

Notice of Decision

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	State significant development
Application number and project name	SSD-10446 Luddenham Resource Recovery Facility
Applicant	The Trustee for Coombes Family Trust No.13
Consent Authority	Minister for Planning and Public Spaces

Decision

The A/Executive Director, Energy, Resources and Industry Assessments, under delegation from the Minister for Planning and Public Spaces has, under section 4.38 of the *Environmental Planning and Assessment Act 1979* (the Act) granted consent to the development application subject to conditions.

A copy of the Department of Planning, Housing and Infrastructure's assessment report is available [here](#).

Date of decision

13 August 2024

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the department's assessment report;
- the prescribed matters under the Environmental Planning and Assessment Regulation 2000;
- the objects of the Act;
- the considerations under s 7.14(2) and 7.16(3) of the *Biodiversity Conservation Act 2016* (NSW);
- all information submitted to the Department during the assessment of the development application and any additional information considered in the Department's assessment report;
- the findings and recommendations in the Department's assessment report; and
- the views of the community about the development (see **Attachment 1**).

The findings and recommendations set out in the Department's assessment report were accepted and adopted as the reasons for making this decision.

The key reasons for granting consent to the development application are as follows:

- the development would provide a range of benefits for the region and the State as a whole, including a capital investment of \$20 million and generation of 65 construction jobs and 178 operational jobs in the Liverpool City local government area;
- the development would increase recycling capacity in Sydney, divert up to 540,000 tonnes per annum of waste from landfill and would contribute to the NSW Government's waste recycling targets set out in the NSW Waste and Sustainable Material Strategy 2041;
- the impacts on the community and the environment during the establishment and growth of the Aerotropolis can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards, including:
 - limiting the operating hours of the development to daytime hours only to manage noise impacts on existing residential land uses
 - a staged approach to manage the progression of waste throughput capacity while ensuring airport safeguarding, traffic management and noise mitigation measures are verified, and contingency measures implemented to address unforeseen impacts
 - monitoring and auditing of airport safeguarding performance through a rigorous timetable of independent airport safeguarding audits and annual compliance reporting and reduce the scale of operations if required to address performance issues
 - in 2036, review environmental and airport safeguarding performance and compatibility with Aerotropolis development and reduce the scale of operations, if necessary
 - in 2050, require the Applicant to seek further approval from the Minister to continue operating to ensure the long-term vision and delivery of the Agribusiness precinct within the Aerotropolis is not compromised;
- the issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the development and the conditions of consent; and
- weighing all relevant considerations, the development is in the public interest.

Attachment 1 – Consideration of Community Views

The Applicant engaged with the community during the preparation of the Environmental Impact Statement (EIS) as a requirement of the Planning Secretary's Environmental Assessment Requirements. The EIS detailed the findings of the engagement and how it influenced the scope and design of the development.

The development application and accompanying EIS were placed on exhibition from 30 July 2020 until 26 August 2020 (28 days) on the Major on the Major Projects website. During the exhibition period, the Department received eight submissions from the public (six from individuals and two from special interest groups). Seven submissions objected to the proposal, including the Luddenham Landowners Consortium, and one provided comment.

The key issues raised by the community (including in submissions) and considered in the Department's assessment report and by the decision maker include suitability of the site for the development, heavy vehicle access, traffic impact on the road network, noise pollution, air quality impacts and stormwater management. Other issues are addressed in detail in the Department's assessment report.

<i>Issue</i>	<i>Consideration</i>
Suitability of the site - The site is not suitable for a resource recovery facility (RRF) - The development could potentially hinder higher order land use within the Agribusiness precinct and impact on precinct planning	Assessment - While it is acknowledged the proposed use of the site as a resource recovery facility (RRF) is permissible due to the savings provisions in the Western Parkland City SEPP, the Department has still considered the compatibility and consistency of the proposed land use with relevant strategic planning for the area to address issues raised by the public around site suitability. - In the short to medium-term, the Department considers the site is suitable for the development subject to the implementation of conditions to manage potential impacts to the WSI, residential amenity and traffic impacts. The Department acknowledges there is likely a need for resource recovery infrastructure in the Aerotropolis as the area grows and develops in line with the strategic vision. - However, there is uncertainty whether the nature of the development and the associated heavy vehicle operations will remain compatible with the strategic planning for the site and surrounds, which includes Luddenham village and other future sensitive land uses (such as a neighbourhood local centre and outdoor recreational areas) envisaged in the Agribusiness precinct. Conditions - The Department has taken a precautionary approach and recommended the capacity of the RRF be progressively increased over three operational stages. The progression from one stage to the next is contingent on satisfactory outcomes from independent auditing of the implementation and performance of airport safeguarding measures, satisfactory verification of predicted traffic and noise impacts, and demonstration of the capacity of the road network to accommodate the further expansion of the development. - In addition to the staging requirements, the Department has established a robust regulatory framework incorporating independent auditing and oversight, environmental performance reviews and the ability to reduce the scale of operations if performance is not satisfactory. All key government stakeholders will play a role in deciding whether any land use conflicts emerge as the WSI expands operations and the Agribusiness zone grows and develops in line with the strategic vision. - The Department has imposed several conditions on the consent to address these concerns which include the following key requirements: <u>Safety and efficiency</u> - require the Applicant to have no impact on the safety or efficiency of airport operations <u>Staging restrictions</u> - require the development to be developed in stages, which restrict the development to a maximum processing capacity of 200,000 tpa at Stage 1 Operations, 400,000 tpa at Stage 2 Operations and 600,000 tpa at Stage 3 Operations, and: - restrict progression to the next stage of operations if environmental performance (airport safeguarding, traffic and noise) is not satisfactory - if the Planning Secretary is not satisfied with the performance of the development following the review of any airport safeguarding audit report, the Planning Secretary may direct the Applicant to reduce the scale of operations to the previous operational stage for a defined period of time to minimise impacts <u>Monitoring and auditing</u> - monitor airport safeguarding performance through a rigorous timetable of independent airport safeguarding audits, in addition to independent environmental auditing and annual compliance reporting <u>Management plans</u> - prepare a suite of management plans to address potential wildlife hazards and management of foreign object debris, and residual noise and traffic impacts

	- <u>Independent performance review</u> - in 2036, review environmental and airport safeguarding performance and compatibility with Aerotropolis development and reduce the scale of operations, if necessary - <u>Environmental Representative</u> – an independent representative to oversee implementation of all environmental and airport safeguarding management measures.
Traffic and access • Adams Road is not suitable as a heavy vehicle haulage route • Heavy vehicles should not use Adams Road from the intersection with The Northern Road • 3-tonne vehicle load limit should remain • Access and safety concerns	Assessment • The Department has considered issues raised by the public, including impacts on heavy vehicle access, amenity, connectivity, intersection efficiency and safety. • The Department notes and concurs with government authorities that heavy vehicle access via the Elizabeth Drive and Adams Road intersection under the interim arrangement can be supported and is the only certain access arrangement in the short to medium term. • However, the Department is concerned the medium to long-term heavy vehicle access to the RRF is uncertain, particularly when the Elizabeth Drive and Adams Road intersection is re-arranged, and further heavy vehicle restrictions are introduced. • The Department's assessment has found the Applicant's assessment of traffic impacts has not demonstrated the road network would have sufficient capacity beyond 2029 to support the heavy vehicles generated by development without impacting the efficiency of the road network. • Having regard to the NSW Government's Movement and Place Framework, the Department is concerned the development may detract from the safe and efficient road environment on Adams Road in the medium to long-term due to congestion and the increase in heavy vehicle movements along Adams Road. Conditions • In response to Council and TfNSW advice, the Department has recommended conditions requiring upgrades to Adams Road to make it suitable for heavy vehicles in the short-term and to upgrade the Elizabeth Drive and Adams Road intersection to facilitate heavy vehicle access to the north to Elizabeth Drive until such time this intersection is upgraded by TfNSW. Conditions also require the 3-tonne load limit to be lifted prior to the commencement of construction. • Given uncertainties regarding longer term heavy vehicle access to the development, the Department has recommended ongoing traffic verification conditions at each of the three stages of the development, in the 2036 environmental performance review and at 2050, to ensure the evolving road network has the capacity to accommodate the traffic generated by the RRF as it expands over time.
Noise impacts • 24-hour noise impacts from the operation of the RRF and heavy vehicles along public roads	Assessment • To address the public's concerns in relation to operational noise from the RRF and heavy vehicle noise pollution along Adams Road, the Department has consulted closely with the NSW Environment Protection Authority (EPA) and carefully considered the Applicant's assessment and best-practice guidance in NSW. • The EPA advised it is unable to provide recommended noise limits to regulate the operation of the development because exceedances of the noise criteria are too significant to be licensed. The EPA is also concerned it remains unclear how the proposed RRF would impact on sensitive uses and activities permitted in the Agribusiness precinct during the transitional period as the Aerotropolis develops. • The Department considers negotiated agreement with the nearest residents is an appropriate approach for managing daytime noise impacts. However, in line with EPA's advice, the Department does not support the operation of the RRF during the evening and night-time periods. Conditions • To manage noise impacts, the Department has recommended a condition to restrict the operation of the RRF to occur during daytime hours only until the commencement of operation of the WSI. Once the WSI commences operation, the Applicant may seek to remove the restriction on operating hours, subject to demonstrating the development will not have an impact on any surrounding sensitive land-uses. • Conditions also require a negotiated agreement with the nearest residential landowners, the preparation and implementation of an operational noise management plan, and staged verification to ensure best-practice operational measures are in place to guarantee compliance with noise limits throughout all stages of the development.

Air quality impacts • Odour and dust, including asbestos dust concerns • General increase in air pollution	<i>Assessment</i> • The receipt, processing and storage of construction and demolition waste and commercial and industrial waste at the RRF has the potential to generate dust and particulate emissions. The primary sources of dust and particulates are diesel combustion from on-site equipment and wheel generated dust from on-site truck movements. • The Department and EPA are satisfied that air quality impacts can be effectively managed at the site. The Applicant has committed to implementing several best practice management measures, including utilising water sprays on crushers and screeners, sealing all internal roads, and carrying out all processing of waste within the enclosed RRF building. In addition, the Applicant has committed to use non-road diesel plant and equipment that achieves US EPA Tier 4 particulate matter emission standards, representing best practice. • The Department has restricted the receipt of any putrescible vegetative waste, restricted solid waste, hazardous waste, special waste or asbestos waste at the RRF. This avoids any potential odour impacts and exposure to asbestos dust at the surrounding environment in Luddenham. <i>Conditions</i> • The Applicant's proposed management and mitigation measures have been incorporated into the recommended conditions of consent which will be formalised in an air quality management plan to be implemented for the life of the development. • The Applicant must install and operate equipment in line with best practice to ensure that the Development complies with all load limits, air quality criteria/air emission limits and air quality monitoring requirements as specified in the EPL applicable to the site.
Stormwater management • Surrounding landowners are not confident that runoff from the RRF will not impact water quality on their land and dams	<i>Assessment</i> • The Department acknowledges water used for vehicle and plant washdown and dust suppression has the potential to come into contact with waste processed and handled within the RRF building, generating leachate and 'dirty water'. • As part of the EIS, the Applicant carried out a Surface Water Assessment and a Land, Soil and Erosion Assessment. The assessments confirmed there were no drainage lines on the site, with runoff occurring as sheet flow and discharging to Oaky Creek from the north-east corner of the site. • The Applicant's proposed operational water management system has been designed to separate clean and dirty water on the site and control surface water flows. Leachate from waste processing areas within the building will be drained to a water treatment plant to enable reuse of treated water on the site. Clean surface water flows from the warehouse roof, site offices, roads, carparks and landscaped areas will be directed to an onsite detention basin to remove sediment and control surface water discharges to Oaky Creek. • The Department is satisfied operational surface water quality and quantity impacts can be appropriately managed with the implementation of the Applicant's proposed management and mitigation measures and the Department's recommended conditions of consent. The EPA did not raise any concerns with the Applicant's approach and has advised it is satisfied with the Department's recommended conditions. <i>Conditions</i> • The Department has recommended conditions requiring the Applicant to install and operate a stormwater management system designed in accordance with Australian Standards and relevant EPA guidelines and prevents cross-contamination of clean and dirty water. • Conditions also require the preparation of a Water Management Plan that details water use and management of water and wastewater streams on-site, and includes a Surface Water Management Plan, Irrigation Management Plan and a Leachate Management Plan that outlines contingencies in the event the wastewater treatment plant is not operational, as recommended by the EPA. • An ongoing water quality monitoring program is required to be developed and implemented through the Surface Water Management Plan, including protocols for investigation and mitigation of any identified exceedances of water quality assessment criteria.