

Memo

Hunter and Central Coast Regional Planning Panel

Subject PPSHCC-97 – DA/63453/2021
Change of use to a resource recovery facility, fit out and minor alterations to an approved development.

Site 33 Pile Road, Somersby, 3-5 Pinnacle Place, Somersby
Lot 1 DP 1093201, Lot 51 DP 1151970

Date 14 October 2022

From Padraig Scollard, Principal Planner
Keylan Consulting (on behalf of Central Coast Council)

On 13 October 2022, the Hunter and Central Coast Regional Planning Panel required further information prior to its determination of the proposed change of use of an approved development to a resource recovery facility, including fit out and minor alterations at 33 Pile Road and 3-5 Pinnacle Place, Somersby (PPSHCC-97 – DA/63453/2021).

The Panel requested further assessment following its Briefing:

- consolidation of State Environmental Planning Policies
- Sydney Regional Environmental Plan No 20 – Hawkesbury-Nepean River
- Clause 7.4 – Development in Somersby Business Park of the Gosford Local Environmental Plan 2014
- Satisfaction of the Secretary's Environmental Assessment Requirements (SEARs) issued for the subject development

Further, it was requested that an additional condition be drafted to address the parameters of the approved development together with some minor amendments to the draft conditions of consent.

The purpose of this memo is to provide the required additional assessment together with and parameters condition. These matters are addressed below.

Consolidated State Environmental Planning Policies

On 1 March 2022, 45 State Environmental Planning Policies (SEPPs) were consolidated into 11 new SEPPs. The purpose of the consolidation was to align SEPPs with theme-based focus areas to make the planning system more accessible and user-friendly.

On 25 October 2021, DA/63453/2021 was lodged prior to the introduction of the new SEPPs. Consequently, the Environmental Impact Statement submitted with the application provided an assessment against the former SEPPs.

A detailed assessment against the provisions of the former SEPPs is provided within the Assessment Report dated 13 October 2022.

The below table identifies both the former SEPPs and new SEPPs that are relevant to DA/63453/2021.

Former SEPPs	New SEPPs
<i>State Environmental Planning Policy (State and Regional Development) 2011</i>	SEPP (Planning Systems) 2021
<i>State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</i>	SEPP (Biodiversity and Conservation) 2021
<i>Sydney Regional Environmental Plan No 20 – Hawkesbury-Nepean River</i>	
<i>State Environmental Planning Policy No. 33 – Hazardous and Offensive Development</i>	SEPP (Resilience and Hazards) 2021
<i>State Environmental Planning Policy No. 55 – Remediation of Land</i>	
<i>State Environmental Planning Policy (Infrastructure) 2007</i>	SEPP (Transport and Infrastructure) 2021

An assessment has been undertaken against the new applicable SEPPs. To clarify, no existing provisions within these SEPPs that are relevant to the proposal have been amended. Further, there are no new provisions that are relevant to the proposal within the new SEPPs.

In conclusion, the assessment provided within the report is applicable to both the former and new SEPPs.

Sydney Regional Environmental Plan No 20 – Hawkesbury-Nepean River

Sydney Regional Environmental Plan No 20 – Hawkesbury Nepean River (SREP 20) 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. The site is located within the former Gosford Local Government Area and is included within the land subject to SREP 20.

This planning instrument requires Council to consider the general planning considerations outlined in Clause 5 and specific planning policies and recommended strategies of Clause 6 prior to granting consent to a development application.

Further, Clause 11 establishes that consent is required for designated development for the purpose of waste management facilities or works and also includes additional matters for consideration by the consent authority.

Additional matters for consideration by the consent authority:

- (a) Any potential for groundwater contamination.*
- (b) The adequacy of the proposed leachate management system and surface water controls.*
- (c) The long-term stability of the final landform and the adequacy of the site management plan.*
- (d) If extraction of material is involved in the creation or other development of the waste management site, whether the extractive operation will have an adverse impact on the river system*

An assessment of the relevant clauses is detailed below:

Clause 5 General Planning Considerations

The development is consistent with the aims of SREP 20 as suitable stormwater detention infrastructure is proposed and the application is accompanied by a Soil and Water Management Plan. The proposed measures have been reviewed by the EPA and Council's engineer and are considered appropriate.

On this basis no adverse impacts on the Hawkesbury-Nepean River system are anticipated.

Clause 6 Specific Planning Policies and Recommended Strategies

The proposal is consistent with the relevant strategies in Clause 6. The site is not located within an environmentally sensitive area, nor does it contain any items of aboriginal heritage. The site is already cleared in accordance with underlying approvals and therefore no adverse impacts on flora or fauna are anticipated.

As identified, the proposal includes suitable stormwater detention infrastructure and is accompanied by a Soil and Water Management Plan. The proposal is therefore considered to satisfy the relevant water quality and quantity strategies.

Clause 11 Development Controls

The development is consistent with the additional matters for consideration for waste management facilities set out in Clause 11 as:

- Earthworks have been undertaken in accordance with previous development approvals to establish the site levels with suitable retaining walls. The landform of the site is therefore considered suitable for the proposed development.
- Only minor excavation works are proposed for the installation of the weigh bridges and soil testing of any excavated material is proposed. Given the limited nature of these earthworks adverse impacts on the Hawkesbury-Nepean River system are not anticipated.
- The proposal includes suitable stormwater detention infrastructure and is accompanied by a Soil and Water Management Plan. The site will also be sealed once operational which will reduce risk of groundwater contamination from the proposed land use.

Based on the above, it is considered that the proposal will not lead to any unacceptable adverse impacts on the Hawkesbury-Nepean River system.

Clause 7.4 – Development in Somersby Business Park under the Gosford Local Environmental Plan 2014

Subclause 7.4(3) establishes that consent must not be granted unless the consent authority considers that the development is consistent with:

- (a) any applicable plan of management adopted by the consent authority, and*
- (b) the objectives of this clause.*

An assessment of these provisions is provided below.

(a) any applicable plan of management adopted by the consent authority, and

The draft Plan of Management for Somersby Industrial Park (PMSIP) identifies performance objectives and management actions for environmental, Aboriginal heritage and economic values.

The proposal is consistent with the management objectives of the PMSIP as the proposal:

- will provide additional employment opportunities within the Central Coast LGA whilst ensuring environmental and Aboriginal heritage values are maintained
- is sensitive to the environmental conditions of the locality and will not impact threatened fauna species or areas of environmental value
- the site does not contain any threatened flora species and will not impact on the protection or conservation of the core habitat for *Prostanthera junonis*, *Hibbertia procumbens* and *Darwinia glaucophylla* within the wider Somersby Industrial Park
- will not impact on the protection or conservation of any Aboriginal objects or Aboriginal cultural heritage values
- will not impact the function of the Somersby Industrial Park and is consistent with the character of the locality and streetscape

(b) the objectives of this clause.

The proposal is consistent with the objectives of Clause 7.4 as:

- The development provides a resource recovery facility within the Somersby Business Park that is consistent with surrounding land uses and will provide employment opportunities
- The proposal will not impact ecologically significant land or any items of Aboriginal heritage
- The proposal facilitates the orderly development of the site and will not adversely impact the subdivision potential or character of the Somersby Business Park.

SEARs Requirements

On 19 February 2021, the Director, Industry Assessments of the Department of Planning and Environment (DPE) issued Secretary's Environmental Assessment Requirements (SEARs) for the subject development. The SEARs were also accompanied by assessment requirements from the NSW EPA and Transport for NSW.

The SEARs required consultation with the relevant stakeholders including:

- Department of Planning and Environment
 - NSW EPA
 - Environment, Energy and Science Group
- Heritage NSW
- Transport for NSW
- Fire & Rescue NSW
- NSW Rural Fire Service
- Central Coast Council
- Surrounding landowners and occupants likely to be impacted by the proposal

The EIS advises that consultation with the above stakeholders was undertaken. However, the EIS does not detail consultation undertaken with Heritage NSW. Notwithstanding, the EIS does identify that consultation was undertaken with the NSW Office of Environment and Heritage (OEH). In particular, the EIS states:

...The NSW Office of Environment and Heritage (OEH) did not provide comments to the department to assist in the formulation of the SEARS.

As a result of further consultation, the NSW OEH confirmed they have no additional issues that need to be considered in the EIS...

Heritage NSW and the OEH are the same entities but have been subject to name changes in recent years.

On this basis, it is considered that the applicant has undertaken the appropriate consultation Heritage NSW / the OEH to satisfy the SEARs.

Key Parameters Condition

The following draft condition is recommended to be inserted at Condition 1.1 of the draft consent to clearly establish the parameters of the approval

Approval is granted for the change of use of an approved development to a resource recovery facility including fit out and minor alterations. The resource recovery facility is to have a maximum processing capacity of 99,000 tonnes per year.

Operation of the resource recovery facility is permitted 24 hours, 7 days a week with the exception of the following:

- *Waste deliveries must only occur from 6:00 am to 7:00 pm, Monday to Friday, and from 7:00 am to 2:00 pm, Saturday and Sunday.*
- *Product collection must only occur from 10:00 pm to 6:00 am, Monday to Friday.*
- *Whilst material handling activities can take place on a 24-hour basis, wood shredding must only occur between the hours of 7:00 am and 6:00 pm.*

Amendments to the Draft Conditions of Consent

The following amendments have been incorporated within the draft conditions of consent:

- The 'key parameters' condition is added at 1.1, as detailed above.
- Condition 2.11, which relates to the Section 307 Certificate of Compliance, is relocated from 'prior to the issue of a Construction Certificate' to 'prior to the issue of an Occupation Certificate'. This new condition is provided at 5.15. In addition, this condition is amended to refer to occupation certificate rather than a subdivision certificate.
- Condition 5.2 is amended to require all Occupation Certificates required by the underlying approvals of DA/51047/2016 and DA/26372/2019 to be issued prior to the issue of any Occupation Certificate.
- Condition 5.10 is amended from 'Obtain an Environmental Protection Notice' to 'Obtain an Environmental Protection License'.
- The EPA GTA's and RFS GTA's are added at Schedule 1 and 2 respectively.