

DATE OF DETERMINATION	Wednesday, 23 June 2021
PANEL MEMBERS	Justin Doyle (Chair), Louise Camenzuli, Sue Francis, Judy Clark and Jeff Organ
APOLOGIES	None
DECLARATIONS OF INTEREST	Nicole Gurran declared a conflict of interest as she discovered at the initial deferral meeting that she knew personally one of the persons who made representations from the School, and had no involvement in the final determination meeting.

Papers circulated electronically on 1 June 2021.

MATTER DETERMINED

PPSSWC-89 – Hawkesbury – DA0119/20 at 99 Sargents Road, Ebenezer – Landscaping Material Supplies and Resource Recovery Facility (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 refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

On 22 February 2021, the majority of the Panel agreed to defer the determination of the matter to:

- (a) Permit the Applicant to respond to the additional information which the staff assessment report dated 4 February 2021 identified as being required for a determination (the Panel understands that this additional information will be renotified, at least in relation to adjacent properties and objectors, and then further reported upon by Council assessment staff);
- (b) Resolve the position of TfNSW in response to the DA; and
- (c) Allow both the Council assessment staff and the Applicant to address the significant issue of compatibility of the development with the established and future character of the locality.

Over a further and additional three-month period, the Applicant has been provided with ample opportunity to supply any additional material it wishes to rely upon, particularly in relation to those three issues.

On the material now before it, the Panel has unanimously resolved to refuse the DA for the reason that the anticipated effects and impacts of the proposed landscaping supply yard and resource recovery facility will conflict significantly and undesirably with the character of the adjacent locality.

In that regard, the proposal is inconsistent with the following objectives of the applicable RU1 zone:

- a) *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- b) *To ensure that development retains or enhances existing landscape values including a distinctive agricultural component.*

- c) *To ensure that development does not detract from the existing rural character or create unreasonable demands for the provision or extension of public amenities and services*

Specifically, the character of the immediate locality is dominated by larger rural lots in a scenic pastoral setting. In addition to the surrounding houses characterised by large landscaped separation distances, a low intensity equestrian business is conducted on the adjoining land.

While there is an existing exception to that character presented by the large landscape supply yard at 355 Stannix Park Road Ebenezer, that business is substantially separated from the subject site, is historical in nature and the Panel understands that it is operating contrary to any relevant approval. .

The application as it presently stands is also deficient in relation to essential information required to address key merit considerations.

While it is possible that those matters could be better addressed if further time was allowed for additional information to be supplied, and for amendments to the DA in relation to those matters to be made, the Panel did not see utility in a further deferral of determination of the DA due to the fundamental inconsistency of the use with its location and the time already elapsed since the DA was lodged, and indeed since the DA was deferred by the Panel in February.

Deficiencies in the DA as it presently stands include concerns about traffic impacts (to be considered against the mandatory considerations under *State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)*) and issues of stormwater management (as arising for particular attention against provisions of *Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (SREP 20)*). In relation to those matters the Panel makes the following observations and adopts the discussion on those subjects in the Council assessment report.

A. Traffic and the Infrastructure SEPP

The proposal includes a “*Waste or resource management facility*” being a form of development nominated in the table at ‘*Schedule 3 Traffic-generating development to be referred to Transport for NSW*’ found within the Infrastructure SEPP. Clause 104 of the Infrastructure SEPP therefore applies, and the requisite notice to TfNSW was given by the Council.

While concurrence is not required by clause 104, the Panel as consent authority is required by that clause to take into consideration—

- (i) *any submission that TfNSW provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and*
- (ii) *the accessibility of the site concerned, including—*
 - (A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
- (iii) *any potential traffic safety, road congestion or parking implications of the development.*

The TfNSW response sought the following additional information, which the Council advises has not been adequately supplied:

1. *A detailed traffic analysis, and modelling of the light and heavy vehicle movements generated by the proposed development and impacts on the wider road network. The traffic modelling was requested to consider the Sackville Road/Stannix Park Road and Putty Road/Stannix Park Road intersections.*

2. *A traffic analysis which considers trip distribution/routes, and which provides details of light and heavy vehicle movements (including vehicle type and likely arrival and departure times).*

Council has also asked for additional engineering plans and details addressing accessibility and intersection upgrade works.

The Panel considers the above to be reasonably requested given the anticipated impacts on the local road system and the nominated intersections. The requested information has not been provided despite the additional time allowed by the Panel to the Applicant to supplement the DA material. Accordingly, the Panel does not see the matters raised by clause 104 of the Infrastructure to have been adequately addressed.

B. Stormwater and SREP 20

Council advises that the civil engineering plans concerning stormwater design have only been supplied in draft and are not in a form that the Council has been able to assess and report upon.

The Applicant has also not identified how it is that an easement to drain stormwater over the adjoining property is to be obtained, instead relying upon an onsite absorption and discharge spreader system for which Council reports inadequate design information has been supplied. The issue of stormwater design is of heightened importance due to the relevant provisions of SREP 20.

Accordingly, the Panel agrees that the matter should be refused for the following reasons rather than those in the officer's report.

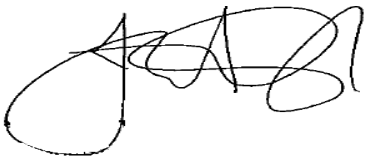




1. The proposal is inconsistent with the objectives of the RU zone. Specifically, the proposal is not consistent with the existing and desired future character of the area and as such is an undesirable use in the location.
2. The proposal would result in a detrimental visual and amenity impact on the neighbouring properties due to the proposed activities on the site such as vehicular movements, loading and unloading of vehicles, vehicle size and frequency of movement and acoustic impact,
3. Notwithstanding the above, insufficient information has been provided in respect of the following: -
 - a. A detailed traffic analysis, and modelling of the light and heavy vehicle movements generated by the proposed development and impacts on the wider road network has not been provided. The traffic modelling was requested to consider the Sackville Road/Stannix Park Road and Putty Road/Stannix Park Road intersections.
 - b. A traffic analysis which considers trip distribution/routes, and which provides details of light and heavy vehicle movements (including vehicle type and likely arrival and departure times) has not been provided
 - c. The civil engineering plans concerning stormwater design have only been supplied in draft and are not in a form that the Council has been able to assess and report upon.
 - d. The Applicant has also not identified how it is that an easement to drain stormwater over the adjoining property is to be obtained, instead relying upon an onsite absorption and discharge spreader system for which Council reports inadequate design information has been supplied. The issue of stormwater design is of heightened importance due to the relevant provisions of SREP 20.

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 the following effects said to be anticipated in those submissions:

- Heavy vehicle impacts to local road and locality;
- Traffic impacts and safety concerns from large trucks;
- Amenity impacts relating to noise, dust, pollution to creek and truck movements within close proximity to residents;

- Inappropriate overdevelopment for the site and locality;
- Inadequate local infrastructure to support the proposal.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Louise Camenzuli
 Sue Francis	 Judy Clark
 Jeff Organ	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-89 – Hawkesbury – DA0119/20
2	PROPOSED DEVELOPMENT	Designated Development - Landscaping Material Supplies and Resource Recovery Facility
3	STREET ADDRESS	99 Sargents Road EBENEZER NSW 2756
4	APPLICANT/OWNER	Hala Constructions Mr I Alameddine & Mrs H Alameddine
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 (State and Regional Development) 2011 State Environmental Planning Policy No. 55 (Remediation of Land) SEPP (Infrastructure) 2007 Deemed State Environmental Planning Policy Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 Hawkesbury Local Environmental Plan 2012 Flood Policy 2020 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Hawkesbury Development Control Plan 2002 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Environmental Planning and Assessment Regulation 200 Clause 32 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 The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Supplementary Council Report: 1 June 2021 Council assessment report: 8 February 2021 Clause 4.6 variation request to Clause 4.3 Building Height – exceeds minimum 10m building height Written submissions during public exhibition: 69 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Paul Laurence, Alejandra Rojas, Garry Cotter, Jessie Cowpar and Danielle Wheeler Council assessment officer – Natalie Piggott On behalf of the applicant – Richard Benbow, Emma Hansma Total number of unique submissions received by way of objection: 69
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection: Thursday, 18 February 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Judy Clark and Jeff Organ <u>Council assessment staff</u>: Natalie Piggott Final briefing to discuss council's recommendation: Monday, 22 February 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Nicole Gurrin, Judy Clark and Jeff Organ

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Natalie Piggott and Cristie Evenhuis ● Site inspection: Thursday, 13 May 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair) and Louise Camenzuli ○ Council assessment staff: Natalie Piggott ● Final briefing to discuss council's recommendation: Tuesday, 15 June 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Nicole Gurran, Judy Clark and Jeff Organ ○ <u>Council assessment staff</u>: Natalie Piggott and Cristie Evenhuis ○ <u>Applicant representatives</u>: Linda Zanotto, Richard Benbow and Emma Hansma ○ <u>Department staff</u>: Mellissa Felipe and Sung Pak
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	N/A