

SYDNEY WESTERN CITY PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	2018SSW013
DA Number	DA-263/2018
Local Government Area	Liverpool City Council
Proposed Development	<p>Establish a Resource Recovery Facility for 95,000 tonnes per annum of construction and demolition waste including the installation of a weighbridge, hardstand, retaining walls and erection of a rural shed.</p> <p>The proposal is identified a designated development as specified in Schedule 3 of the Environmental Planning and Assessment Regulations 2000.</p> <p>The proposal is identified as Nominated Integrated Development, requiring a license from NSW Environmental Protection Authority pursuant to Protection of the Environment Operations Act 1997.</p>
Street Address	55 Martin Road, Badgerys Creek
Legal Description	Lot 4 DP 611519
Applicant	Claron Consulting
Owner	Antoun's Construction
Date of DA Lodgement	4 April 2018
Number of Submissions	7
Regional Development Criteria (Schedule 7)	<p>Clause 7 – Particular designated development:</p> <p>The proposal is for a waste management facility identified as designated development as specified under Clause 32 in Schedule 3 of the Environmental Planning and Assessment Regulation 2000.</p>
List of All Relevant 4.15(1)(a) Matters	<p><i>List all of the relevant environmental planning instruments: Section 4.15(1)(a)(i)</i></p> <ul style="list-style-type: none"> • State Environmental Planning Policy No. 33 – Hazardous and Offensive Development • State Environmental Planning Policy No. 55 – Remediation of Land • Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997) (Deemed SEPP) • State Environmental Planning Policy (Sydney Region Growth Centres) 2006 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy (State and Regional Development) 2011 • (Commonwealth) Environment Protection and Biodiversity Act 1999 • Threatened Species Conservation Act 1995 • Contaminated Land Management Act 1997 • Protection of the Environment Operations Act 1997 • Native Vegetation Act 2003 • Biodiversity Conservation Act 2016 • Liverpool Local Environmental Plan 2008

	<p><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: Section 4.15(1)(a)(ii)</i></p> <ul style="list-style-type: none"> • No draft Environmental Planning Instruments apply to the site. <p><i>List any relevant development control plan: Section 4.15(1)(a)(iii)</i></p> <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: Development in Rural and E3 Zones <p><i>List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4: Section 4.15(1)(a)(iiia)</i></p> <ul style="list-style-type: none"> • No planning agreement relates to the site or proposed development. <p><i>List any relevant regulations: 4.15(1)(a)(iv)</i></p> <ul style="list-style-type: none"> • Consideration of the provisions of the Building Code of Australia.
List all documents submitted with this report for the panel's consideration	<ol style="list-style-type: none"> 1) Recommended Conditions of Consent 2) Environmental Impact Statement (including Appendices and revised Appendices) 3) Architectural Plans 4) Geotechnical Report 5) Stormwater Report 6) Traffic Impact Assessment 7) Flora and Fauna Survey and Impact Assessment 8) Arboricultural Impact Assessment 9) Preliminary Site Investigation 10) Visual Impact Assessment 11) Landscape Plans 12) Construction Noise and Vibration Management Plan 13) Stormwater Plans 14) Responses to further information request 15) SEARS 16) Pre-DA Advice (30/08/2017)
Recommendation	Approval, subject to conditions
Report Prepared by	Adam Flynn
Report date	2 April 2019

Summary of Section 4.15 matters Have all recommendations in relation to relevant Section 4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.11)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Yes
Conditions Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	Yes

1. EXECUTIVE SUMMARY

1.1 Reasons for the report

Sydney Western City Planning Panel is the determining body for the proposal as the proposed development is for a waste management facility identified as designated development as specified under clause 32 in Schedule 3 of the Environmental Planning and Assessment Regulation 2000, and as such is classed as 'particular designated development' under Clause 7 of Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011.

1.2 The proposal

The application seeks consent to establish a resource recovery facility for 95,000 tonnes per annum of construction and demolition waste including the installation of a weighbridge, hardstand, retaining walls and erection of a rural shed.

The facility would receive, handle and process construction and demolition waste, including soil and green (garden) waste. The construction of the facility involves building a large shed to enclose the processing operations. This would house a crushing plant and screening operations, stockpile areas and storage bays. Additionally, a weighbridge, wheel wash, and car park would be built.

The proposal is regarded as 'designated development' for the purposes of the Environment Planning and Assessment Regulation 2000 and requires development consent. The proposal is identified as Nominated Integrated Development, requiring a license from NSW Environmental Protection Authority pursuant to Protection of the Environment Operations Act 1997.

1.3 The site

The subject site is identified as Lot 4 DP 611519, being 55 Martin Road, Badgerys Creek.

1.4 The issues

The proposed resource recovery facility (RRF) is a prohibited development in the RU1 Primary Production zone pursuant to LLEP 2008 for which the site is zoned. However, the application has been made pursuant to State Environmental Planning Policy (Infrastructure) 2007 which permits waste or resource management facilities within a prescribed zone.

RU1 Primary Production is listed as a prescribed zone and pursuant to Clause 121 of SEPP (Infrastructure) 2007, the proposed resource recovery facility is a permissible land use with consent. In addition, Part 1 Clause 8 of SEPP (Infrastructure) 2007 provides that in the event of an inconsistency between itself and any other Environmental Planning Instrument, the SEPP takes precedent to the extent of the inconsistency.

1.5 Exhibition of the proposal

The application was advertised for a period of 30 days from 18 April 2018 to 18 May 2018. Seven submissions were received to the proposed development during the public consultation process. The issues raised within the submissions are discussed within the report.

1.6 Conclusion

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment Act 1979. Based on the assessment of the application, it is recommended that the application be approved, subject to the recommended conditions of consent.

2. SITE DESCRIPTION AND LOCALITY

2.1 The site

The subject site is identified as Lot 4 in DP 611519, being 55 Martin Road, Badgerys Creek. The site is rectangular in shape with a total area of 2.54ha. The site has a frontage to Martin Road of 90.3m, and a frontage to Lawson Road of 90.3m. An aerial photograph of the subject site is provided below. The site falls 8 metres from Martin Road to Lawson Road. There is an existing 2.5m wide drainage easement that burdens the site and benefits Liverpool City Council.

The proposed development is located towards the centre of the site, to the rear of the existing dwelling, with the existing dwelling to be converted into office use. There is sparse vegetation predominately on the site located predominately to rear along the Lawson Road frontage.



Figure 1: Aerial photograph of the site

2.2 The locality

The subject site is located on the western side of Martin Road, with frontage to Lawson Road to the west of the site, within the Badgerys Creek area, and is located approximately 15km west of the Liverpool CBD. The site sits just to the east of the proposed western Sydney airport, to the south of Elizabeth Drive, and 450m from the boundary with Fairfield Council to the north, as indicated in figure 2. The site is located approximately 420 metres to the east of Badgerys Creek and 375 metres to the west of South Creek.

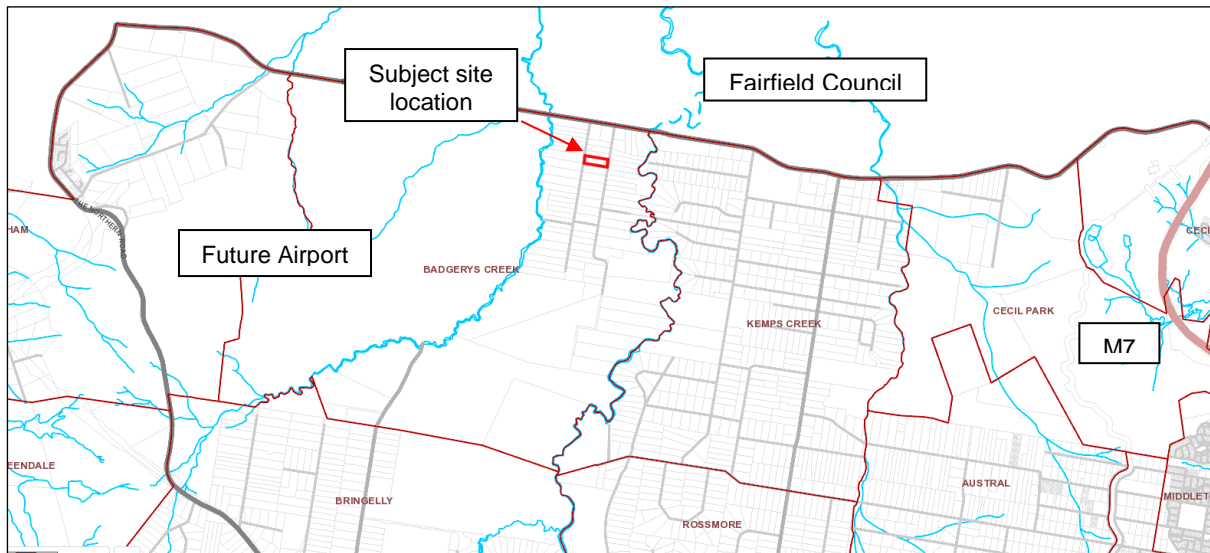


Figure 2: Overall Context

The locality within the immediate vicinity of the subject site is predominately of a rural character, with some similar uses and industrial uses in the vicinity.

2.3 Site Affections

2.3.1 Airport Noise

The subject site is located within the 30-35 ANEF contour for the Western Sydney Airport.

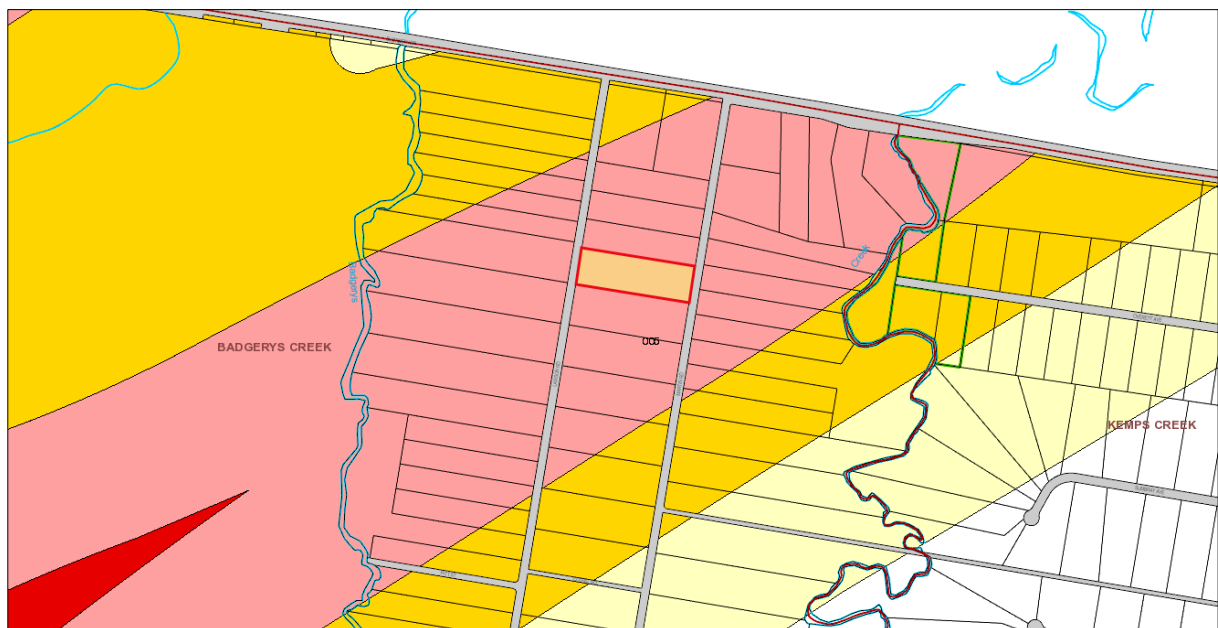


Figure 3: Airport Noise Affection

2.3.2 Biodiversity

The site is Biodiversity Certified.

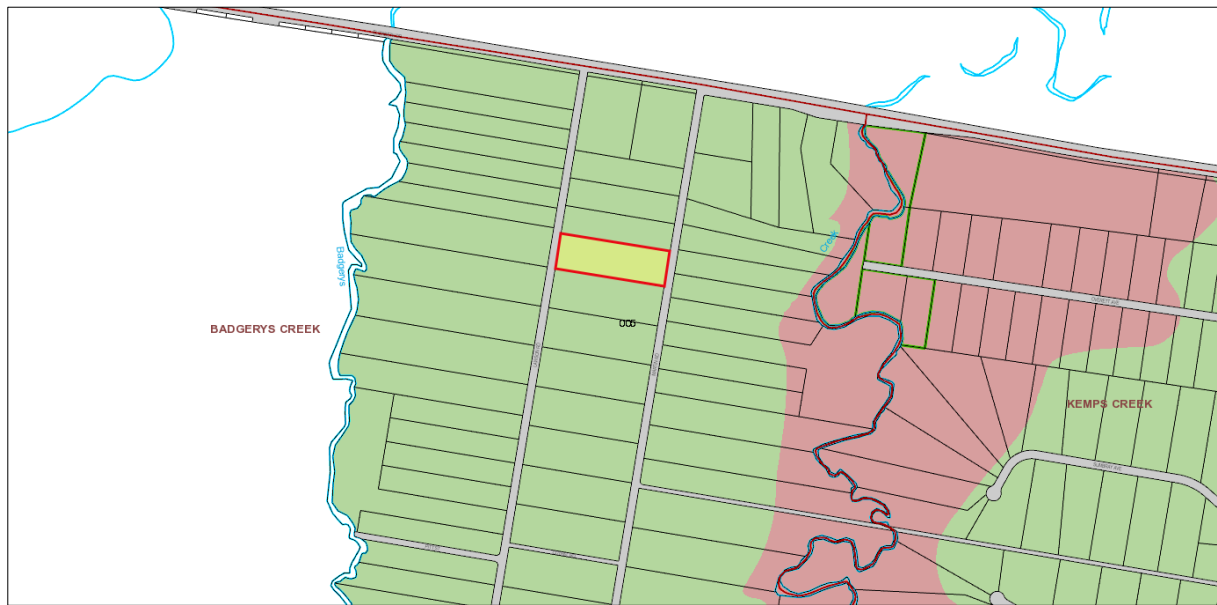


Figure 4: Biodiversity Certification

2.3.3 Heritage

To provide context and clarity, the subject site:

- is not listed as a heritage item under the Liverpool LEP 2008;
- is not located within the immediate vicinity of a heritage item; and
- is not located in a heritage conservation area.

In respect to heritage impact, the submitted documentation concludes that no Aboriginal cultural heritage sites were identified on the subject lot.

There are three heritage items in the wider vicinity of the site, 0.7km, 1.5km, and 1.5km away, however, given the distance of the site from these items, and the nature of the operations, no impacts on these items are likely to occur.

3. BACKGROUND

3.1 Planning Panel Briefing

The proposal was briefed to the Sydney Western City Planning Panel on 5 November 2018. The key issues outlined at the briefing to be addressed by Council are as follows;

- *Air quality issues and other vectors for contaminants in relation to impacts on employees, should be addressed in the report. If the Council to rely upon the EPA or WorkCover to regulate these aspects of the development, the determination report should set out in summary how that process operates.*

Comment: The applicant has confirmed that in order to protect employee health an Occupational Noise and Air Quality Assessment can be conditioned to be conducted at the site after the commencement of operations, during standard operating conditions.

The Assessment should be prepared in accordance with:

- Work Health and Safety Act (2011), the Work Health and Safety Regulation (2017)
- AS/NZS 1269.1:2005 (Occupational noise management—Measurement and assessment of noise emission and exposure).

The Assessment would assess the following:

- Inhalable Dust
- Respirable Dust
- Silica
- Asbestos
- Noise

The requirement for such assessments can be secured as a condition on with any consent.

- *Compatibility with the planning objectives for the nearby Western Sydney Employment Area and airport should be considered.*

Comment: The site lies to the south of the Western Sydney Employment Area (which begins on the northern side of Elizabeth Drive to the north). The SEPP (Western Sydney Employment Area) 2009 aims to *protect and enhance the land to which this Policy applies for employment purposes*. Whilst this site does not fall within this area, the establishment of an employment generating use would be in line with the aims of this policy. The application was referred to the Aviation Infrastructure team of the Department of Infrastructure and Regional Development, and they raised no concerns with the development with regards to its impact on the new airport.

4. DETAILS OF THE PROPOSAL

Development consent is sought for a Resource Recovery Facility (RRF). The LLEP 2008 defines a RRF as follows:

resource recovery facility means a building or place used for the recovery of resources from waste, including works or activities such as separating and sorting, processing or treating the waste, composting, temporary storage, transfer or sale of recovered resources, energy generation from gases and water treatment, but not including re-manufacture or disposal of the material by landfill or incineration.

Note. Resource recovery facilities are a type of waste or resource management facility—see the definition of that term in this Dictionary.

The proposed development consists of:

- Establishment of a resource recovery facility;
- The facility would receive, handle and process construction and demolition waste, including soil, and green waste (garden waste);
- Up to 95,000 tonnes of waste to be processed per annum;
- The following activities are to be undertaken on the site:
 - Unloading and loading of materials;
 - Material handling and sorting;
 - Crushing and screening of concrete, bricks, and similar waste materials;
 - Material storage.
- Construction of a 20 x 78m Colorbond shed to enclose processing operations;
- Construction of two covered material storage bays;
- Vehicular access to the site is provided via a double width driveway crossover from Martin Road;
- 13 car parking spaces are provided adjacent to the office at the front of the site for staff and visitors to the facility;
- There are twenty-three trees of significance on the site, and 8 of these are to be removed (including 2 with low-retention value).
- Hours of operation
 - Construction activities:
 - Monday to Friday 7:00am to 6:00pm
 - Saturdays 8:00am to 1:00pm

- At no time on Sundays or Public Holidays
- Operational activities:
 - Monday to Friday 7:00am to 6:00pm
 - Saturdays 8:00am to 5:00pm
 - At no time on Sundays or Public Holidays
- The site will accommodate vehicles up to and including articulated vehicles;
- Bunded diesel storage (for machinery operation)
- On-site sewage disposal will be maintained in the existing septic tank system adjacent to the existing dwelling.
- Construction of a weighbridge, wheel-wash facility, and car park; and
- Conversion of existing dwelling to offices and associated amenities.

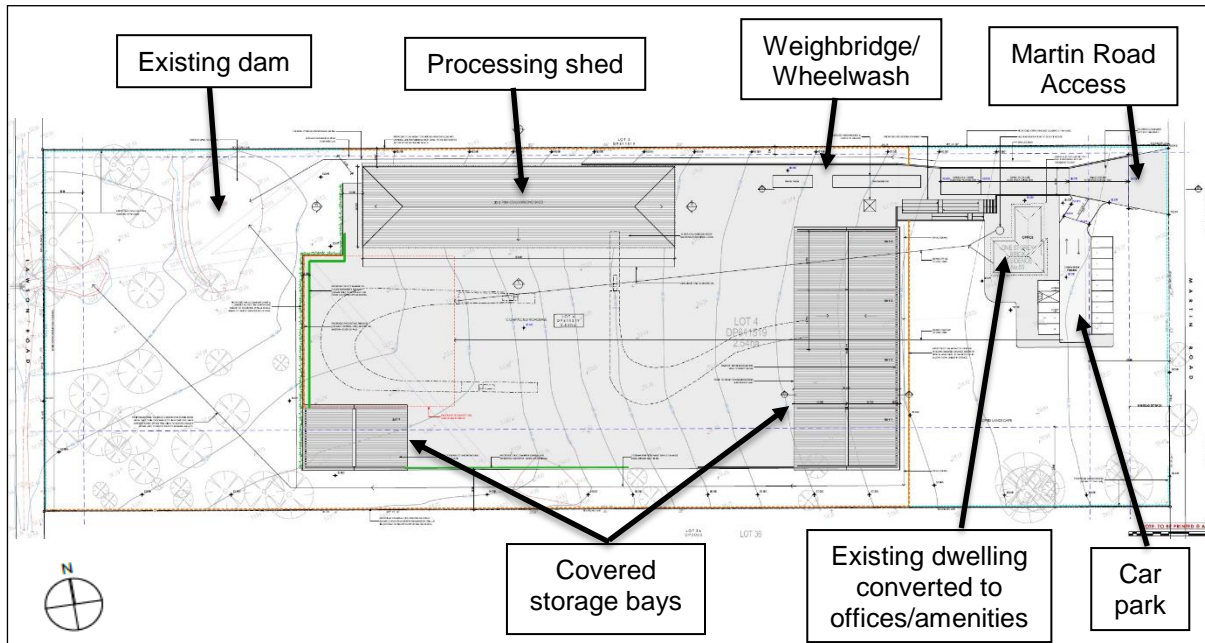


Figure 5: Site Layout

5.1 Relevant matters for consideration

The following Environmental Planning Instruments, Development Control Plans and Codes or Policies are relevant to this application:

Environmental Planning Instruments (EPI's)

- State Environmental Planning Policy No. 33 – Hazardous and Offensive Development
- State Environmental Planning Policy No.55 – Remediation of Land
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997) (Deemed SEPP)
- State Environmental Planning Policy (Sydney Region Growth Centres) 2006
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (State and Regional Development) 2011
- (Commonwealth) Environment Protection and Biodiversity Act 1999
- Threatened Species Conservation Act 1995
- Contaminated Land Management Act 1997
- Protection of the Environment Operations Act 1997
- Native Vegetation Act 2003
- Biodiversity Conservation Act 2016
- Liverpool Local Environmental Plan 2008

Draft Environmental Planning Instruments

- No draft Environmental Planning Instruments apply to the site.

Other Plans and Policies

- Metropolitan Plan for Sydney 2031;

Development Control Plans

- Liverpool Development Control Plan 2008
 - Part 1 – Controls applying to all development
 - Part 5 – Development in Rural & Environmental Zones

Contributions Plans

- Liverpool Contributions Plans do not apply to the site, however, the Special Infrastructure Contribution – Western Sydney Growth Areas is applicable.

6. ASSESSMENT

The development application has been assessed in accordance with the relevant matters of consideration prescribed by Section 4.15 of the Environmental Planning and Assessment Act 1979 as follows:

6.1 Section 4.15(1)(a)(1) – Any Environmental Planning Instrument

(a) State Environmental Planning Policy No. 33 – Hazardous and Offensive Development

The Secretary's Environmental Assessment Requirements (SEARs) issued by the NSW Department of Planning and Environment (DPE) require a Preliminary Risk Screening Assessment, as outlined in the document entitled *Applying SEPP 33 Hazardous and Offensive Development Application Guidelines (2011)*, prepared by Department of Planning. A Risk Screening Assessment was provided with the EIS.

Dangerous goods that will be present on site do not exceed the threshold quantities regularly to warrant further investigation under SEPP 33. The RRF will not accept hazardous or contaminated waste.

The risk assessment concludes that the site does not constitute a hazardous industry or a potentially hazardous industry and that a preliminary hazard assessment is not required.

It is acknowledged that there may be some measure of offensive pollution given the nature of the proposed use, however, in line with SEPP 33, there are adequate safeguards to be employed that will minimise the impacts of the activity.

(b) State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

The objectives of SEPP 55 are:

- *to provide for a state wide planning approach to the remediation of contaminated land.*
- *to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.*

Pursuant to the above SEPP, Council must consider:

- *whether the land is contaminated.*
- *if the land is contaminated, whether it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the proposed use.*

In respect to compliance with the provisions of SEPP 55, the application was referred to Council's Environmental Health Section for assessment.

Pursuant to Clause 7 of SEPP 55, Council is required to undertake a merit assessment of the proposed development. The following table summarises the matters for consideration in determining a development application (Clause 7).

Clause 7 - Contamination and remediation to be considered in determining development application	Comment
(1) A consent authority must not consent to the carrying out of any development on land unless:	
(a) it has considered whether the land is contaminated, and	A contamination assessment was submitted as part of the application for the subject site. The documentation was reviewed by Council's Environmental Health team and the EPA, and considered satisfactory. Council's Environmental Health team has stated that given the site has no history of illegal dumping and has remained essentially unchanged since 1994, the preliminary assessment that has been conducted is deemed suitable. The preparation of a Preliminary Site Investigation does not necessarily require sampling of soils. Samples that have been taken and analysed, have not identified contamination present above the relevant criterion. Given the site will be utilised as a resource recovery facility and not for a sensitive use such as residential, the investigation undertaken has revealed that the land is suitable in its current state.
(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and	Conditions will be provided that should contamination be identified during construction, appropriate action be taken.
(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	As above.

Based on the above assessment the proposal is considered to satisfy the relevant objectives and provisions of SEPP 55 and therefore it is considered the subject site is suitable for the proposed development subject to remediation works being undertaken.

(c) Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997) (Deemed SEPP)

The subject land is located within the Hawkesbury Catchment and as such the Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997) applies to the application.

The Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997) generally aims to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.

When a consent authority determines a development application, planning principles are to be applied (Clause 4). Accordingly, a table summarising the matters for consideration in determining development applications (Clause 5 and Clause 6), and compliance with such is provided below.

Clause 5 General Principles	Comment
(a) the aims of this plan,	The plan aims to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.
(b) the strategies listed in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy	The strategies are applied to this planning assessment in the table under Clause 6
(c) whether there are any feasible alternatives to the development or other proposal concerned	<p>The proposed construction and stormwater works are appropriate and no alternatives need to be considered.</p> <p>The State Environmental Planning Policy (Infrastructure) 2007 SEPP nominates the RU1 Primary Production Zone as a prescribed zone for a resource recovery facility. The proposal is considered to provide an appropriate and feasible form of development on the subject site.</p>
(d) the relationship between the different impacts of the development or other proposal and the environment, and how those impacts will be addressed and monitored	A stormwater concept plan was submitted and reviewed by Council's Development Engineers. Conditions of consent will be applied aiming to improve the quality of expected stormwater discharge from the site. Additionally, the applicant's EIS addresses: flora and fauna, noise, air quality, soils, traffic and Aboriginal cultural heritage. Council's internal technical officers, in conjunction with the relevant external authorities such as the EPA, have reviewed the EIS and deemed the proposal is unlikely to result in adverse impacts to the environment. Conditions of consent are to be imposed on any consent granted to ensure that the facility is operated in a satisfactory manner.
Clause 6 Specific Planning Policies and Recommended Strategies	Comment
(1) Total catchment management	Based on the conclusions of the various expert reports accompanying the application, specifically the stormwater management, it is considered that the proposal is unlikely to result in a significant adverse environmental impact on the catchment.

(2) Environmentally sensitive areas	The site is not identified as part of an Environmentally Sensitive area as defined in this plan
(3) Water quality	Council's Development Engineers have provided conditions of consent aiming to improve the quality of expected stormwater discharge from the site.
(4) Water quantity	<p>The proposed development will result in minimal overall change to flow characteristics of surface or groundwater in the catchment.</p> <p>Council's Development Engineers have provided conditions of consent aiming to reduce the impact from the expected storm-water runoff and flow characteristics through the site, on downstream aquatic ecosystems.</p>
(5) Cultural heritage	The site is not identified as being of or containing Aboriginal / cultural heritage.
(6) Flora and fauna	The site is identified as Biocertified.
(7) Riverine scenic quality	Not applicable.
(8) Agriculture/aquaculture and fishing	Not applicable.
(9) Rural residential development	Not applicable.
(10) Urban development	Not applicable.
(11) Recreation and tourism	Not applicable.
(12) Metropolitan strategy	The proposal is consistent with the Metropolitan Strategy, the land is zoned as 'future industrial' and a detailed response is provided in the applicant's EIS.

It is considered that the proposal satisfies the provisions of the Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No 2 - 1997), subject to appropriate sedimentation and erosion controls being implemented during construction of the proposed development.

(d) State Environmental Planning Policy (Sydney Region Growth Centres) 2006

The applicant's EIS has addressed the Growth Centres SEPP and identified that the land is located within the South West Growth Centre. The subject land and surrounding area has not been rezoned by the Growth Centres SEPP, however, it is identified as a 'Future Industrial' precinct on the South West Growth Centre Development Control Map (Sheet DVC 006).

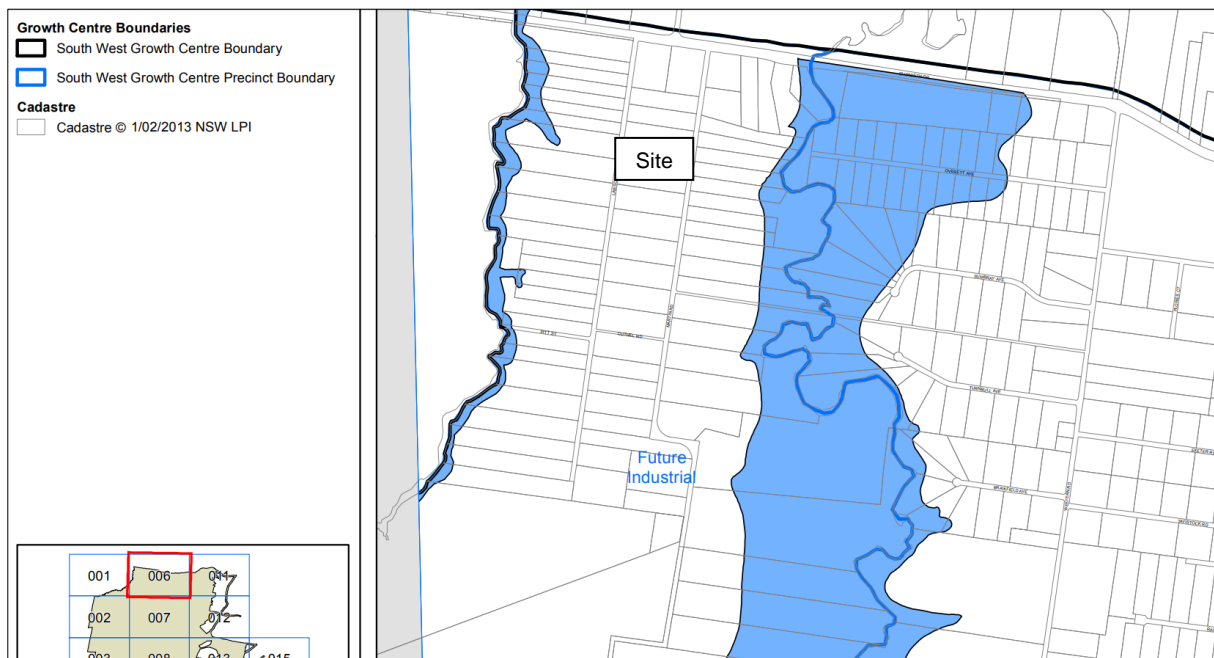


Figure 6: Extract of South West Growth Centre Development Control Map DVC006 showing 'Future Industrial' Precinct

As precinct planning for the area where the subject land is situated is not yet finalised, pursuant to Clause 16 of the Growth Centres SEPP, certain matters must be considered in the assessment of this application.

Clause 16 Consideration	Response
(a) whether the proposed development will preclude the future urban and employment development land uses identified in the relevant growth centre structure plan,	The South West Growth Centre Structure Plan identifies the area where the subject land is located as "industrial/employment" land. The proposed development has characteristics of industrial-type development and is therefore consistent with the structure plan.
(b) whether the extent of the investment in, and the operational and economic life of, the proposed development will result in the effective alienation of the land from those future land uses,	The proposal is not of such a scale that it would preclude alternative development of the land at some future time. With the exception of the storage shed, other structures are portable.
(c) whether the proposed development will result in further fragmentation of land holdings,	The proposal does not involve subdivision and therefore will not result in fragmentation of land holdings.
(d) whether the proposed development is incompatible with desired land uses in any draft environmental planning instrument that proposes to specify provisions in a Precinct Plan or in clause 7A,	The proposed development has characteristics of an industrial-type development and is therefore consistent with the proposed future industrial use identified in the Growth Centres SEPP.
(e) whether the proposed development is consistent with the precinct planning strategies and principles set out in any publicly exhibited document that is relevant to the development,	Refer to comments above.
(f) whether the proposed development will hinder the orderly and co-ordinated provision of infrastructure that is planned for the growth centre,	Refer to comments above. The land is located under the flight path for the proposed Badgerys Creek Airport. The proposed development is unlikely to hinder the construction or operation of the airport.

(g) in the case of transitional land—whether (in addition) the proposed development will protect areas of aboriginal heritage, ecological diversity or biological diversity as well as protecting the scenic amenity of the land.	The subject land is not transitional land.
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The proposal is considered consistent with the provisions of the Growth Centres SEPP.

(e) State Environmental Planning Policy (Infrastructure) 2007

The proposed development is best described as a resource recovery facility (RRF) which is defined by the SEPP (Infrastructure) 2007 as:

a facility for the recovery of resources from waste, including such works or activities as separating and sorting, processing or treating the waste, composting, temporary storage, transfer or sale of recovered resources, energy generation from waste gases and water treatment, but not including re-manufacture of material or goods or disposal of the material by landfill or incineration.

As noted earlier in this report, while the proposed RRF is a prohibited development in the RU1 zone pursuant to LLEP 2008, the SEPP (Infrastructure) 2007 nominates the RU1 Primary Production zone as a prescribed zone and RRF is a permitted land use within a prescribed zone (Clause 121 of the SEPP). As the SEPP prevails to the extent of any inconsistency between itself and the LLEP 2008, the proposal would be permissible with consent.

The application is classed as traffic generating development under Schedule 3 of this SEPP, and as such was required to be referred to RMS for comment. RMS's original comments raised concerns with the truck access on Lawson Road, and the subsequent vehicle movements at the intersection with Elizabeth Drive. They recommended this be changed to Martin Road, which has a safer intersection. The applicant made this change, and the application was referred back to RMS, who then raised no objection to the application, subject to conditions.

(f) State Environmental Planning Policy (State and Regional Development) 2011

Under Clause 8(1) of the State Environmental Planning Policy (State and Regional Development) 2011, development is potentially state significant development if it is specified in Schedule 1 or Schedule 2.

Schedule 1 of the State Environmental Planning Policy (State and Regional Development) 2011 applies to the development. Clauses 23(3) and (4) are relevant to the proposal:

23 Waste and resource management facilities

(3) Development for the purpose of resource recovery or recycling facilities that handle more than 100,000 tonnes per year of waste.

(4) Development for the purpose of waste incineration that handles more than 1,000 tonnes per year of waste.

The proposed development is not state significant as the amount of waste to be processed is estimated to be approximately 95,000 tonnes per year. The waste will consist of Construction and Demolition (C&D) waste, including soil (VENM/ENM) and green waste (only garden waste). The waste would not be putrescible, hazardous or liquid waste. The proposed activities would not involve incineration.

(g) Commonwealth Environment Protection and Biodiversity Act 1999

The Environment Protection and Biodiversity Conservation Act 1999 provides a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places—defined as matters of national environmental significance.

The subject site is covered by the Biodiversity Certification for the Growth Centres SEPP and would not have a significant impact on matters of National environment significance, and it is not on Commonwealth land. Therefore the application does not require a referral to the Minister.

(h) Threatened Species Conservation Act 1995

The land is located in the area covered by the Biodiversity Certification for the Growth Centres SEPP. Consequently, the provisions of section 126(3) of the TSC Act apply, which state:

A consent authority, when determining a development application in relation to development on biodiversity certified land under Part 4 of the Planning Act, is not required to take into consideration the likely impact of the development on biodiversity values (despite any provision of the Planning Act or any regulation or instrument made under that Act).

Therefore, the proposal is consistent with the provisions of the TSC Act.

(i) Contaminated Land Management Act 1997

As per the discussion under SEPP 55 above, the land is suitable for the proposed use.

(j) Protection of the Environment Operations Act

The proposal is a “scheduled activity” pursuant to the Protection of the Environment Operations Act 1997, (POEO Act) and therefore requires an Environmental Protection License. The following clauses apply and are considered in detail in the applicant’s EIS.

- Clause 34 – Resource recovery
- Clause 41 – Waste Processing (non-thermal treatment)
- Clause 42 – Waste storage

The clauses noted above relate to activities which require management and mitigation measures. The applicant has addressed this through management and mitigation measures identified in the EIS and specialist reports specifically related to the management of stormwater, stockpiles, waste, ecology, Aboriginal Cultural significance, acoustic amenity/vibration, traffic, air quality, visual landscape, Western Sydney Airport, community and economic effects and contamination.

The application was referred to the NSW EPA as Nominated Integrated Development, and they have provided GTAs that will mitigate the impacts of the proposal.

(k) Biodiversity Conservation Act 2016

The development is required to address the provisions of Part 7 of the Biodiversity Conservation Act 2016 unless the application is for development or activities on biodiversity certificated land under Part 8. The site is bio-certified land (within the meaning of Part 7AA of the Threatened Species Conservation Act 1995). The Threatened Species Conservation Act 1995 and Biodiversity Conservation Act 2016 are currently in transitional arrangements.

Notwithstanding this, the Applicant has provided a Flora and Fauna Survey and Impact Assessment using the Threatened Species Conservation Act from 1995 and Arboricultural Impact Assessment Report which refers to both Threatened Species Conservation Act 1995 and Biodiversity Conservation Act 2016. These conclude that the environment surrounding the site will be protected through mitigation measures proposed in the EIS, and the minor area of vegetation to be cleared will have no significant impact on the area.

(I) Liverpool Local Environmental Plan 2008

The site is zoned RU1 Primary Production, pursuant to LLEP 2008 as shown below:

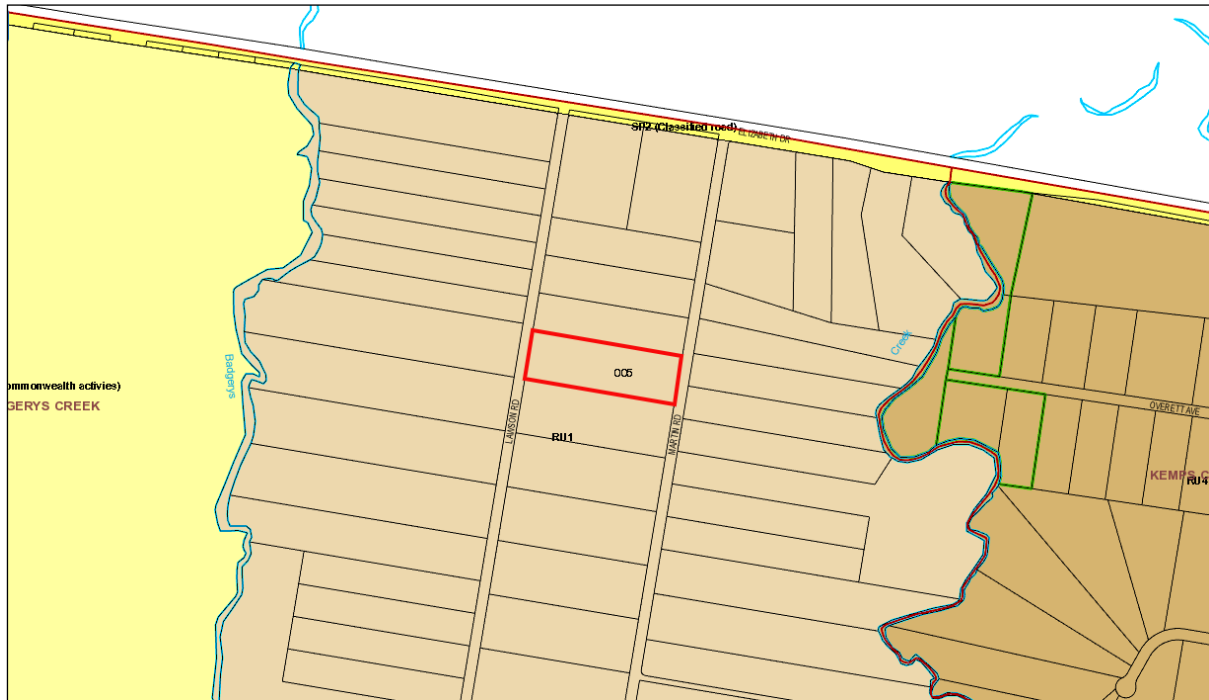


Figure 7: Zoning Map

(i) Permissibility

The proposed development would be defined as a “resource recovery facility”, which is a prohibited use within the RU1 Primary Production zoning. However, a resource recovery facility is identified as permitted with consent pursuant to State Environmental Planning Policy (Infrastructure) 2007 which permits waste or resource management facilities within a prescribed zone (the RU1 zone is classed as a prescribed zone).

(ii) Objectives of the zone

The objectives of the RU1 - Primary Production Zone are as follows:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To ensure that development does not unreasonably increase the demand for public services or public facilities.
- To ensure that development does not hinder the development or operation of an airport on Commonwealth land in Badgerys Creek.
- To preserve bushland, wildlife corridors and natural habitat.

The proposed development is consistent with several objectives of the RU1 zone:

- The proposed development is unlikely to increase the fragmentation and alienation of resource lands. The land has not historically been used for resource purposes in terms of primary production or extraction of resources from under the ground. Approval of the development will not sterilise the land from such purposes in the future.
- Fragmentation arises principally from the subdivision of land. The proposed development does not involve subdivision.
- The proposed facility is unlikely to create conflict between land uses within the RU1 zone and land uses within adjoining zones, given its separation from adjoining zones.
- The proposal is unlikely to increase the demand for public services or public facilities.
- The proposal would not impact the operation of the Western Sydney Airport.
- The minor area of vegetation to be cleared will have no significant impact, according to the assessment accompanying the proposal.

(iii) Principal Development Standards and Provisions

The following principal development standards are applicable to the proposal when assessed against the LLEP 2008:

DEVELOPMENT PROVISION	REQUIREMENT	PROPOSED	COMPLIES
Clause 7.6 – Environmentally significant land	Consider impacts of development on environmentally significant land, bed and banks of waterbody, water quality and public access to foreshore.	No ESL identified.	N/A
Clause 7.17 – Development in flight paths	To provide for effective and on-going operation of airports and ensure such operation is not compromised.	The site sits within the 110m contour of the new Obstacle Limitation Surface (OLS) for the new Western Sydney Airport. This equates to a height of 29.5m above the datum level of 80.5m. The proposed shed (the largest structure) will have a maximum height of 8.4m above ground level. The proposal is not classed as a 'Controlled Activity' within the meaning of Division 4 of Part 12 of the Airports Act 1996.	Yes

<p>Clause 7.18 – Development in areas subject to potential airport noise</p>	<p>The objectives of this clause are to ensure that development in the vicinity of Bankstown Airport and the proposed Badgerys Creek airport site:</p> <p>(a) has regard to the use or potential future use of each site as an airport, and</p> <p>(b) does not hinder or have any other adverse impact on the development or operation of the airports on those sites.</p> <p>The following development is prohibited:</p> <p>a) educational establishments, hospitals and places of public worship on land where the ANEF exceeds 20</p> <p>b) dwellings on land where the ANEF exceeds 25</p> <p>c) business premises, entertainment facilities, office premises, public administration buildings, retail premises and tourist and visitor accommodation on land where the ANEF exceeds 30.</p>	<p>The land is shown on the Airport Noise Map as being affected by Australian Noise Exposure Forecast (ANEF) between 30 and 35 units.</p> <p>The proposed use is not prohibited by the clause and is consistent with the objectives of the clause in that the proposal is unlikely to hinder or have any adverse impact on the development or operation of the proposed airport.</p> <p>It is noted that an office use is proposed in the existing dwelling, however, this is only ancillary to the primary use and is not considered to be a prohibited development in this instance.</p>	<p>Yes</p>
<p>Clause 7.31 – Earthworks</p>	<p>(1) The objectives of this clause are as follows:</p> <p>(a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,</p> <p>(b) to allow earthworks of a minor nature without requiring separate development</p>	<p>Site earthworks are considered ancillary to the proposed construction and operation of a resource recovery facility and associated ancillary structures.</p> <p>The earthworks will primarily consist of the levelling of the site for the operational buildings, with some cutting to allow for the storage bunkers to be less prominent, and for the construction of a</p>	<p>Yes</p>

	consent.	stormwater swale around the site.	
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6.2 Section 4.15(1)(a)(ii) - Any Draft Environmental Planning Instrument

There are no draft Environmental Planning Instruments that apply to the site

6.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The application has been assessed against the controls of the LDCP 2008, particularly Part 1 *General Controls for all Development*; and Part 5 *Development in the Rural and E3 zones*.

The table below provides an assessment of the proposal against the relevant controls of the LDCP 2008.

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
CONTROLS	PROVIDED	COMPLIES
2. TREE PRESERVATION	Minimal vegetation is proposed for removal as part of the application. 8 trees are scheduled for removal and two of these are of low retention value. The trees are within the footprint of the development, or to close to be suitably retained.	Yes
3. LANDSCAPING	The proposal provides a detailed landscape plan, which provides for an adequate amount of landscaping.	Yes
4. BUSHLAND AND FAUNA HABITAT PRESERVATION	The proposal was accompanied by an EIS and an Environmental Assessment (Flora and Fauna). The reports were reviewed by Council's Natural Resource Planner and no objections were raised to the proposal.	Yes
5. BUSHFIRE RISK	The subject site is not bushfire affected.	N/A
6. WATER CYCLE MANAGEMENT	The proposed development provides a concept storm water design. The proposed design was reviewed by Council's Development Engineers and considered acceptable subject to conditions.	Yes
7. DEVELOPMENT NEAR CREEKS AND RIVERS	The subject site is over 400m from the nearest creeks (Badgerys Creek to the east and South Creek to the west). The proposed development is considered to be acceptable in terms of its impacts on these creeks.	Yes
8. EROSION AND SEDIMENT CONTROL	The applicant has provided sediment control plans which have been reviewed by Council's Development Engineers and are considered acceptable.	Yes
9. FLOODING RISK	The subject site is not flood affected.	N/A
10. CONTAMINATION LAND RISK	An assessment under SEPP 55 was detailed previously in this report. It is considered that the proposed development satisfactorily addresses clause 7 of SEPP 55.	Yes
11. SALINITY RISK	The Salinity Map for Western Sydney (2002) identifies the site in an area of 'moderate' salinity.	Yes

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
	<p>The EIS accompanying the application notes that a subsequent onsite assessment has been undertaken.</p> <p>Soil testing undertaken revealed that the site's silty clay fill topsoil is non to slightly saline whilst the underlying natural clays range from non to moderately saline.</p> <p>Council's Engineers raised no concerns with the proposal, subject to conditions.</p>	
12. ACID SULPHATE SOILS RISK	The subject site is not identified as containing Acid Sulphate Soils.	Yes
13. WEEDS	The proposal was accompanied by a weed removal plan. This plan will form part of a consent condition.	Yes
14. DEMOLITION OF EXISTING DEVELOPMENT	No demolition proposed as part of the development application.	N/A
15. ON-SITE SEWERAGE DISPOSAL	The proposed on-site sewerage disposal has been reviewed by Council's Environmental Health Officer and considered acceptable – additional comments below.	Yes
16. ABORIGINAL ARCHAEOLOGY	No items of Aboriginal Archeological significance identified on the subject site.	Yes
17. HERITAGE AND ARCHAEOLOGICAL SITES	There are no identified historical heritage places at the subject site or in the vicinity.	Yes
18. NOTIFICATION OF APPLICATIONS	<p>The development application was advertised on two occasions for a period of 30 days from 18 April 2018 to 18 May 2018 in accordance with the Environmental Planning and Assessment Regulations 2000 and Liverpool Development Control Plan 2008 (LDCP 2008).</p> <p>Seven submissions were received to the proposed development during the public consultation process. The issues raised within the submissions are discussed within the report.</p>	Yes
20. CAR PARKING & ACCESS	<p>Council's DCP does not stipulate parking requirements for a resource recovery facility but indicates 'traffic report required' for 'materials recycling or recovery centre'. The proposal includes provisions for the parking of 13 staff members and visitors on site.</p> <p>Council's Traffic Engineers reviewed the Parking and Traffic Report – Traffic Impact Assessment and provided support subject to conditions of consent.</p>	Yes
22. WATER CONSERVATION	A stormwater management plan was submitted with the application that was reviewed by Council's Development Engineers and considered worthy of support.	Yes

PART 1 – GENERAL CONTROLS FOR ALL DEVELOPMENT		
23. ENERGY CONSERVATION	Conditions will be imposed requiring the proposed development to comply with the BCA, which includes standards for energy conservation for non-residential development.	Yes
25. WASTE DISPOSAL AND RE-USE FACILITIES	A waste management plan was submitted as part of the proposal that details waste management procedures during construction and operation of the site. The WMP was reviewed and considered acceptable. Conditions of consent have also been imposed stipulating the provision of appropriate waste disposal facilities during construction and appropriate sediment erosion control measures be implemented during construction.	Yes
26. ADVERTISING & SIGNAGE	Will comply with DCP requirements when required.	Yes
27. SOCIAL IMPACT ASSESSMENT	Activity not listed within Table 20.	N/A

PART 5 – RURAL AND E3 ZONES		
CONTROLS	PROVIDED	COMPLIES
SITE PLANNING Location of buildings	The setbacks of the shed, and its location behind the existing dwelling, combined with proposed perimeter landscaping will ensure there are no adverse character or amenity impacts arising from the proposal.	Yes
SETBACKS 15m Front Setback (as situated within the Growth Centre) 2m Side Setback 10m Secondary Frontage Setback	Existing dwelling (to be converted to office and amenities) is 30m from Martin Road, and all other buildings will be behind this. Should road widening occur (approximately 10m), the development would still be 20m from Martin Road. The larger shed will be 4.5m from the northern boundary, with the storage sheds 10m from the southern boundary. The closest building to the rear boundary will be 64m from Lawson Road.	Yes
BUILDING DESIGN, STYLE AND STREETSCAPE Non-residential maximum 8.5m	The storage shed has a maximum height of approximately 8.4m. The roof has a shallow pitch, and is hipped to minimise its visual bulk. The setback of the shed, and its location behind the existing dwelling, combined with proposed perimeter landscaping will ensure there are no adverse character or amenity impacts arising from the proposal. Building colours are rural in character, and can be conditioned to comply.	Yes
LANDSCAPING AND FENCING	Comprehensive landscaping and tree planting to the frontages of the site is proposed. A bush regeneration area is proposed between the development and the Lawson Road boundary of the site, which is welcomed.	Yes

PART 5 – RURAL AND E3 ZONES		
<p>Maximum height for transparent fences at the front of site: 1.2m</p> <p>Fences alongside and rear boundaries shall have a maximum height of 1.8m</p>	<p>The proposed front and rear fences (to the two road boundaries) will be open fencing up to 1.8m in height.</p> <p>The proposed side fences will be 2.1m, this height is required to provide sufficient height to be an effective safety and security barrier. The fence will be colourbond, which is a commonplace material for fencing, and will not appear out of place. It will also be integrated with landscaping as shown on the plans. However, the side fencing within the front setback will be open fencing of a height of 1.8m. Variation to the control is therefore warranted.</p>	<p>Yes</p> <p>Complies on merit</p>
CAR PARKING AND ACCESS	<p>The access to the site is visible on a straight portion of Martin Road. The access point has been consolidated to the Martin Road frontage following consultation with RMS.</p> <p>For car parking, refer to discussion in Part 1.</p>	Yes
NOISE	<p>To reduce the noise impact of the proposed development, the following reasonable and feasible noise mitigation measures are proposed:</p> <ul style="list-style-type: none"> • A 2.1m fence is to be installed to the side boundaries, and around the development within the front and rear setbacks. • Recommendations on machinery size/power. • Internal use of machines, and limits on door opening times. • Management plans. <p>Noise emission from the site, with all reasonable and feasible noise mitigation measures applied (as stated above), would comply with the project specific noise levels at all receivers.</p>	Yes
AIR	<p>It is predicted that emissions of PM2.5, PM10, TSP and dust deposition will comply with the applicable assessment criteria at all sensitive receptors and would therefore not lead to any unacceptable level of environmental harm or impact in the surrounding area.</p> <p>The site will apply appropriate dust management measures to minimise the potential occurrence of excessive dust emissions from the site.</p>	Yes

PART 5 – RURAL AND E3 ZONES		
	Overall, the assessment shows that the project can operate without causing any discernible air quality impact at the sensitive receptors in the surrounding environment. It is also noted that the applicant will be required to apply for an environmental protection license (EPL) to lawfully operate.	
WATER CYCLE	The proposed development provides a concept storm water design. The proposed design was reviewed by Council's Development Engineers and considered acceptable subject to conditions.	Yes
HAZARDOUS MATERIALS	Some hazardous materials will be stored on the site in relation to the operation of the development, however the quantities of dangerous goods do not exceed the threshold quantities for applying SEPP 33.	Yes
SITE SERVICES	Waste management will be provided by the proponent; A numbered letterbox will be installed at the gate in Martin Road; All works will be funded by the proponent; Existing electrical supply is adequate; The existing septic tank will be used – a condition of consent will ensure this is to the required standard, or upgraded as required.	Yes

6.4 Section 4.15(1)(a)(iia) - Any Planning Agreement or any Draft Planning Agreement

No planning agreement relates to the site or proposed development.

6.5 Section 4.15(1)(a)(iv) – The Regulations

The proposal is designated development, based on the following clauses from the *Environmental Planning and Assessment Regulations 2000*:

- Sch 3, cl. 32(1)(b)(iii) – Waste management facilities or works that store, process, recycle, recover, use or reuse material from waste and that sort, consolidate or temporarily store waste at transfer stations for transfer to another site for final disposal, permanent storage, recycling, use or reuse and that have an intended handling capacity of more than 30,000 tonnes per year of waste such as glass, plastic, paper, wood, metal, rubber or building demolition material;
- Sch 3, cl. 32(1)(c) – Waste management facilities or works that store, treat or dispose of waste or sort, process, recycle, recover, use or reuse material from waste and that recover, reprocess or process more than 5,000 tonnes per year of solid organic materials (in this case greenwaste); and
- Sch 3, cl 32(1)(d)(ii) – Waste management facilities or works that store, treat, or dispose of waste or sort, process, recycle, recover, use or reuse material from waste and that are located in an area of sodic or saline soils. NB the acidity and saline levels in the soil exceed threshold levels (waste management facilities or works).

The Environmental Planning and Assessment Regulations 2000 requires the consent authority to consider the provisions of the Building Code of Australia. If approved appropriate conditions of consent will be imposed requiring compliance with the BCA.

6.6 Section 4.15(1)(b) – The Likely Impacts of the Development

(a) Natural and Built Environment

Built Environment

The proposed development is considered to be a reasonable form of development given the desired future character of the site. It is considered to be an industrial development that is of an appropriate bulk and scale, given the size of the development site. The proposed development does not generate any detrimental impacts in terms of acoustics, dust, overshadowing or privacy on adjoining properties. It is considered the proposed industrial development to be well suited within the immediate surrounding locality and will not be out of place within the future surrounding built environment.

Natural Environment

As part of the proposal a survey, assessment and report was prepared with reference to the NSW Office of Environment and Heritage *Threatened species survey and assessment guidelines*. The environment surrounding the site will be protected through mitigation measures proposed in the EIS. The minor area of vegetation to be cleared will have no significant impact, according to the Arboricultural Impact Assessment Report and Flora and Fauna Survey and Impact Assessment. The proposed RRF is environmentally sustainable, will increased re-use and recycling of materials and has manageable impacts. The applicant's EIS provides the following recommendations:

- The footprint of the proposed building / wash bay / carpark layout has been modified a number of times to reduce impact on ecological values – mostly the trees. Trees are still proposed for removal however with ~ 5 native trees proposed to be removed (see arborist report for details).
- Recommendations are made to preserve and increase ecological value and condition of the site by maintaining EEC species present on-site, by having areas delineated for natural regeneration and areas for planting with planting being with locally native species to this vegetation group. Landscaping Plan provides details for retention, replanting and regenerating of native species and communities and habitats for native fauna.
- At least two (2) microbat nest boxes are to be installed on site.
- No significant impact on endangered ecological communities or threatened species due to proposed works.
- Ongoing maintenance of environmental and ecological actions is required, with an additional monitoring and reporting requirement.

(b) Social Impacts and Economic Impacts

Social Impacts

The proposed facility will result in a minor intensification of activity in the immediate vicinity. The specialist reports that have been prepared in order to inform the EIS have demonstrated that the proposed RRF will create manageable impacts related to noise, dust, visual amenity and road safety / congestion. In relation to noise and air quality, the reports provided demonstrate compliance with the relevant guidelines.

Economic Impacts

The proposal will provide employment during the construction of the facility and will provide ongoing employment to operate the facility, which will have a trickle-down effect on the local economy. Additional benefits include the provision of infrastructure at no economic cost to the community; relieving of pressure on the local and state government to locate an appropriate

site and fund a RRF; and expenditure of the operator for ongoing maintenance of equipment and supply of services.

6.8 Section 4.15(1)(c) – The Suitability of the Site for the Development

The site is considered suitable because mitigation / management measures can be designed and implemented in a cost effective manner to satisfactorily ameliorate potential adverse impacts to the surrounds. In this regard it is noted that the facility needs to be licensed by the NSW Environment Protection Authority which should provide an on-going safeguard to its satisfactory operation.

The site is also considered to be of an appropriate size for the bulk and scale for the proposal. The proposed development demonstrates compliance with the provisions of the LDCP 2008, Part 1 and 5. The minor variation from the LDCP 2008 has been well founded and worthy of support, as stipulated throughout this report. Having regard to the above the site is considered to be suitable for the development.

6.9 Section 4.15(1)(d) – Any submissions made in relation to the Development

(a) Internal Referrals

The following comments have been received from Council's Internal Departments:

DEPARTMENT	COMMENTS
Engineering	No objection, subject to conditions.
Building	No objection, subject to conditions.
Environmental Health	No objection, subject to conditions.
Traffic	No objection, subject to conditions.
Waste Management	No objection.
Natural Environment	No objection, subject to conditions.
Natural Resources	No objection.
Heritage	No objection, subject to conditions.

(b) External Referrals

The DA was referred to the following external agencies for comment:

DEPARTMENT	COMMENTS
Environmental Protection Agency	The 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. General Terms of Approval issued.
Endeavour Energy	No objection, subject to conditions.
NSW Office of Environment and Heritage	No approvals required.
RMS	Provided initial comments requesting the access point be moved from Lawson Road to Martin Road, as this would be preferential for vehicles exiting onto Elizabeth Drive. This change was carried out by the applicant. The amended plans were reviewed, and RMS has no objection to the application, subject to conditions.

Department of Infrastructure and Regional Development – Western Sydney Unit	<p>The Aviation Infrastructure team within the Western Sydney Unit has reviewed information about the potential for a resource recovery facility, in close proximity to Western Sydney Airport, to penetrate the Obstacle Limitation Surface (OLS) through smoke plumes or similar industrial activity.</p> <p>The OLS Height Relative to Ground level at this site is 59m. The Aviation Infrastructure team notes that the proposed facility is only one storey and no evidence of smoke plumes or similar pollutants is proposed. Based on this information, there is no evidence to suggest that the facility will present a hazard to Western Sydney Airport, and therefore the Aviation Infrastructure Team have no concern with the development.</p>
Department of Primary Industries – Water	DPI Water has reviewed documents for the above development application and considers that, for the purposes of the <i>Water Management Act 2000</i> (WM Act), a controlled activity approval is not required and no further assessment by this agency is necessary.

(c) Community Consultation

The application was notified and advertised for a period of 30 days from 18 April 2018 to 18 May 2018. Seven submissions were received to the proposed development during the public consultation process. The issues raised in the submissions, and a response to each, are summarised as follows:

Proposing to operate in a Rural zoned area

The proposed activity can be defined as a “waste or resource management facility” which is permissible under the Infrastructure SEPP (Infrastructure) 2007 in a prescribed zone. RU1 is a prescribed zone as detailed earlier in this report.

Industrial-type developments are located within the immediate area, including a Boral concrete batching plant, a landscape supplies facility, the Kemps Creek waste disposal facility and a range of land use activities that are beyond that which would be expected of a RU1 Primary Production zone.

Location adjacent to Western Sydney Airport

The applicant’s EIS has addressed the Growth Centres SEPP and identified that the land is located within the South West Growth Centre. The subject land and surrounding area has not been rezoned by the Growth Centres SEPP, however, it is identified as a ‘Future Industrial’ precinct on the South West Growth Centre Development Control Map (see previous Figure 6).

Traffic

A traffic report has been submitted as part of the application and reviewed by Council’s Traffic Engineers and RMS. The traffic assessment report indicates that the traffic impact of the proposal would not be expected to have unacceptable traffic impacts on the adjoining local road network.

Noise

An acoustic assessment was prepared and submitted with the application, the acoustic assessment models operational scenarios and proposes mitigation measures including fencing to mitigate noise to the west. This was supplemented by a Construction Noise and Vibration Management Plan, which proposed mitigation measures beyond the proposed 2.1m high perimeter fence and construction times which was initially proposed. The reports conclude that with the proposed mitigation measures, the effects on the noise of the proposal in the surrounding environment are considered to be low.

The assessments submitted with the application was reviewed by Council's Environmental Health Section and the NSW EPA and considered satisfactory. It is also noted that the proponent will be required to obtain an environmental protection license (EPL) with the EPA to lawfully operate. The EPL will include a list of noise monitoring locations and noise limits which must be achieved. Conditions of consent have been imposed requiring the proposed development demonstrate compliance with the approved acoustic assessment.

A condition of consent is recommended regarding the use of the site requiring the hours of operation for construction-type activities on the site to be limited to 7am to 6pm Monday to Friday and 8am to 1pm on Saturday and no work to be undertaken on Sundays or public holidays, with operational activities continuing to 5pm on Saturday. These operating hours are also stipulated in the General Terms of Approval issued by the EPA. These hours of operation are considered to be within the acceptable timeframes to reduce any detrimental impacts on residential properties within the surrounding area.

Air quality, dust, odour and pollution

An Air Quality Assessment was prepared and submitted with the application. It is predicted that emissions of PM2.5, PM10, TSP and dust deposition will comply with the applicable assessment criteria at all sensitive receptors and would therefore not lead to any unacceptable level of environmental harm or impact in the surrounding area.

The site will apply appropriate dust management measures to minimise the potential occurrence of excessive dust emissions from the site.

Overall, the assessment shows that the project can operate without causing any discernible air quality impact at the sensitive receptors in the surrounding environment. Also noting that the applicant will be required to apply for an environmental protection license (EPL) to lawfully operate.

Concerns over hazardous materials

The RRF will not accept hazardous or contaminated waste. The applicant's EIS included a SEPP 33 Risk Screening Assessment as required by the Secretary's Environmental Assessment Requirements (SEARs) issued by the NSW Department of Planning and Environment. The risk assessment concludes that the site does not constitute a hazardous industry or a potentially hazardous industry and that a preliminary hazard assessment is not required.

Visual impact

The storage shed has a maximum height of approximately 8.4m. The roof has a shallow pitch, and is hipped to minimise its visual bulk. The setback of the shed, and its location behind the existing dwelling, combined with proposed perimeter landscaping will ensure there are no adverse character or amenity impacts arising from the proposal. Building colours are rural in character, and can be conditioned to comply.

Potential for contamination

The SEAR's issued by the DPE require a Preliminary Risk Screening Assessment, as outlined in the document entitled Applying SEPP 33 Hazardous and Offensive Development Application Guidelines (2011), prepared by Department of Planning. A Risk Screening Assessment was provided with the EIS. The risk assessment concluded that the site does not constitute a hazardous industry or a potentially hazardous industry.

The proposal is a "scheduled activity" pursuant to the Protection of the Environment Operations Act 1997, (POEO Act) and therefore requires an Environmental Protection License.

Requirements for such activities include management and mitigation measures. The applicant has addressed this through management and mitigation measures identified in the EIS and specialist reports specifically related to the management of stormwater, stockpiles, waste, ecology, Aboriginal Cultural significance, acoustic amenity/vibration, traffic, air quality, visual landscape, Western Sydney Airport, community and economic effects and contamination.

Other Issues

Property values, other similar uses in the area, unregulated work and dumping/fly tipping, are not material planning considerations.

6.7 Section 4.15(1)(e) – The Public Interest

The development has incorporated methods and design initiatives to alleviate any potential detrimental impacts on the surrounding locality. The proposal will allow for the provision of additional employment within the locality and create a positive economic impact. The proposal will increase resource recovery facilities and is unlikely to result in rural land use conflict. Having regard to the above, the proposed development is considered to be in the public interest.

7. CONCLUSION

In conclusion, the following is noted:

- The subject Development Application has been assessed having regard to the matters of consideration pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 and is considered satisfactory.
- The Development Application seeks development consent for a resource recovery facility at Lot 4 DP 611519, 55 Martin Road, Badgerys Creek.
- The proposal is permissible under the Infrastructure SEPP (Infrastructure) 2007 and the site is identified as 'future industrial' by the Growth Centre SEPP.
- The proposal predominately complies with the provisions of the LDCP 2008. The minor variations proposed to the DCP are considered acceptable on merit.
- The application was referred to a number of external authorities with no objections raised, subject to imposition of conditions.
- The EIS accompanying the application has satisfactorily demonstrated that the proposal is a permitted form of development for the site and that adequate environmental measures are proposed to mitigate any potential environmental impact upon the locality.

It is for these reasons that the proposed development is considered to be satisfactory and notwithstanding the submissions received, the subject application is recommended for approval, subject to conditions.

8. ATTACHMENTS

- 1) Recommended Conditions of Consent
- 2) Environmental Impact Statement (including Appendices, and revised Appendices)
- 3) Architectural Plans
- 4) Geotechnical Report
- 5) Stormwater Report
- 6) Traffic Impact Assessment
- 7) Flora and Fauna Survey and Impact Assessment
- 8) Arboricultural Impact Assessment
- 9) Preliminary Site Investigation
- 10) Visual Impact Assessment
- 11) Landscape Plans
- 12) Construction Noise and Vibration Management Plan
- 13) Stormwater Plans
- 14) Responses to further information request
- 15) SEARS
- 16) Pre-DA Advice (30/08/2017)