting and to add the following words after lighting:**

“As part of this development” and remove the word “provided” after the added words described above.

Reason: To clarify the condition as it relates to all lighting on the site.

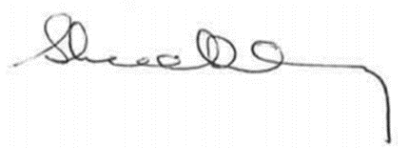
- 5. Add a new condition 123 to read:**

Except where vehicles are entering and exiting the building, the entrance door must remain closed.

- 6. Add a new condition 124 to read:**

All crushing operations must cease whilst the vehicle door is open to enable vehicle entry and exit to the building only.

PANEL MEMBERS



Sheridan Dudley (Chair)



Bruce McDonald



Nicole Gurrán



Karress Rhodes



Tony Hadchiti

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2015SYW083 – Liverpool City – DA 266/2015
2	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.
3	STREET ADDRESS	Lot 1 DP 611519 25 Martin Road, Badgerys Creek NSW 2555
4	APPLICANT/OWNER	Precise Planning
5	TYPE OF REGIONAL DEVELOPMENT	Designated development - waste management facility or works
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No.55 – Remediation of Land State Environmental Planning Policy (Infrastructure) 2007 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 Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997) (Deemed SEPP) Liverpool Local Environmental Plan 2008 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 Draft environmental planning instruments: Nil Development control plans: <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. Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 20 July 2016 First Supplementary council assessment report: 18 October 2016 Second Supplementary council assessment report: 22 March 2017 Third Supplementary council assessment report: 7 July 2017 Written submissions during public exhibition: 3

		<ul style="list-style-type: none"> • Verbal submissions at the public meeting on 03 Aug 2016: <ul style="list-style-type: none"> ○ Support – Nil ○ Object – John Vukovic and Teresa Albanese ○ On behalf of the applicant – Jeff Bulfin • Verbal submissions at the public meeting on 24 November 2016: <ul style="list-style-type: none"> ○ Support – Nil ○ Object – Antonella Cutajar, Gabriella Mercieca, Patrick Albanese, Harold Green, Roger Moss, Diana Vukovic, Deborah Green, Brigitte Green ○ On behalf of the applicant – Jeff Bulfin, Jeff Fulton, John Wassermann, Lindsay Lane • Verbal submissions at the public meeting on 10 April 2017: <ul style="list-style-type: none"> ○ Support – Nil ○ Object – Antonella Cutajar on behalf of Diana Vukovic and Frank Albanese ○ On behalf of the applicant – Jeff Bulfin, Jeff Fulton, John Wassermann, Lindsay Lane ○ On behalf of the Council – Marcus Jennejohn, David Smith and Lina Kakish • Verbal submissions at the public meeting on 27 July 2017: <ul style="list-style-type: none"> ○ Support – Nil ○ Object – Diana Vukovic (on behalf of herself and Teresa Albanese) and Roger Moss ○ On behalf of the applicant – Jeff Bulfin
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection on 24 November 2016 • Final Briefing Meeting on 3 August 2016 • Final Briefing Meeting on 24 November 2016 • Final Briefing Meeting on 10 April 2017 • Final briefing meeting to discuss council's recommendation, 27 July 2017, 11:08 AM. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Sheridan Dudley (Chair), Bruce McDonald, Nicole Gurrán, Karress Rhodes and Tony Hadchiti ○ <u>Council assessment staff</u>: David Smith, Marcus Jennejohn and George Nehme
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report