



Issued: 22 November 2017 12:29 PM

JUDGMENT/ORDER

COURT DETAILS

Court	Land and Environment Court of NSW
Division	Class 1
Registry	Land and Environment Court Sydney
Case number	2017/00126126

TITLE OF PROCEEDINGS

First Applicant	Sell & Parker Pty Ltd ACN 000101315
First Respondent	Minister for Planning

DATE OF JUDGMENT/ORDER

Date made or given	19 October 2017
Date entered	3 November 2017

TERMS OF JUDGMENT/ORDER

The final orders to give effect to the parties' agreement under s34(3) of the Land and Environment Court Act 1979 are:

1. Leave is granted to the Applicant to rely on the following amended plans and documents:

Drawing DA-1049-14 A101 Rev M, 21/9/2017, Algorry Zappia and Associates Pty Ltd

Drawing DA-1049-14 A301 Rev H, 27/9/2017, Algorry Zappia and Associates Pty Ltd

Drawing 14023-16-001-FH-01 Rev P4, 25/9/2017, MJ Harvey and Associates Pty Ltd

Drawing SS15-3178-000-I, 22/9/2017, Site Image (NSW) Pty Ltd

Drawing SS15-3178-101-J, 22/9/2017, Site Image (NSW) Pty Ltd

Drawing SS15-3178-401-G, 15/8/2017, Site Image (NSW) Pty Ltd

Drawing SS15-3178-402-I, 22/9/2017, Site Image (NSW) Pty Ltd

Drawing SS15-3178-403-GM, 15/8/2017, Site Image (NSW) Pty Ltd

Drawing SS15-3178-404-G, 22/9/2017, Site Image (NSW) Pty Ltd

Drawing SS15-3178-501-I, 22/9/2017, Site Image (NSW) Pty Ltd

Town Planning Report, 29/9/2017, Tim Ward (Ethos Urban)

Acoustic Report, 25/9/2017, Renzo Tonin and Associates

2. The Applicant is to pay the Respondent's costs thrown away by reason of the amended plans and documents listed above under section 97B of the Environmental Planning and Assessment Act 1979 as agreed or assessed.

3. The appeal is upheld.

4. Modification application No. SSDMod 16_8001, is approved, subject to the conditions set out in Annexure "A".

SEAL AND SIGNATURE



Signature L Walton
Capacity Registrar
Date 22 November 2017

If this document was issued by means of the Electronic Case Management System (ECM), pursuant to Part 3 of the Uniform Civil Procedure Rules (UCPR), this document is taken to have been signed if the person's name is printed where his or her signature would otherwise appear.

FURTHER DETAILS ABOUT Applicant(s)

First Applicant
Name Sell & Parker Pty Ltd
 ACN 000101315
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 BANKSMEADOW NSW 2019
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E-mail
Client reference

Legal representative for plaintiffs

Name William McCredie
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FURTHER DETAILS ABOUT Respondent(s)

First Respondent

Name Minister for Planning
Address Department of Planning and Environment
 23 - 33 Bridge Street
 SYDNEY NSW 2000
Frequent User Identifier MFP

ATTACHMENTS TO ORDERS

(126126.17 Maston - Annexure A.pdf)

[attach.]

ANNEXURE A

Sell and Parker Pty Limited v Minister for Planning

SCHEDULE 1

Application No:	SSD 5041
Applicant:	Sell and Parker Pty Ltd
Consent Authority:	Land and Environment Court of NSW
Development:	Increasing the processing capacity of the existing metal recycling facility, including reconfiguration and expansion of the facility into the adjoining site at 23-43 Tattersall Road, Kings Park.
Date of Original Consent:	12 November 2015
Modification:	SSD 5041 MOD 1- the modification includes amendments to the site layout, design of buildings and structures and alterations and additions to existing buildings and structures

SCHEDULE 2

This consent is modified as follows:

In Schedule 1

1. In the table of definitions, insert the following definitions in alphabetical order:

Expanded Operations	The point at which the site receives or processes in excess of 90,000 tonnes per calendar year of waste
FRNSW	Fire and Rescue New South Wales
NCC	National Construction Code
Waste	As defined in the POEO Act In Schedule 2
2. Delete and replace Condition A2 as follows:
 - A2. The Applicant shall carry out the Development in accordance with the:
 - (a) EIS prepared by ERM dated July 2014;
 - (b) Response to Submissions report prepared by ERM dated 7 January 2015;
 - (c) Supplementary Response to Submissions prepared by Mecone dated 30 June 2015;

- (d) Supplementary Response to Submissions prepared by Sell and Parker Pty Ltd dated 3 September 2015;
- (e) Site layout plans and drawings (See Appendix A);
- (f) Management and Mitigation Measures (see Appendix B);
- (g) Modification Application SSD 5041 MOD ·1 and accompanying document titled *Statement of Environmental Effects 23-43 and 45 Tattersall Road, Kings Park* dated August 2016 prepared by Higgins Planning, additional information from Higgins Planning dated 22 December 2016, further additional information from Allens and Linklaters dated 9 February 2017 and the Town Planning Report prepared by Ethos Consulting on 29 September 2017.

3. Insert Condition B35A as follows:

B35A. Prior to:

- (i) expanded operations;
- (ii) the issue of an Occupation Certificate; or
- (iii) the date being 6 months after the determination of MOD 1 by the Land and Environment Court,

(whichever is sooner), the Applicant must ensure that an appropriate sprinkler system and smoke detection system have been installed within the floc storage area in Building C to the satisfaction of FRNSW.

4. Insert Condition E35B as follows: B35B

Prior to:

- (i) expanded operations;
- (ii) the issue of an Occupation Certificate; or
- (iii) the date being 7 months after the determination of MOD 1 by the Land and Environment Court,

(whichever is sooner), the Applicant must ensure that all fire safety measures required by the NCC for Buildings A, B, & C (as shown on drawing 14023-16-001-FH-01 Rev P4) have been installed and verified through a Fire Safety Audit in accordance with Australian Standard 4655 – Fire Safety Audits, to the satisfaction of FRNSW.

5. Delete Condition B19(viii) and replace as follows:

- (viii) installation of appropriate dust screens at the property boundary and replacement of dust screens and shade cloths at the Tattersall Road boundary of the 45 Tattersall Road site.

6. Replace all drawings in Appendix A with the following: