

General Terms of Approval - Refused



Notice No:1553737

Department of Planning and Environment
Sydney NSW 2001

Attention: Nikki Matthews

Notice Number 1553737
File Number EF17/7451
Date 05-Jul-2017

Re: "Benedict Penrith Resource Recovery Facility (SSD 7733)"

Issued pursuant to Section 91A(2) Environmental Planning and Assessment Act 1979

I am writing in response to the Department of Planning's (**DPE**) request for the Environment Protection Authority (**EPA**) to review development application SSD 7733.

I understand that Benedict Recycling Pty Ltd (**the Proponent**) is seeking development consent to establish a resource recovery facility (**the Proposal**) at 46–48 Peachtree Road, Penrith (**the Premises**).

The EPA does not recommend approval of this Proposal

The EPA has reviewed the information provided and has determined that it will be unable to issue an environment protection licence for the Proposal as currently presented.

We have concerns that the proposal does not meet current best practice. As specified in our SEARs, the EPA expects that all waste handling activities, inclusive of the receipt, sorting, processing, sampling, quarantine and storage are conducted within an enclosed building. However, much of the proposed operations, including receipt, sorting and storage of waste are proposed to occur outside.

The EPA does **not** recommend approval of this Proposal. For more information please refer to Attachment A.

The EPA has not reviewed technical information

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We advise that as the Proposal does not meet current best practice, the EPA has not undertaken a technical review of the EIS. We have not reviewed the 'Air quality and greenhouse gas assessment', 'Noise impact assessment', 'Water assessment' or 'Contamination assessment'. This is because impacts would be different if all operations were conducted within an enclosed building as required.

If you have any questions, or wish to discuss this matter further please contact Melissa Ward on 9995 5747.

Yours sincerely

A handwritten signature in black ink, appearing to read 'CFE', with a large, stylized loop at the end.

Celeste Forestal
Unit Head
Waste & Resource Recovery
(by Delegation)

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ATTACHMENT A

Development application SSD 7733 has been submitted by Benedict Recycling Pty Ltd (**the Proponent**) to the Department of Planning and Environment (**DPE**), seeking consent to establish a resource recovery facility (**the Proposal**) at 46–48 Peachtree Road, Penrith (**the Premises**).

We understand that the facility will process up to 180,00 tonnes per annum of pre-classified general solid (non-putrescible) waste. Waste will be screened and sorted to produce saleable recycled materials.

The EPA notes that the Proposal would require an environment protection licence with the EPA to lawfully operate if approved by DPE. The EPA does **not** support the proposal in its current form.

Operations must be conducted within an enclosed building

As stated in our SEARs, the EPA expects that all waste handling activities, inclusive of the receipt, sorting, processing, sampling, quarantine and storage are conducted within an enclosed building. The EPA will not support an application that does not meet this requirement.

The *Protection of the Environment Operations Act 1997* (**POEO Act**) makes clear that environmental performance is to be continuously improving. The EPA therefore seeks best practice in all new facilities or activities. The need for best practice can be linked to the following elements of the POEO Act:

a) Objects

Section 3d of the POEO Act sets out the objects of the act and includes:

- (ii) the reduction to harmless levels of the discharge of substances likely to cause harm to the environment, and*
- (iv) the making of progressive environmental improvements, including the reduction of pollution at source.*

b) Matters to be considered

Section 45 of the POEO Act sets out the matters to be taken into consideration in licensing functions and includes:

d) the practical measures that could be taken:

- (i) to prevent, control, abate or mitigate that pollution, and*
- (ii) to protect the environment from harm as a result of that pollution*

We do not consider that the Proposal is meeting the objectives of the POEO Act or taking all practical measures to prevent, control, abate or mitigate pollution. The Proposal includes storage of waste outside. The stormwater management system does not include any separation of 'clean' and 'dirty' stormwater. Pollution control measures proposed within the stormwater management system include a GPT which "allows for gross pollutant removal, sediment capture, TSS removal, total phosphorous removal and hydrocarbon capture." It is the EPA's experience that 'dirty' stormwater from construction demolition waste facilities can contain other potential pollutants which are not captured by the proposed GPT. This includes a variety of metals, nutrients, organics and other chemicals.

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Section 6.6.3 of the EIS lists potential contaminants associated with recycling facilities to be monitored once the facility is operational. We do not consider operational monitoring sufficient to meet section 3 or 45 of the POEO Act. Measures must be taken now to prevent such contaminants to entering the water.

c) Prevent and minimise

Section 128(2) requires activities to be undertaken *“by such practicable means as may be necessary to prevent or minimise air pollution”*.

d) Dealing with materials

Section 126 and section 140 makes it an offence to fail to deal with materials in a proper and efficient manner causing air pollution or noise pollution respectively.

The EIS shows an exceedance of the assessment criterion at industrial Premises. We do not believe that the Proposal will be able to comply with s126 and s128 of the POEO Act as it proposes to conduct waste receipt/unloading and waste handling outside. In 2015 the EPA's Waste Compliance Section undertook a dust compliance campaign to examine dust management at licensed waste facilities in Sydney. The results of the campaign showed that major sources of dust generation at waste facilities include unloading of waste and handling of waste. Despite the use of sprinklers, these operations still caused significant dust generation.

The EPA restates that we expect the Proposal to meet current best practice - in this case that waste be received, stored, processed and dispatched in an enclosed building.

SEARs have not been met

On 20 July 2017, the EPA provided DPE with Secretary's Environmental Assessment Requirements (**SEARs**). In addition to the requirement to conduct operations within an enclosed building, the following requirements have not been met:

- provision of a waste management plan for the Proposal;
- provision of quantities of each type of waste to be received;
- details of any materials that will be produced under a Resource Recovery Order, and the controls in place for meeting the conditions of that order;
- dust control measures (e.g. sprinklers) are not shown on the site plan;
- any external area where waste vehicles wait for loading/unloading must drain to a stormwater quality treatment device sufficient to remove any contaminants, both solid and dissolved prior to discharge to the offsite stormwater system;
- the reason for welding and consideration of any potential odours;
- details of the above-ground diesel tank and bunding; and
- consideration of any previous contamination.

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Other issues to be considered

The EPA notes the following additional issues in the EIS:

- excavated natural material (**ENM**) is not a waste classification listed in the EPA's *Waste Classification Guidelines* (2014) and is not appropriate to be listed as a waste type to be received on an environment protection licence.
- Testing of recycled material must meet the requirements of a Resource Recovery Order. A Resource Recover Exemption must be complied with by the user of the material.
- We remind the Proponent that the EPA is currently working on new minimum standards for managing construction and demolition waste in NSW. The Proposal will need to meet these standards once released.
- Further information is required on how the existing concrete surface (including oil pit) will be cleaned and how waste / waste water will be disposed of.
- Further information is required on on-site refuelling. Is there a fuel storage on site? Does the fuel contractor remain on site or attend the Premises as required? Is there a designated re-fuelling area on site?
- Picking of asbestos from a load is not permitted. If asbestos is found in a tipped load, the whole load must be rejected.
- We do not consider it appropriate to list every single pre-classified 'general solid waste (non-putrescible)' on the licence. Only targeted wastes will be listed on a licence and must be identified in the EIS.
- Section 1.4 of the EIS states that plastics will be segregated and recycled while Table 2.3 indicates that plastic will be sent to landfill?
- Hours of operation – the EPA does not support any operations on Sundays or public holidays. The EPA does not typically support operations outside of 'daytime' hours (being 7 am to 6pm), without sufficient justification and assessment – please note that as the Proposal does not meet current best practice, the EPA has not undertaken a technical review of the EIS including the 'Noise impact assessment'.
- The EIS refers to 'vegetative' waste – this is not listed in the EPA's *Waste Classification Guidelines* (2014). The EIS must use definitions provided in the POEO Act for garden waste and wood waste.
- Section 6.7 of the EIS states that "*there have been potentially contaminating activities in the site and surrounds*" and that "*there is the potential for interaction by contractors with impacted soil and soil vapour during the construction phase only, if contamination is present.*" Given that the potential for contamination, why is testing for petroleum hydrocarbon only being undertaken post excavation of soils?