

DATE OF PANEL DECISION	7 September 2026
PANEL MEMBERS	Justin Doyle (Chair), David Kitto, Ross Fowler
APOLOGIES	Carlie Ryan
DECLARATIONS OF INTEREST	The law firm of which Louise Camenzuli is a partner has provided advice on unrelated matters to an objector to the proposal, and so took no part in the determination of this modification application.

DELEGATION REQUEST – DETERMINATION OF 4.55(2) MODIFICATION APPLICATION PPSSWC-677

Modification Application

PPSSWC-677 – Penrith – Mod25/0176 – 1725A Elizabeth Drive, Badgerys Creek - Modification 4.55 (2) to Modify Development Consent DA19-0470 to Permit Excavation into the Neighbouring Advanced Waste Treatment Facility Site to Create a New Source of Daily Landfill Cover, Landfill Extension into the Excavated Area and Increase in Annual Filling Rate from 950,000 tpa to 1,050,000 tpa.

BACKGROUND

The Minister for Planning and Public Spaces provided approval under section 2.16(6) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) for any Sydney district or regional planning panel to delegate any of its functions under the EP&A Act or any other Act (other than the power of delegation) to the general manager or other staff of a council, for any area or part of any area for which the Sydney district or regional planning panel is constituted.

With respect to PPSSWC-677 – Penrith – Mod25/0176, the Panel has reviewed the proposed modification and has considered whether in this circumstance the delegation of its consent function is appropriate. In its briefing to the Panel, Council staff indicated a preliminary view that the issues arising from s 4.15 assessment were unlikely to be contentious, given that the issues were resolved through the conditions of the approval for DA19-0470 granted by the Regional Panel on 27 July 2020 (PPSSWC-7) for an earlier set of alterations to the approved waste management and resource facility.

Notably a revised licence for the operation of the expanded facility will be required from the EPA.

Given that the expanded operation will be considered by the EPA and assurances from the Council staff that the issues raised in the determination report for DA19-0470 would be considered carefully, the Panel was content that the application does not raise matters of regional significance and is appropriate to be determined by the Council.

The Panel however anticipates that Council's assessment will consider:

- Any merit issue associated with the conditions of consent imposed at the recommendation of the Panel in the approval for DA19-0470
- The regulation of truck movements by the consent to DA19-0470
- Conditions to minimise disturbance to the surrounding area, visual impact and the potential for windblown waste
- The contents of the submissions made in response to advertising of the DA (some of which may be picked up by the assessment from the EPA in issuing its GTAs) including:

- i. The cumulative impacts of the entire waste management operation, including both existing and proposed activities, to ensure future land uses on adjoining lands are not restricted
- ii. Cumulative traffic impacts including the future Martin Road intersection upgrades approved via Penrith Council DA24/0775 (noting contents of the traffic review of the development by ASON on behalf of Mirvac)
- iii. Information provided by Mirvac to Cleanaway in respect to operational parameters of Mirvac's SEED Estate
- iv. Concern raised by Mirvac about unmanaged stormwater runoff from the landfill site entering Mirvac's SEED site, having regard to catchment management and the basin capacity of Basin S9
- v. Appropriate environmental criteria to be met at the boundary of adjoining neighbours
- vi. The quality of water discharged from the site
- vii. Issues raised by Western Sydney International Airport concerning the WSI airspace (obstacle limitation surfaces); ensuring lighting is designed and installed so as not to cause distraction or confusion to pilots; landscaping and wildlife management with regards to air safety; and environmental management
- viii. Whether a daily truck movement limit (in addition to any limit for longer periods).

The Panel also observes that the proposed expansion of the landfill's extraction requires changes to the associated infrastructure of the Alternate Waste Treatment Facility (AWTF) in the north-western corner of the site. The AWTF operates under a State significant development consent, and the Applicant has lodged an application with DPHI seeking to modify this consent to allow these changes.

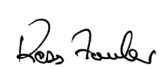
The AWTF modification application is being assessed concurrently with the Landfill modification application and should be determined before the Landfill modification application is determined.

The Panel has not been advised of any material issues associated with the proposed modifications to the AWTF and Landfill consents.

The Panel expects to be notified through the Secretariat if any significant issue of controversy arises between the Applicant and the assessment staff, or if more than 10 objecting submissions are received.

PANEL RESOLUTION

It is on that basis that the Panel has determined to delegate to Council's Principal Planner and/or Development Assessment Coordinator the power to determine the modification application (provided that the delegation remains not of a kind specified in the Instruction on Functions Exercisable by Council on Behalf of Sydney District or Regional Planning Panels—Applications to Modify Development Consents published on the NSW planning portal on 30 June 2020 – see s 275 of the EP&A Regulation - Functions exercisable by council on behalf of Sydney district or regional planning panel and s 4.7(2)(h) of the EP&A Act).

PANEL MEMBERS	
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David Kitto 	