

12 December 2012

Gavin Collar
Implementation & Assessment Branch, Nerang
(07) 5582 8866

PN131872/13/DA2
Application No: MCU2900869

Phoenix Power Recyclers Pty Ltd
C/- RPS Australia Pty Ltd
PO BOX 1048
ROBINA DC QLD 4226



Dear Sir/Madam

DECISION NOTICE TO APPLICANT - REFUSAL

Property Description: Lot 1 on RP158997
Property Location: 126 Sandy Creek Road, Yatala

I wish to advise that on 4 December 2012 Development Application No: MCU 2900869 was refused.

This refusal is at the direction of:

The Gold Coast City Council solely as the Assessment Manager.

Reasons for refusal are outlined in the attached document.

Listed below is the name and address of each Referral Agency in accordance with [section 3.5.15\(2\) of the Integrated Planning Act 1997](#).

Department of Transport and Main Roads
Assets and Operations
South Coast Region / Gold Coast Office
PO Box 442
NERANG QLD 4211

Department of Environment and Heritage Protection (DEHP).
Permit and Licence Management
Implementation Support Unit
GPO Box 2454
BRISBANE QLD 4001

Workplace Health and Safety Queensland
P O Box 820
Lutwyche Qld 4030

The applicant has the right of appeal to the Planning and Environment Court regarding this decision. An extract from the *Integrated Planning Act 1997*, which details your appeal rights is attached for your information.

There were 30 submissions relating to this application.

Submitters have similar appeal rights to the Planning and Environment Court and will be notified of this decision.

In accordance with [section 3.5.15\(2\)\(j\) of the Integrated Planning Act 1997](#), please find attached the catalogue of submitters relating to this application.

Tracking your application

You can view your development applications online and track their progress at goldcoastcity.com.au:

[Planning, Building & Environment > Planning & Development Online](#)

Contacting us

Should you wish to clarify any issues contained in this letter, please do not hesitate to contact Planning Assessment area on telephone (07) 5582 8866.

Yours faithfully

Alisha Swain
SUPERVISING TOWN PLANNER MCU COMPLEX
For the Chief Executive Officer

GC:aw

RECOMMENDATION

It is recommended Council resolve:

Real Property Description	Lot 1 on RP158997
Address of Property	126 Sandy Creek Road, Yatala
Area of Property	20.35 hectares
Decision Type	Development Permit for material change of use for Industry (Advanced Waste Transfer Facility/Biomass Power Generation Plant), Bulk Garden Supplies, Operational Works (Change to Ground Level) and Environmentally Relevant Activities ERA 8 – Chemical Storage, ERA 14(2)(a) – Electricity Generation, ERA 33 – Crushing, Milling, Grinding or Screening, ERA 53 – Composting and Soil Conditioner Manufacturing, ERA 55 – Regulated Waste Recycling or Reprocessing, ERA 56 – Regulated Waste Storage, ERA 58 – Regulated Waste Treatment, ERA 62 – Waste Transfer Station Operation
Further Development Permits	N/A
Further Compliance Permits	N/A
Compliance Assessment required for documents or works	N/A

- A** Council refuses the application for a development permit for material change of use for Industry (Advanced Waste Transfer Facility/Biomass Power Generation Plant), Bulk Garden Supplies, Operational Works (Change to Ground Level) and Environmentally Relevant Activities ERA 8 – Chemical Storage, ERA 14(2)(a) – Electricity Generation, ERA 33 – Crushing, Milling, Grinding or Screening, ERA 53 – Composting and Soil Conditioner Manufacturing, ERA 55 – Regulated Waste Recycling or Reprocessing, ERA 56 – Regulated Waste Storage, ERA 58 – Regulated Waste Treatment, ERA 62 – Waste Transfer Station Operation, for the following reasons:

COMMITTEE RECOMMENDATION CP12.1128.001

That the officers recommendation not be adopted and the application be refused on the following grounds:-

- 1** The proposed is contrary to the intent of Precinct 4 of the Planning Scheme which requires
The Future Business and Industry Precinct to the east of the Pacific Motorway is expected to become General Impact Business and Industry. The area to the west of the Pacific Motorway, west of Stanmore and Sandy Creek Roads will be appropriate for a mix of general and low impact business and industry, depending on its proximity to residential areas.
- 2** PC7 – Building Height
The industry proposal is in conflict with Performance Criteria PC7 of the Yatala Local Area Plan. A 30 metre high chimney/stack will compromise the local

landscape character, which includes the nearby residential communities of Yatala and Ormeau.

3 PC43 – Amenity

The proposed industry development will detract from the amenity of the local area, having regard but not limited to, the impact of

- i. Noise
- ii. Hours of Operation
- iii. Traffic
- iv. Visual Amenity
- v. Odour and Emissions

4 DEO SOCIAL 5

The proposal will not ensure the maintenance of the residential amenity, through the minimisation of any environmental harm occurring from the construction and operation of the industry activities.

5 PC44 – Amenity

The proposed development does not sufficiently take into account and seek to ameliorate any negative aspects of the existing amenity of the local area, having regard, but not limited to, the existing impact of

- i. Noise
- ii. Hours of Operation

Integrated Planning Act

APPEAL RIGHTS FOR APPROVAL OR REFUSAL OF DEVELOPMENT APPLICATIONS FOR MATERIAL CHANGE OF USE, RECONFIGURATION OF A LOT OR OPERATIONAL WORKS APPLICATIONS.

4.1.27 Appeals by applicants

- (1) An applicant for a development application may appeal to the court against any of the following -
 - (a) the refusal, or the refusal in part, of a development application;
 - (b) a matter stated in a development approval, including any condition applying to the development, and the identification of a code under section 3.1.6; **
 - (c) the decision to give a preliminary approval when a development permit was applied for;
 - (d) the length of a relevant period;
 - (e) a deemed refusal.
- (2) An appeal under subsection (1)(a) to (d) must be started within 20 business days (the "applicant's appeal period") after the day the decision notice or negotiated decision notice is given to the applicant.
- (3) An appeal under subsection (1)(e) may be started at any time after the last day a decision on the matter should have been made.