

**DETERMINATION AND STATEMENT OF REASONS**  
SYDNEY WESTERN CITY PLANNING PANEL

<b>DATE OF DETERMINATION</b>	Friday, 18 December 2020
<b>PANEL MEMBERS</b>	Justin Doyle (Chair), Nicole Gurran, Ross Fowler and Jeni Pollard
<b>APOLOGIES</b>	Glenn McCarthy & Clare Brown
<b>DECLARATIONS OF INTEREST</b>	Louise Camenzuli: I am a conflict on the above application as one of my Partners acts for Fitzpatrick Investments Pty Ltd.

Papers circulated electronically on 9 December 2020.

**MATTER DETERMINED**

PPSSWC-108 – Penrith – DA20/0589 at 1-21 Grady Crescent ERSKINE PARK NSW 2759 – Integrated Development (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 briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

**Development application**

The panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

**REASONS FOR THE DECISION**

The panel's reasons for approving the application included the reasons outlined in the council assessment report.

The proposal adequately satisfies the relevant objectives and provisions of Penrith LEP 2010 (Amendment 4). While the proposed use is not permitted within the applicable IN1 General Industrial zoning under Penrith LEP 2010, it is permitted by virtue of SEPP (Infrastructure) 2007 which overrides the relevant provisions of the LEP to permit "development for the purpose of waste or resource management facilities" in a prescribed zone.

State Environmental Planning Policy No. 33 - Hazardous and Offensive Development was considered, but the proposal if properly managed was found not to be 'hazardous or offensive', such that a preliminary hazard analysis would not be necessary.

The EPA raised no objections to the proposal in response to referral, and provided its General Terms of Approval which are adopted through the conditions of consent.

The proposal was also referred to Transport for NSW (under clause 104 of State Environmental Planning Policy (Infrastructure) 2007), but no objections were raised.

The closest residential development is 330 metres away and is unlikely to be impacted.

On that basis, the impacts of the development are expected to be acceptable provided that the conditions of consent are complied with.

## CONDITIONS

The development application was approved subject to the conditions in the council assessment report, but amended to take into account the recommendations contained in the letter to the Panel from Kathryn Saunders, Senior DA Planner, Penrith City Council dated 15 December 2020.



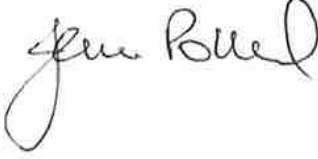

As reported in the staff assessment, the conditions imposed allow for a practical method of reviewing total tonnage at the site, and to ensure that the relevant operations and activities related to the tyre recycling are contained within the building at all times.

Notably the final conditions are to include provision for the following matters (with the final wording to be resolved by the Council in the notice of determination):

1. The construction certificate plans are to include a 99kw roof top solar panel system to improve the net environmental performance of the facility as a whole.
2. To ensure that the development does not exceed the threshold for designated development the proposed operation of a tyre processing and transfer facility (waste management facility) with ancillary storage and transfer of oil filters, oil drums and car batteries is limited to a maximum handling capacity of no more than 30,000 tonnes per year of waste of metal and rubber. Handling capacity includes the sorting, consolidating or temporary storage or material recycling of waste materials.

## CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Nicole Gurrán
 Jeni Pollard	 Ross Fowler

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-108 – Penrith – DA20/0589
2	PROPOSED DEVELOPMENT	Integrated Development - Alterations & Additions to an Existing Warehouse & Use of Premises as Waste Management Facility (Tyre Recycling Facility) Operating 24 Hours & 7 Days Per Week
3	STREET ADDRESS	1-21 Grady Crescent ERSKINE PARK NSW 2759
4	APPLICANT/OWNER	Element Environment / Fitzpatrick Investments Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>Sydney Regional Environmental Plan No.20 Hawkesbury-Nepean River</li> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <li>State Environmental Planning Policy No. 55 Remediation of Land</li> <li>State Environmental Planning Policy (State and Regional Development) 2011</li> <li>State Environmental Planning Policy (Western Sydney Employment Area) 2009</li> <li>State Environmental Planning Policy (Western Sydney Aerotropolis) 2020</li> <li>State Environmental Planning Policy No. 64 – Advertising and signage</li> <li>State Environmental Planning Policy No. 33 - Hazardous and Offensive Development</li> <li>Protection of the Environment Operations Act 1997</li> <li>Draft Environmental SEPP</li> <li>Draft Contaminated Lands SEPP</li> </ul> </li> <li>Draft environmental planning instruments: <ul style="list-style-type: none"> <li>Draft Environment State Environmental Planning Policy</li> <li>Draft Remediation of Land SEPP</li> <li>Phase 1 Review of Penrith LEP 2010</li> </ul> </li> <li>Development control plans: <ul style="list-style-type: none"> <li>Penrith Development Control Plan 2014</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 9 December 2020</li> <li>Council memorandum received: 15 December 2020</li> <li>Written submissions during public exhibition: Nil</li> </ul>

<b>8</b>	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Briefing: Monday, 16 November 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Clare Brown, Nicole Gurran, Ross Fowler and Jeni Pollard</li> <li>○ <u>Council assessment staff</u>: Kathryn Saunders</li> </ul> </li> <li>• Final Briefing: Monday, 14 December 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran, Ross Fowler and Jeni Pollard</li> <li>○ <u>Council assessment staff</u>:</li> </ul> </li> </ul>
<b>9</b>	<b>COUNCIL RECOMMENDATION</b>	Approval
<b>10</b>	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report