

DATE OF DETERMINATION	Monday, 11 May 2020
PANEL MEMBERS	Justin Doyle (Chair), Nicole Gurran, Louise Camenzuli, Peter Harle and Nathan Hagerty
APOLOGIES	Wendy Waller
DECLARATIONS OF INTEREST	None

Public meeting held at Teleconference Call on 11 May 2020, opened at 3:18pm and closed at 3:30pm.

MATTER DETERMINED

PPSSWC-64 – Liverpool City Council – DA-266/2015/A at 25 Martin Road, Badgerys Creek LOT 1 DP 611519 – Modification to Development Consent DA-266/2015/A (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 4.55 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

- The proposed modifications to the development described by DA-266/2015 as approved on 27 July 2017 to minimise building footprint, increase height, and make changes to the acoustic wall, site grading and boundary retaining walls will not substantially change the development as originally approved. That is because none of the proposed modifications expand the scope of the approved use and are limited to design matters which leave the overall layout and ultimate height of the built form essentially intact.
- In particular, the application proposes:
 - to modify the waste resource recovery facility approved under DA-266/2015, to allow for vehicular access around the waste resource facility for fire vehicles, which necessitates the narrowing of the building;
 - increase the height of the proposed development to allow for the change in grade within the building footprint as the existing approval did not identify natural ground level; and
 - introduce cut and fill within the proposed building footprint in order to provide for a ground floor slab with minimum stepping; and
- (d) additional landscaping on site, a mounded earth landscaped area to provide for an acoustic barrier in place of a concrete fence, and the provision of rainwater tanks and pump rooms for firefighting purposes. The fire compliance and BCA measures do not alter the proposal in any substantial way, and while the footprint will change, it will in fact be reduced.
- While there are changes to the means by which acoustic impacts will be mitigated, the overall performance of those measures will still satisfy the intent of the original conditions. The introduction of a landscaped earth mound as one of the acoustic measures allows for an improved streetscape

outcome. An acoustic report (and addendum report) have been provided, which have satisfied the Council assessment staff that the modifications proposed will not have any additional impact on any adjacent residential receiver, and will be in accordance with the acoustic recommendations outlined in the original report.

5. The assessing Council staff advise that no other matters of significance arise from the modifications in relation to the applicable statutory instruments and DCP, including SEPP 55, the Liverpool City Council Development Control Plan, REP 20 of the Draft SEPP (Environment), or the Western Sydney Aerotropolis Stage 1 Plan.
6. The proposed Resource Recovery Facility 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 SEPP (Infrastructure) 2007, which permits waste or resource management facilities on land within a prescribed zone such as the subject site.
7. The NSW EPA did not raise any issues in relation to the proposal during the referral period.

CONDITIONS

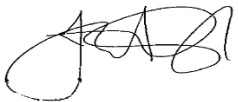




The development application was approved subject to the conditions in the council assessment report

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The panel notes that issues of concern included:

- Use not compatible with the area and surrounding residences
- Operation and enforcement of the existing consent
- Remediation of the site
- Impact of the exhibited Western Sydney Aerotropolis Plan and DCP
- Capacity of the street network to accommodate the truck movements associated with the use
- Cumulative impact on all waste resource facilities in the local area

However, the matters raised by the public submission made on behalf of members of the public are largely not impacted upon by the modifications sought, and have been satisfactorily reviewed by the Council assessment staff.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Nicole Gurrán
 Louise Camenzuli	 Peter Harle
 Nathan Hagerty	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-64 – Liverpool City Council – DA-266/2015/A
2	PROPOSED DEVELOPMENT	<p>Modification to Development Consent DA-266/2015 under Section 4.55 of the Environmental Planning and Assessment Act 1979, to minimise building footprint, increase height, and changes to the acoustic wall, site grading and boundary retaining walls.</p> <p>The subject development is Designated Development under the Environmental Planning and Assessment Regulation 2000 and Nominated Integrated Development under the Protection of the Environment Operations Act 1997 requiring the activity to be licensed by the Environment Protection Authority.</p> <p>Liverpool City Council is the consent authority and the Sydney Western City Planning Panel has the function of the determining authority.</p>
3	STREET ADDRESS	25 Martin Road, Badgerys Creek LOT 1 DP 611519
4	APPLICANT/OWNER	<p>Applicant: Jeff Bulfin</p> <p>Owner: Tracy and Daniel Buttigieg</p>
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 ○ Sydney Regional Environmental Plan No. 20 – Hawkesbury – Nepean River (No 2 – 1997) (Deemed SEPP) ○ 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 ○ Contaminated Land Management Act 1997 ○ Native Vegetation Act 2003 ○ Biodiversity Conservation Act 2016 ○ Protection of the Environment Operations Act ○ Commonwealth Environment Protection and Biodiversity Act 1999 ○ Liverpool Local Environmental Plan 2008 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Liverpool City Council Development Control Plan (LDGP) 2008 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: s4.15 (1)(a)(iv) Consideration of Australia and National Construction Code (NCC) • 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

		<ul style="list-style-type: none"> • 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: 27 May 2020 • Written submissions during public exhibition: 1 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Council assessment officer – Peter Nelson ○ On behalf of the applicant – Jeff Bulfin
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: Tuesday, 14 April 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran, Louise Camenzuli and Peter Harle ○ <u>Council assessment staff</u>: Peter Nelson Boris Santana • Final briefing to discuss council's recommendation, Monday, 11 May 2020, 2:00pm. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran, Louise Camenzuli, Peter Harle and Nathan Hagerty ○ <u>Council assessment staff</u>: Boris Santana & Peter Nelson
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report