

MOODY & DOYLE

TOWN PLANNERS

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OUR REF: LD: CH:10231LD
YOUR REF:

30th March, 2011

Director General,
NSW Department of Planning

Email: felicity.greenway@planning.nsw.gov.au

Dear Sir,

RE: KIMBRIKI RESOURCE RECOVERY PROJECT.
PPTY: KIMBRIKI ROAD, TERREY HILLS (LOT 200/DP1044605, LOT 2/DP255466, LOT 4/DP255466, LOT 100/DP822376, LOT 3/DP794191) APPLICATION NO. MP10_0064 AND MP10_0065.

I am writing to you in regard to the above matter on behalf of my Clients, the Irwin family, of No. 5 Kamber Road, Terrey Hills, a site located in close proximity to the subject site in a location that is likely to be adversely impacted upon by the proposal for the reasons set out later in the body of this letter.

I have been engaged by the Irwin family to examine the above applications and in preparing this response I have attended the subject site several times and viewed the subject site from my Clients property on a number of occasions in order to gain an understanding of the potential impacts of the proposal.

By way of background, I am a qualified Town Planner and a Certified Practising Planner and I hold qualifications in both Environmental Health and Planning and have over 30 years' experience in Town Planning and Development Control both within Local Government and as an Independent Planning Consultant. I have been in Senior Planning positions in a number of Councils throughout my 28 year career in Local Government and I have appeared for a number of Councils in Class 1 and Class 4 Appeals before the Land and Environment Court. I have the requisite qualifications being a Master's Degree in Planning (UTS). I am a Member of the Planning Institute of Australia.

In preparing this submission to the Director General I have relied upon the following documentation –

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- Preliminary Environmental Assessment for the Kimbriki Resource Recovery Project prepared by R W Corkery and Company dated March 2010.
- Major Project Application Form dated 3 February, 2010 and signed by A Hudson, CEO.
- Letter to Mr A Hudson signed by Chris Wilson setting out Director General's requirements for the proposal dated 4 June, 2010.
- Director General's requirements under Section 75F of the Environmental Planning and Assessment Act 1979.
- Kimbriki Resource Recovery Project, Environmental Assessment, Volumes 1, 2 and 3 dated February, 2011.

I have also attended the Community Information Session in September 2010 to gain an understanding of the proposal, the site and its context in the surrounding locality.

It should be noted that as a consequence of the attendance at this Community Information Session that a letter was sent to Kimbriki Environmental Enterprises dated 23 September, 2010 that expressed concerns on behalf of the Irwin family and the potential impact on their property in terms of visual, odour and acoustic impacts. As part of this submission, a request was made to Kimbriki Environmental Enterprises to erect Height Poles to indicate the likely height and configuration of the proposed buildings however, these Height Poles were not erected. I note that the Community and Stakeholder Consultation Report states that Kimbriki Environmental Enterprises set up balloons that indicated the location and height of the new buildings and that this "alleviated the neighbour's concerns". The statement is not entirely correct however as the provision of the balloons was inconclusive as the balloons did not portray the location and height of all the buildings proposed under the current proposal.

Notwithstanding the above comments, my Clients are extremely concerned about the proposed expansion of the current operation in terms of noise and potential odour impacts. I am concerned that the comments on page 11 of above document advise that there is a complete absence of formal responses. This is not the case as my letter to the proponent in September 2010 was indeed, a formal response. I am hopeful that this is not indicative of the proponent's attitude to submissions prepared on behalf of adjoining land owners.

As indicated above, my Clients concerns primarily revolve around the potential impact on the enjoyment of their property by virtue of the significant likelihood of increased noise and odour impacts which, by any measure are likely to impact upon the desirability of my Client's site to both themselves and any potential purchasers. This is a significant concern for my Clients as my Clients have expended significant amounts of capital on improving the site and have constructed a magnificent residence and associated out-buildings and have made this site their home. This site was chosen by my Clients due to its appeal in terms of its size and in the knowledge that the adjacent Kimbriki Waste Disposal Depot was currently operating on the subject site. It is therefore alarming to my Clients

to note that the proposal by Kimbriki Environmental Enterprises seeks to expand and provide an Alternative Waste Technology (AWT) facility for sorting and treating mixed municipal wastes.

Air Quality Impacts

I am particularly concerned over the article dated Tuesday 19 October, 2010 wherein Mr Mark Winser of Kimbriki Environmental Enterprises discusses “finding new products and interesting plans for reception and sorting of inert mixed waste” as well as expanding their buy-back centre and looking at other boutique operations like source separated disposable nappy composting etc. This statement, by any measure is alarming and leads me to the view that the current proposal is seeking a “green light” from the Consent Authority which will enable business opportunities to be explored which will not only deliver an attractive financial outcome for the operators but will also result in significant environmental impacts upon the locality.

I refer to the Air Quality Impact Assessment Report dated 20 January, 2011 prepared by Pae Holmes incorporated within the documentation on current exhibition.

The above report identifies my Client’s property on page 2 by the capital letter G.

My reading of the report prepared by Pae Holmes is that the report has chosen to ignore the existence of my Client’s property in that recognition is only given to the nearest residential properties which are owned by Warringah Council, a stakeholder in the proposal.

Further comments on page 3 of the Pae Holmes report are distressing and do not provide any confidence to either myself nor my Clients that the proposal has been properly assessed or tested and that significant questions arise as to the ability of the operator to give any assurance that air quality impacts will not occur.

The following on page 3 of the Pae Holmes report is cause for concern –

“In the unlikely event that a significant loss of amenity occurs at any of these properties, they would simply be left vacant until management measures can be implemented to reduce the impacts to an acceptable level for residential use. As such they have not been considered here as sensitive receptors for modelling purposes”.

This concern is further compounded by comments on page 17 of the Pae Holmes report that states that “On an annual basis, winds are predominantly from the northern sector”. The report also goes on to state that winds from the north-east and south-east quadrants are also dominant in summer. As my Client’s property is located to the south-west of the subject site, north-east winds in summer are likely to deliver a significant adverse impact upon their property by virtue of the fact that north-east winds will transport odours, which in all likelihood will be exacerbated during summer with a subsequent impact as nearby property owners are likely to be enjoying the outdoors during the summer months. This combination of heightened odour, prevailing winds and traditional lifestyle are

likely to compound in my Clients being unable to continue to enjoy the benefits of their home.

In summary, regarding odour impacts I note that the Pae Holmes report states most measures to reduce odour are already incorporated into the design of the facility. The report goes on to state that there is potential for other sources of fugitive odours to be generated and this report goes on to outline management practices that may include a range of management criteria which do not provide any certainty to either myself, my Clients or importantly the operator of the proposed facility. The degree of uncertainty associated with odour control of this site together with the susceptibility of the surrounding locality and the inability of my Clients to vacate their premises during adverse odour events leads me to believe that the proposal is ill-considered and untested.

Acoustic Impacts

In terms of noise, I note the report for Kimbriki Resource Recovery Project, Noise Assessment Report dated January 2011, prepared by GHD which I have perused and make the following comments –

The most significant matter in my mind is that the Noise Assessment Report has monitored the operation from the nearest residential dwellings in Kimbriki Road and has not considered the likely impacts on my Client's property which is evidenced by the comment on page 12 of the Report that noise propagation can be increased by wind conditions.

The Noise Assessment Report fails to consider the fact that for a significant degree of time, the prevailing winds will direct odour and noise towards my Client's property. The wind roses provided on page 13 of the Report attest to this claim. It is my view that the proposal has failed to adequately consider the potential impacts upon my Client's amenity and as such is flawed.

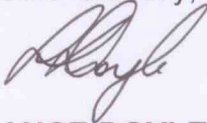
My Clients are deeply concerned that the expansion and operation of the current proposal will have an unreasonable and irreversible impact upon the enjoyment of their residential property.

It is reasonable therefore to suggest that the operators consider the acquisition of my Client's property in a similar way to the acquisition of existing properties in Kimbriki Road for a fair and reasonable price that reflects the value of the property and the improvements thereon. This has been suggested to the proponent, however to date, the proponent has not chosen to further explore this opportunity.

In summary, the likelihood of irreversible adverse amenity impacts to occur on my Client's property as a consequence of untested technology that relies upon critical management decisions cannot be supported and it is reasonable to require the Applicant to defer this matter until such time as proper environmental assessment has been performed and that certainty can be given to the community that the proposal incorporates technology that meets environmental criteria and does not rely upon the management of the site by operators of untested technology.

We reserve our right to provide further comment on the proposal should the opportunity arise.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'Lance Doyle', written over a light blue horizontal line.

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Encl:

M&D/ 10231LD/-LTR