

LIVERPOOL CITY COUNCIL

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 1 of 31

JRPP Reference Number	2012SYW096
Development Application Number	DA-410/2010/A
Proposed Development:	<p>Modification to Development Consent DA-410/2010 pursuant to Section 96(2) of the Environmental Planning & Assessment Act 1979. The modification seeks to:</p> <ol style="list-style-type: none">1. Amend the car parking design and relocate the car parking area.2. Extend the hours of operation to permit 24 hour operation of the facility.3. Change the layout of the stockpile bins.4. Increase the platform area of the processing area for recovered aggregate.
Address	Lots 4 & 5 DP 24315, Nos 65 – 75 Yarrawa Street (and Illaroo Road) Prestons
Applicant:	Kypter Pty Ltd
Land Owner:	Sydney Invitation Futurity Pty Ltd & Rentail Pty Ltd

EXECUTIVE SUMMARY

Council is in receipt of a Section 96(2) Modification Application proposing to modify the Notice of Determination for DA-410/2010. This DA was issued for the construction and operation on the site of a waste transfer station comprising the demolition of existing buildings and the construction of a materials handling facility incorporating:

1. the storage and stock piling of sand and virgin aggregate;
2. the storage and stockpiling and screening of recovered asphalt product; and
3. the erection of associated workshop, truck service bays, office amenities, car parking and landscaping.

The above materials are stored at another site at Prestons and managed by an associated company for asphalt manufacture.

The development as approved and proposed to be modified is defined as a 'resource recovery facility' under the provisions of Liverpool Local Environmental Plan 2008 and State Environmental Planning Policy (Infrastructure) 2007. The development is permitted with consent in the IN3 Heavy Industrial zone portion of the site.

The original Development Application was granted a Deferred Commencement Consent by the Sydney West Joint Regional Planning Panel (JRPP) on 28 October 2010.

LIVERPOOL CITY COUNCIL

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 2 of 31

The subject modifications sought as part of this application is considered in the corresponding parts:

- (A) amend the car parking design and relocate the car parking area,
- (B) extend the hours of operation to permit 24 hour operation of the facility,
- (C) change the layout of the stockpile bins and
- (D) increase the platform area of the processing area for recovered aggregate.

The proposal has been lodged pursuant to Section 96(2) of the *Environmental Planning and Assessment Act 1979* and is considered to be substantially the same development as the development for which the consent was originally granted.

The proposed modifications were advertised in accordance with the *Environmental Planning and Assessment Regulation 2000* for a total of thirty (30) days from 21 October until 20 November 2012. The exhibition period was extended to 13 December 2012 of which notification covered a 500 metre radius. Council received three submissions objecting to the proposed development, of which the following key issues were raised:

- noise;
- dust;
- lighting impacts; and
- potential health impacts on occupants and residents of neighbouring areas.

These issues are canvassed throughout this report.

The development as approved and proposed to be amended is not permitted on the portion of the site zoned part E2 Environmental Conservation and part SP2 Infrastructure (Drainage) under the provisions of Liverpool Local Environmental Plan 2008 (LLEP). All works and activities were originally proposed to be undertaken in the IN3 Heavy Industrial zone. Under this zoning the proposed use is permissible subject to Council's consent. The proposed amended car parking area now extends into a portion of the site zoned E2 and therefore, this component identified as proposed modification "A" cannot be supported.

The Environmental Protection Agency (EPA) were noted to have raised issues relating to noise impacts in respect to the proposed additional hours. It had been concluded by the EPA that these hours would have an unacceptable impact on nearby residential areas. Consequently, proposed modification "B" cannot be supported.

It is considered that the proposed modification "C" should be approved as the proposed roofing of all storage bins will result in improved environmental management of the site.

It is considered that proposed modification "D" should not be approved as it has the potential to cause adverse flooding impacts and the absence of modification "A" would impact upon the quantity and distribution of spoil that would be generated from the development.

Having regard to the above matters, it is considered that the proposed modification, in part, cannot be supported. Accordingly, it is recommended that proposed modifications "A", "B" and "D" be refused and proposed modification "C" be approved, subject to conditions.

LOCATION MAP:

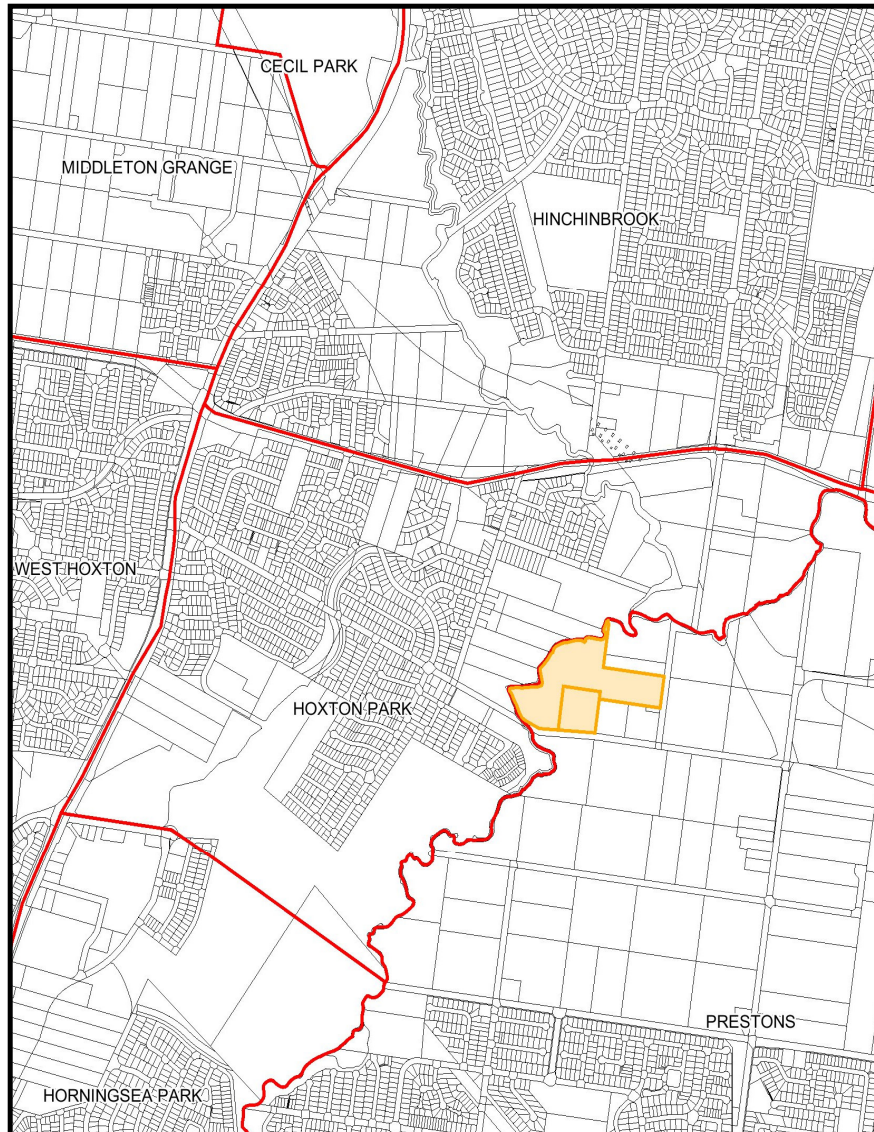


Fig 1. Subject property shown orange



JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 4 of 31

BACKGROUND:

Interim Development Order No.37 – City of Liverpool was gazetted on 16 July 1974 and permitted the storage and sale of landscaping and gardening supplies from Lot 4. Development Consent was issued on 16 June 1976. Council issued further consent in 1978 for the erection of a building for use as an office and storage area in conjunction with existing storage and sale of landscaping and garden supplies.

The current owners acquired the site in the late 1990's. The Kypreos Group of companies operate a number of sites in Liverpool and primarily operate in civil engineering, transport and plant hire, asphalt manufacture and placement, road construction and maintenance.

A truck depot in association with the development is located adjacent to the subject site. The group's approved asphalt manufacturing plant is located at 90 Jedda Road Prestons, approximately 1.7 kilometres to the east.

Sydney West Joint Regional Planning Panel

The original Development Application was identified as 'Designated Development' under the *Environmental Planning and Assessment Act 1979*. The matter was reported to the Sydney West Joint Regional Planning Panel for determination and was granted a Deferred Commencement Consent on 28 October 2010.

The deferred commencement required the following items:

- The applicant is to prepare a Management Plan for the staging of the implementation of this consent addressing the transition from the current activities on the site to the approved development. This transition is to be completed within 2 years from the issue of the construction certificate for this development.
- The applicant is to prepare plans for the construction of an enclosure for the screening plant and associated conveyor belts.
- The applicant is to prepare plans to show that all materials on the site are to be stored above the 1% AEP level.

The deferred commencement conditions have been met.

SITE DESCRIPTION & LOCALITY:

The subject site is located on the northern side of Yarrowa Street and is approximately 900 metres west of the intersection with Bernera Road. The development site is described as Lot 4 and Lot 5 DP 24315 and has a combined area of 8.03 hectares. The subject site has a frontage of over 200 metres to Yarrowa Road and abuts Cabramatta Creek.

The site is on the western boundary of the Prestons Industrial Area. The configuration of the land is irregular due to the boundary of Cabramatta Creek and the boundary configuration of Lot 5.

The subject site is relatively flat with a cross fall range from approximately 29.04m Australian Height Datum (AHD) in the south east of Lot 4 to 28.6m AHD in the northwest close to

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 5 of 31

Cabramatta Creek. The two main topographical features in the surrounding area are Cabramatta and Hinchinbrook Creeks to the west and northwest of the subject site respectively. These creeks flow to the north east and join the Georges River at Warwick Farm.

The subject site is traversed by a 30.48 metre wide Endeavour Energy electricity transmission easement encompassing overhead 132kV transmission line 93Y between West Liverpool and Nepean Substations. This easement provides a restriction on the development and use of the land for storage and machinery access. Adequate vertical clearances must be maintained between the conductors and the ground and vehicles.

The subject site is partly developed and has operated as a Material Handling Facility. The applicant currently uses the site and the workshop for the storage of road making materials (sand, virgin aggregate, fine and course aggregate and recovered asphalt product) and vehicle maintenance.

The front area of Lot 4 contains a scattering of buildings both of fibro and sheet metal construction used as offices, workshop and vehicle storage. Parts of Lot 5 have been disturbed by the storage of recycled asphalt product (RAP).

Previous clearing of the subject site has resulted in open areas being created within the existing vegetation.

The site is identified as subject to flooding in Council's Flood Mapping.

DESCRIPTION OF APPROVED DEVELOPMENT ON SITE:

Lot 4 and a portion of Lot 5 would be used for stockpiling of virgin and recovered aggregate.

The site has been divided into three main areas:

- i) Workshop, office, amenities and covered stockpile bins on Lot 4;
- ii) Car parking, truck manoeuvring and recovered aggregate stockpile on Lot 5; and
- iii) Area zoned E2 Environmental Conservation.

Access to the site is permitted via two (2) existing driveways - Gates 2 and 3 and a new dual entry/exit driveway and security office identified as Gate 1. The driveways enable all traffic to circulate on-site and access the recovered aggregate stockpiles (RAP), stockpiles bins, workshop and office areas. Traffic would enter and leave the site in a forward direction.

The new building works provide for eight (8) covered stockpile bins and two (2) open stockpile bin. The stockpile bins provide dry storage for sand, virgin aggregate and fine and course recycled asphalt aggregate after processing through the aggregate screener. The ten (10) stock pile bins (2,300m³ to 4,000m³) are constructed in a rectangular form with a central service driveway for loading and unloading. All bins are constructed of precast concrete panels with Colorbond metal roofing and facades, covering eight (8) of the bins. Stockpile Bins 4 and 5 are open storage bins.

The stockpile materials are to be kept reasonably dry to minimise energy usage when made into asphalt.

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 6 of 31

All bins are accessible by a front end loader within the central driveway loading area. The front end loader also serves the aggregate screener which will be located in the processing recovered aggregate area. All service driveways, loading areas, storage bins and workshop areas are to be sealed and drained thus providing all weather access ways for loading and unloading and service workshop areas.

The new offices consist of a two (2) storey building containing administration, amenities and lunch rooms. The workshop contains three (3) work bays, welding workshop, store room and compressor room. The administration office building provides surveillance of the site and the car park area.

The building layout provides for heavy vehicles to exit from Gate 2 and Gate 3 with the new entry / exit gates and security office providing access for both cars and trucks.

Construction works include the following buildings:

- First Floor Office 167.40 m²
- Security Shed 18.60 m²
- Workshop and Storage 646.00 m²
- Stockpile Bins 7285.00 m²
- Lunch Room 103.00 m²
- Amenities 88.80 m²

Materials of construction consist of pre painted metal cladding, insulated wall cladding and concrete panel walls.

The proposed use has three (3) operational components:

- Workshop / offices
- Undercover stockpile bin storage
- Aggregate recovery processing areas

The operation of the Materials Handling Facility involves the importation of raw aggregate, sand and RAP for screening and storage on site. The RAP are stored in stockpiles to the west of the transmission line easement. This material are to be screened on site into aggregate sizes of 10mm to 28mm and transferred to the covered stockpile bins by a front end loader for re-use off site at the asphalt factory at No. 90 Jedda Road, Prestons. Basalt aggregate and sand are also be stored in the covered stockpile bins for use at the asphalt plant as required.

The operation is projected to screen over 30,000 tonnes of RAP per annum. The volumes of material on-site vary depending on product demand. The primary reason to hold this volume of aggregate product is to maintain a constant supply for the asphalt plant in the event of supply disruptions. The stockpile bins store sand, virgin aggregate and screened fine and coarse RAP.

Future plans for the site involve the installation of a Truck Wash and Refuelling Area. These installations are shown on the Site Plan but are not included in the Development Application or the EIS. These installations would be the subject of a separate development application to be lodged with Liverpool City Council.

The recovered aggregate stockpiles are in an open area to the north west of the covered stockpile bins. The stockpiles and the processing area where the aggregate screener is located are located in the IN3 Heavy Industrial zone, there will be no activity undertaken in the E2

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 7 of 31

Environmental Conservation zone or under the Transmission Easement which transverses the site. These stockpiles are to be a maximum height of 6 metres with the aggregate screened located in close proximity.

A front end loader is used to load the RAP onto the aggregate screener for sorting into fine and course aggregate. The screened aggregate is moved by front end loader to the relevant covered stockpile bin. The screening of the RAP occurs as stock is required to replenish the covered stockpile bins. The use of the screener and front end loader will occur within the general hours of operation of the site while deliveries of RAP may occur in evenings due to night time road construction works.

A water mist spray system is to be installed in the covered stockpile bins and the recovered aggregate stockpile and processing areas for dust suppression. The mist spray system is timed and driver operated. The bin enclosures also operate to minimise dust generation.

The Materials Handling Facility operate on a 24 hour 7 day per week basis with general operating hours 7:30am-4:30pm Monday to Friday. The after hours use of the site is for the receiving of recycled asphalt product from night work road constructions.

There are to be no operation of the aggregate screener or front end loader after hours.

The current operation of the site employs 40 staff, the new material handling facility employ 45 staff; an increase of 5 employees.

The development provides 39 space off-street car park located in the south-western corner of the site. The car park is accessed via the main entry/exit driveway off Yarrowa Street. The proposed car park accommodates staff and visitor cars.

The company operates and maintains a fleet of semi trailers and trucks which service both the material handling facility and the asphalt plant at No. 90 Jedda Road, Prestons.

The Material Handling Facility receive daily deliveries of RAP, raw crushed aggregate and sand. Up to 28 truckloads of material are transported per day from Pioneer Quarry at Bass Point. Twenty to twenty five loads go directly to the asphalt plant.

8 x vehicles x 2 loads /day (6.00a.m-3.00pm) 16 loads (32 vehicle trips/day)
6 x vehicles x 2 loads /night (3.00p.m-midnight) 12 loads (24 vehicle trips/day)
Total 28 loads (56 vehicle trips /day)

On average the vehicles deliver 20 loads per day to the asphalt plant at No. 90 Jedda Road, Prestons. In addition to these truck movements, the site also generates approximately 8-10 deliveries per day by small and medium sized rigid trucks and delivery vans. Also there are occasional deliveries involving truck and dog trailers, which deliver collected RAP from road construction sites throughout NSW.

The majority of the trucks used by the company are parked off site when not in use.

The equipment used on site will include:

- Trucks and dog trailer (8) 25-30 tonnes
- Front end loader
- Aggregate screener

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 8 of 31

- Workshop equipment
- Excavator to load screen

The workshop building provides for three (3) truck and machinery work bays, small vehicle hoist, welding area and storage of parts and equipment. The workshop floor area will be bunded with all floor waste collected in a blind sump and transferred to a waste water separator. The workshop will undertake motor vehicle servicing, plant maintenance and include a welding workshop.

DETAILS OF THE APPLICATION

MODIFICATION “A”

The 39 space car parking area and associated driveway as approved are located in the 30.48 metre wide electrical easement traversing the site. An application to carry out work within the easement was made to Endeavour Energy by the applicant, which was refused on the grounds that there was insufficient clearance under the existing electrical conductors.

Consequently, the applicant explored two options to overcome this situation. The first was to install taller poles to raise the conductors and the second, involved excavation to reduce finished pavement and ground levels.

The second option provided the most cost and time effective solution however, excavation to the required finished level (RL 28.5) would result in the car parking in the driveway would be subject to inundation in a 20 year flood event. Flood Risk Planning Controls under Liverpool Development Control Plan (DCP) recommend that:

“Vehicle parking areas including access roads shall be as high as practical but no lower than 5% AEP (20 year) flood level for the location. Barriers to be provided to prevent floating vehicles leaving a site during 1% AEP flood”.

This issue is covered in Section 4 of the “Flood Assessment” prepared by Bewsher Consulting in September 2009. The “Site Emergency Response Plan” prepared by Floodmit Pty Ltd in July 2011 confirms that a Key Flood Height of AHD 29.0 to 29.3 is acceptable within this area of the catchment and supports the relocation of the car park to higher ground.

As a consequence of altering the site driveway levels, there is an increase in floodplain storage volume below the 1% Annual Exceedence Probability (AEP) flood. There would be no loss of storage as a result of these changes. The extent of this storage volume increase can be seen by comparing Figure 3 of the “Flood Assessment” with Figure 1 of the “Site Emergency Response Flood Plan”.

The proposed new car parking area provides for the same number of spaces and remains located under the electrical conductors within the electrical easement, but closer to one support structure. The applicant submits that this area has not currently been identified for landscaping or for any other purpose and is within the Bushfire Inner Protection Area. For this reason, this part of the industrial site has not been included in the Vegetation Management Plan.

The use as a sealed car park allows for the area to be maintained and landscaped to prevent weeds and rubbish accumulating.

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 9 of 31

Although this is an extension of the paved area upon which the development is to be carried out, it is not an extension of the industrial activity which was proposed in the approved Development Application and would not generate an increase in activity or volumes of materials handled and stored on the site.

Conclusion

The car parking layout is essentially being moved along the electricity easement from a mid-span location between two transmission line supports to a location closer to one support. This location is better able to obtain adequate conductor safety clearance and meet Council's minimum flood level requirements. The area is already cleared and thus the altered car parking location would have minimal environmental impact.

However, a significant portion of this cleared area is zoned E2 Environmental Conservation. This zoning does not permit the use of a 'resource recovery facility.' Thus, a significant portion of the car park would now encroach on E2 zoned land and is not permitted. *Clause 5.3 Development near Zone Boundaries* of LLEP 2008 does not apply to E2 zoned land and cannot be utilised to achieve flexibility. Therefore, this component of the modification must be refused.

MODIFICATION "B"

Approval is sought to change the description of the operational hours to permit 24 hour operation of the facility in respect to the loading and unloading of trucks as well as changes to the full operational hours to start from 7.00am and finish at 6.00pm Monday to Friday and 7.00am to 12.30pm on Saturday.

The applicant submits that the hours for full operation of the site which were requested in the original Development Application starting at 7.30am until 4.30pm are proving to be restrictive to business activities due to industry and construction work site standards which begin at 7.00am.

The hours for operation of the site outside of the full operation times are essentially 24 hours except for 7.30am Sunday until 7.30am Monday. The approved activity however is limited to unloading trucks without the use of front end loaders and prevents the loading of vehicles during the night-time and after full operation hours. This current arrangement is proving difficult for the operator due to the increasing demand for night-time road works requiring 24 hour operation of the asphalt plant which is serviced from the site. The asphalt plant at 90 Jedda Road Prestons is a 24 hour operation within the same industrial zone.

With loading starting only at 7.30am, trucks cannot leave the site until approximately 7.45am or 8.00am when the roads are typically busy with commuters and trade vehicles. It has also been noted that should loading be restricted to full operation times, it is necessary to move a large amount of material during the day to cover night-time operation of the asphalt plant, which has limited storage capacity.

From an operational point of view, it is considered desirable to service the asphalt plant regularly with fewer vehicles over the 24 hour period. It is necessary to operate the front end loaders during the night to achieve this and to manage deliveries and loading in a safe and efficient manner. At present, deliveries which take place at night have been spread out over a large area and then pushed into stockpiles after 7.30am due to loaders not being able to work at night.

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 10 of 31

It is therefore proposed that the loading and unloading period for trucks be extended to match the 24 hour operation time limit of the asphalt plant and the use of loaders not be restricted. Total vehicle movements per day are not expected to significantly change.

The revised Environmental Noise Impact Report number 4135 Rev C issued by Day Design Pty Ltd on 15 September 2011 submits that the level of noise emitted by the proposed materials handling facility over a 24-hour period would meet the noise level requirements of the NSW Department of Environment, Climate Change and Water.

Notwithstanding, EPA have provide written correspondence which advised that it had made an assessment of the Environmental Noise Impact Report. The EPA has formed the view that the proposed modification would result in unacceptably high night-time noise levels that would have a significant adverse impact to the surrounding area.

Moreover, Council's Environmental Health Officer has reviewed the proposal and concluded that the proposed modification not be supported having regard to the adverse acoustic impact.

Conclusion

Having regard to the significant adverse acoustic impact to the surrounding area, modification 'B' is not supported.

MODIFICATION "C"

The proposed standardisation of the stock bin sizes and design would result in a minor reduction in overall floor area concurrently with a minor increase in roof area. This modification and the additional rainwater storage capacity is unlikely to have any additional environmental impact and would lead in improved dust control.

The layout for the stockpile bins shown on the approved DA drawings consisted of 8 covered bins which were approximately 720m² each (5760m² in total) and two irregular sized uncovered bins (Nos. 4 + 5) which were approximately 856m² and 540m² respectively (Total 7156m²).

The proposal is to change the layout to make each bin a similar size of approximately 690m² with a total area under cover of 6,900m² and to add water tanks for rainwater recycling and dust control.

The reasons for requiring this modification are to:

1. Regularise the design of the bin structures thus achieving a reasonably significant saving in construction costs; and
2. The structural design of the bins which were not roofed (Nos. 4 + 5) was difficult because the side walls which were not connected to other bins had no support from the roof structure; and
3. Future use of this site may not always be as a materials handling facility so the current design is more adaptable to other possible uses such as warehouse/factory units; and
4. Removal of walls running parallel to the sewer main reduces the need for extensive piling along the line of the easement.

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 11 of 31

The proposal results in an increase in covered storage for materials but does not result in an overall increase in materials stored on site. Recycled asphalt product which is the only material permitted to be stored in open-air stockpiles would not be affected except that screened and sorted material would be stored undercover prior to recycling.

The volumes of all materials stored on site would not increase and would be consistent with the Environment Protection Licence.

The visual impact of the increased roof area is unlikely to be noticeable when viewed from the public domain and there is to be a small decrease in wall area adjacent to the electrical easement and along the boundary with No. 55 Yarrowa Street.

Conclusion

The proposed changes do not generate any adverse impact and when completed, the modified development would be substantially the same as the originally approved development.

The proposal requires the modification of the first consent condition which references the approved plans and would not require any additional modifications to other conditions of consent. Accordingly, modification 'C' is supported.

MODIFICATION "D"

Previous activity on this site has resulted in the depositing of fill within the electrical easement, up to 1 metre higher than the safe limits for the proposed activities carried out under electrical conductors. This material needs to be removed.

Material is also to be excavated from proposed wetland basins required by the Vegetation Management Plan.

The excavated material has to be deposited elsewhere on the site without impacting on flood storage levels as required by Condition No.6 of the Consent.

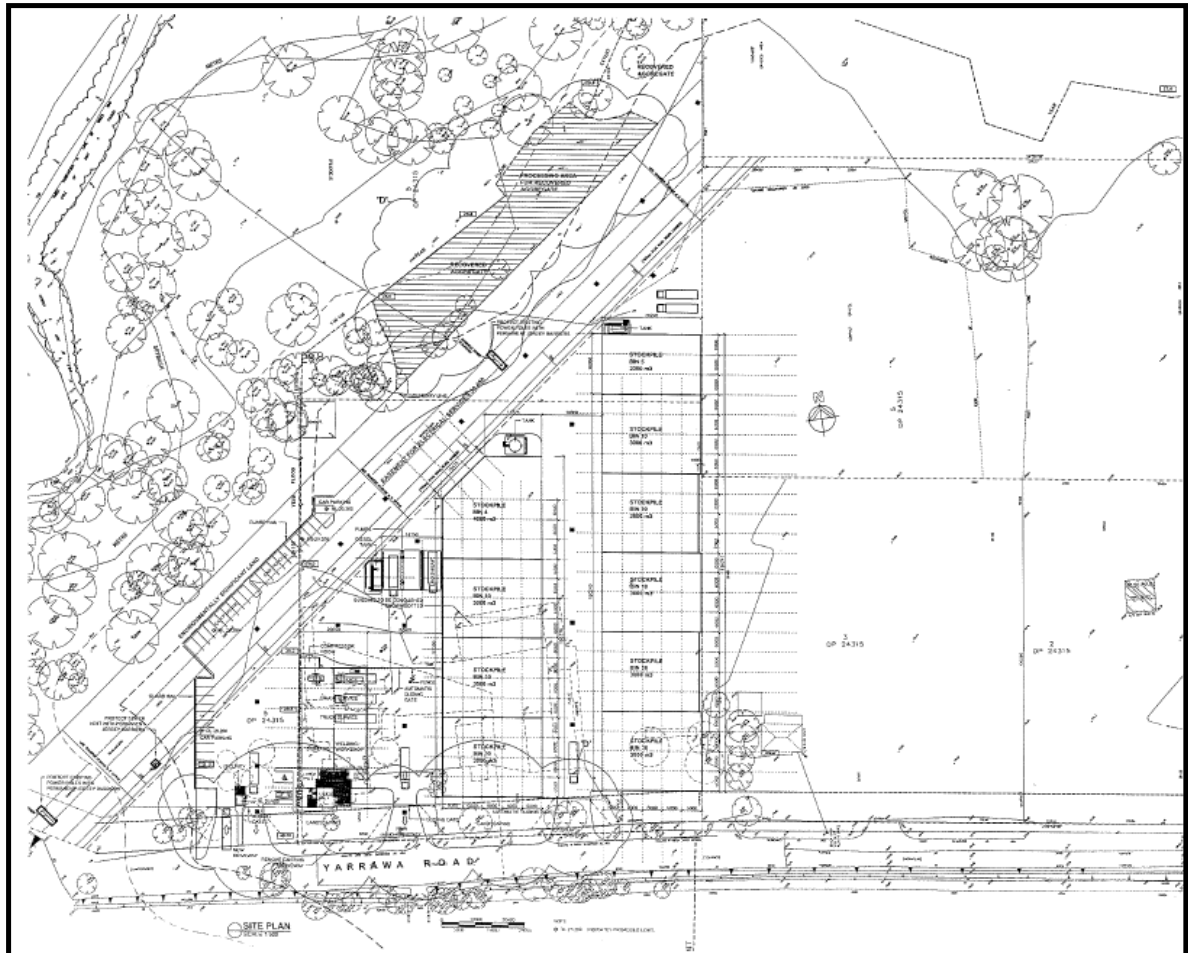
The excavated material from under the conductors and the wetland basins is proposed to be deposited in the area of the recovered aggregate stockpile platform. This would increase the platform area by approximately 1,500m². The applicant submits that this would not reduce flood storage levels and that the excavated material from the site would exceed the amount of fill proposed to be deposited in the current flood storage area. Flood storage is likely to increase as a result of this proposal.

Floodlit Pty Ltd was engaged to prepare a Site Emergency Response Flood Plan for the materials handling facility in July 2011. This report was based on the proposed relocated car park, the proposed excavation levels to RL 28.40 under the electrical easement and the stockpile platform extended by the addition of some of the excavated material.

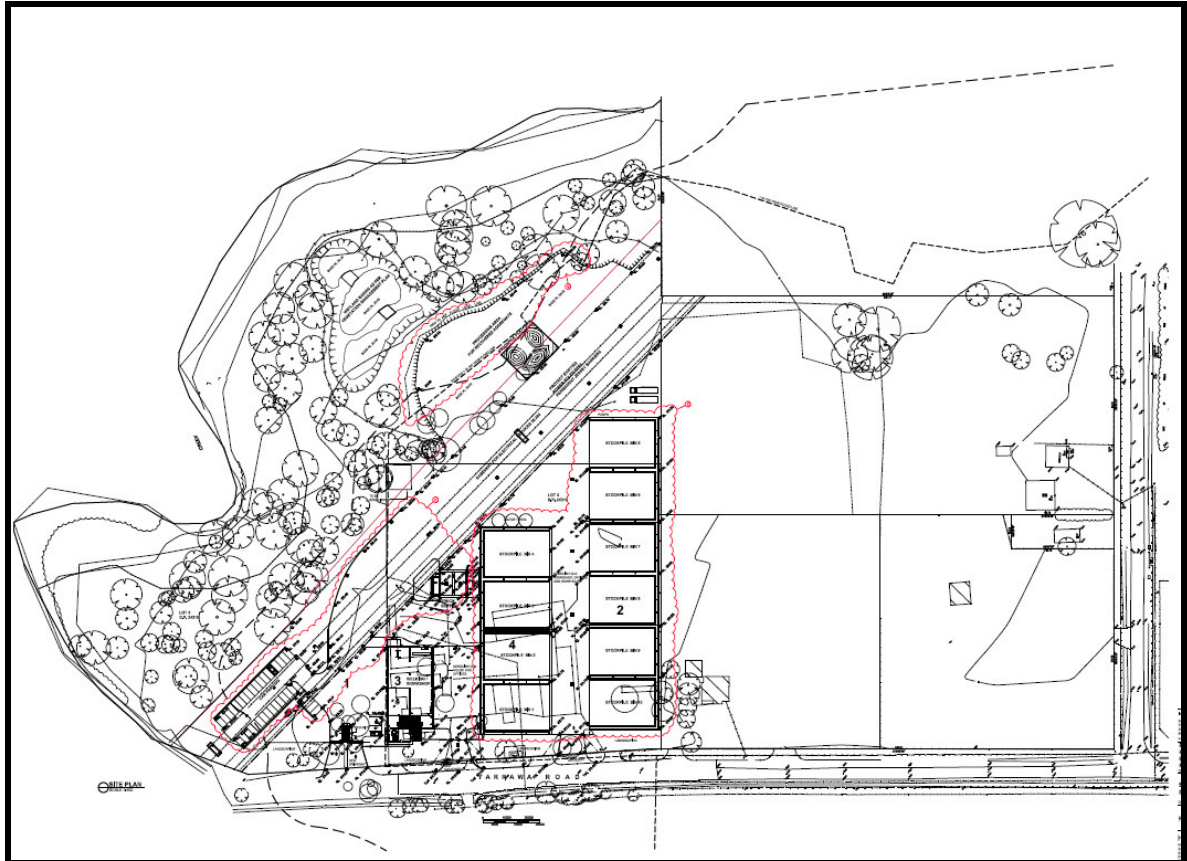
Conclusion

Council's Flood Engineer advises that the site is located adjacent to Cabramatta Creek and is affected by flooding under the 1% Annual Exceedance Probability (AEP) event. In the approved proposal (DA-410/2010), the proposed processing area for recovered aggregate was located outside 1% AEP flood extent. However, in the modified proposal, the processing area for recovered aggregate has been extended to the 1% AEP flood extent, which has the potential to cause adverse impact. Accordingly, the modification 'D' is not supported.

APPROVED SITE PLAN



PROPOSED AMENDED SITE PLAN



STATUTORY ASSESSMENT:

Summary of Relevant Planning Controls:

The following controls apply to the site:

- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 – Remediation of Land
- Liverpool Local Environmental Plan 2008;
- Liverpool Development Control Plan 2008 Part 7 Development in Industrial Areas

State Environmental Planning Policy (Infrastructure) 2007

Clause 45 requires Council to refer matters that may impact existing electrical infrastructure to be referred to the relevant electricity authority. The application was referred to Endeavour Energy who raised no objection to the proposal, subject to conditions.

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 14 of 31

State Environmental Planning Policy No. 55 – Remediation of Land

A Contamination Assessment had been submitted with the original application and an additional Phase 2 environmental site assessment was carried out on the site at the request of Council's Environmental Health Officer.

The Assessment did not indicate any elevated levels of contaminants on the site. The site therefore does not pose a significant risk of hazard to human health or the environment and is suitable for the proposed development. The application has met the State Environmental Planning Policy No. 55 – Remediation of Land.

Liverpool Local Environmental Plan 2008:

The subject land is part zoned IN3 Heavy Industrial, E2 Environmental Conservation and SP2 Infrastructure (Drainage) under the provisions of Liverpool Local Environmental Plan 2008 (LLEP).

All works and activities were originally to be undertaken in the IN3 Heavy Industrial zone only. Under this zoning the proposed use is permissible subject to Council's consent.

The objectives of the IN3 Heavy Industrial zone are:

- To provide suitable areas for those industries that need to be separated from other land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of heavy industry on other land uses.
- To preserve opportunities for a wide range of industries and similar land uses by prohibiting land uses that detract from or undermine such opportunities.

The proposed use is considered consistent with the objectives of the IN3 zone.

The objectives of the E2 Environmental Conservation area:

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- To enable the recreational enjoyment, cultural interpretation or scientific study of the natural environment.

The proposed car park extends into the E2 Environmental Conservation zone. This zone does not permit resource recovery facilities.

The objectives of the SP2 Infrastructure (Drainage) zone are:

- To provide for infrastructure and related uses.

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 15 of 31

- To prevent development that is not compatible with or that may detract from the provision of infrastructure.
- To reserve land for the provision of infrastructure.

There is no proposal to undertake any works or activities within the SP2 Infrastructure (Drainage) zone.

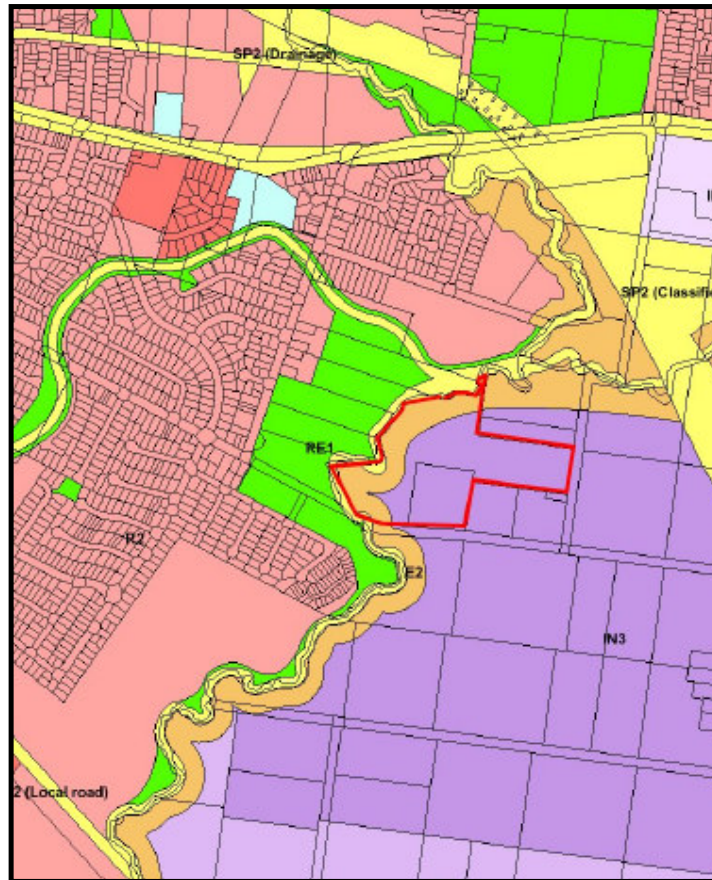


Fig 2. Zoning of Locality

Principle Development Standards

Clause 4.3 Height of buildings

The proposed 10 metre building height of the amended stockpile bins does not exceed the maximum building height requirement of 21 metres as specified on Map 008 – Height of buildings in LLEP 2008.

Clause 5.9 Preservation of trees and vegetation

The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation. The works resulting from the proposed amendments do not result in any significant loss of additional vegetation.

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

General Provisions

Clause 7.6 Environmentally significant land

The proposed relocated car park and enlarged platform area for processing recovered aggregate extends into land identified as Environmentally Significant Land (ESL). It is to be noted that the land identified as ESL does not exactly align with that zoned E2 Environmental Conservation.

A portion of the subject site which is zoned IN3 Heavy Industrial is within land identified in the LLEP as ESL. The boundaries of the IN3 Heavy Industrial zone partly extend into the land identified as environmentally significant, particularly along the north western side of the transmission easement. This area has been identified in the Flora Assessment as containing canopy trees, exotic shrubs and sparse ground layer. Species recorded were mainly exotic.

(1) The objectives of this clause are as follows:

- (a) to maintain bushland, wetlands and wildlife corridors of high conservation value,
- (b) to identify areas of significance for revegetation to connect to or buffer bushland, wetlands and wildlife corridors,
- (c) to protect rare and threatened native flora and native fauna,
- (d) to ensure consideration of the significance of vegetation, the sensitivity of the land and the impact of development on the environment prior to the giving of any development consent.

(2) Before determining an application to carry out development on environmentally significant land, the consent authority must consider such of the following as are relevant:

- (a) the condition and significance of the vegetation on the land and whether it should be substantially retained in that location,
- (b) the importance of the vegetation in that particular location to native fauna,
- (c) the sensitivity of the land and the effect of clearing vegetation,
- (d) the relative stability of the bed and banks of any water body that may be affected by the development, whether on the site, upstream or downstream,
- (e) the effect of the development on water quality, stream flow and the functions of aquatic ecosystems (such as habitat and connectivity),
- (f) the effect of the development on public access to, and use of, any water body and its foreshores.

The area of the proposed recovered aggregate stockpile has previously been used for aggregate stockpiles. The five (5) trees identified on the plan do not provide for a wildlife corridor connection to the existing tree stands to the south west.

A Flora Assessment prepared Anne Clements & Associates Pty Ltd was submitted with the original application which identified five vegetation types on the site, namely:

- Riparian vegetation
- Native regeneration
- Canopy trees with bare ground/exotic ground cover
- Cleared paddocks with sparse trees and shrubs
- Plantings with exotics.

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 17 of 31

The main assessment findings were that:

- No endangered ecological communities listed on the Commonwealth Environment Protection and Biodiversity Conservation Act 1999;
- One endangered ecological community listed on the NSW Threatened Species Conservation Act 1995 recorded associated with Cabramatta Creek. The vegetation was a degraded River-Flat Eucalypt Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions intergrading with Swamp Oak Floodplain Forest of the NSW North Coast, Sydney Basin and South East Corner bioregions;
- Potential for native regeneration on the less disturbed soils;
- No species listed on the schedules of the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 were recorded;
- The number of native species recorded in the quadrats was less than the minimum required to apply the positive diagnostic procedure of Tozer (2003) for identification of vegetation communities.
- There was potential for native regeneration on the less disturbed soils;
- No species listed on the schedules of the NSW Threatened Species Conservation 1995 were recorded;
- Seven noxious weeds (NSW Agriculture Noxious Weeds List) were recorded.

The assessment recommended that:

- The surveyor mark the boundary of the 30 m setback from the top of the bank of Cabramatta Creek recommended by the Department of Environment, Climate Change and Water;
- All introduced material over the ground surface within the 30m setback is to be carefully removed to expose the original topsoil where practicable under the supervision of an experienced restoration ecologist.

In respect to the provisions of Clause 7.6(1) and (2)(a) of the LLEP, it is considered that the proposed modified development would not impact on the significance of the existing vegetation in the area of the proposed recovered aggregate stockpiles. The relocated car park is in an existing cleared area. The Flora Assessment submitted with the original application also recommends the implementation of a Vegetation Management Plan and bush regeneration works for the areas along the 30m Riparian zone to Cabramatta Creek and other disturbed areas not within the boundaries of the proposed development.



Fig 3. Environmentally Significant Land

Clause 7.8 Development on flood prone land

The subject site is identified as flood prone land.

- (1) The objectives of this clause are:
- (a) to maintain the existing flood regime and flow conveyance capacity, and
 - (b) to avoid significant adverse impacts on flood behaviour, and
 - (c) to limit uses to those compatible with flow conveyance function and flood hazard, and
 - (d) to minimise the risk to human life and damage to property from flooding.

Council's Floodplain Engineer has advised that whilst satisfied with the original application, concerns are raised with the amended application.

The site is located adjacent to Cabramatta Creek which is affected by flooding under the 1% Annual Exceedance Probability (AEP) event. In the approved proposal (DA-410/2010), the proposed processing area for recovered aggregate was located outside 1% AEP flood extent.

However, in the modified proposal, the processing area for recovered aggregate has been extended to the 1% AEP flood extent, which has the potential to cause adverse impact. Therefore, the proposed modification is not supported.

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 19 of 31

Liverpool Development Control Plan 2008

The proposed development is subject to Liverpool Development Control Plan (LDCP) 2008, and Part 1.1 and 1.2 General Controls for Developments and specifically Part 7 – Development in Industrial Areas.

The relevant provisions of the DCP are addressed below:

Setbacks

The minimum front building setback required is 10 metres at ground floor level and 7.5 metres at first floor level. The amended proposal does not alter the approved development with its setback of 10 metres and therefore maintains compliance.

Landscaped Area

Objectives:-

- a) To ensure that sufficient deep soil areas are provided for landscaping;
- b) To ensure that landscaping is provided to improve the streetscape environment of industrial areas; and
- c) To ensure that landscaping is sustainable in terms of length of plant life and maintenance.

A minimum landscaped setback of 10 metres is required along the length of the primary street frontage for lots over to 4,000m². The site area is 8.03 hectares, however the development provides for a landscaped setback of only 9 metres. Subject to a satisfactory landscape design the 1 metre variation in setback area would be considered acceptable.

Council's Landscape Officer has advised that the original Landscape Plan lacked detail such as plant quantities, plant sizes at planting, soil treatment and establishment maintenance. In the event that the proposal be supported, these matters could form part as condition of consent requiring a detailed Landscape Plan be prepared by a qualified Landscape Architect/Designer that addresses the above points.

Building Design, Streetscape & Layout

Objectives:-

- a) To ensure the creation of an attractive streetscape character within each industrial area.
- b) To encourage a high standard of architectural design for industrial buildings.
- c) To ensure compatibility with any adjoining residential areas.
- d) To promote a high standard of urban design, particularly along classified roads.
- e) To ensure buildings are orientated to allow surveillance from the street and adjoining buildings.
- f) To locate and design buildings and structures to restrict access by intruders.

The original approved development was considered to be in accordance with the requirements of the DCP. The alterations to the design of the stockpile bins is minimal and at the rear of the building structures and thus not visible to the street or any other public place.

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 20 of 31

Service Areas

In accordance with DCP, service areas including waste, recycling and external storage areas are located away from principal street frontage and screened from view.

The amended proposal complies with the requirements of DCP with respect to service areas and waste storage.

Car Parking & Access

In accordance with the DCP, car parking for industrial use is to be provided at a rate of 1 space per 35m² of office Leasable Floor Area plus 1 space per 75m² of factory / warehouse Leasable Floor Area.

The bin storage areas are not considered floor space. The Gross Floor Area of the proposal provides 186m² of office space and 840m² of workshop area, lunch room and amenities.

In this regard, the car parking required equals $186/35 + 840/75 = 16.5$. The thirty nine (39) car spaces proposed in the original application are maintained and meets Council's requirements.

Conclusion

The proposed amended development generally satisfies the requirements of Liverpool Development Control Plan 2008.

DEPARTMENTAL COMMENTS (Summary of Comments)	
INTERNAL REFERRALS:	
Building	Referral – Yes
No objection subject to original conditions of consent.	
Engineer	Referral – Yes
No objection subject to original conditions of consent.	
Traffic	Referral – Yes
No objection subject to original conditions of consent. Traffic generation is unlikely to have a significant impact on the adjacent road network.	

LIVERPOOL CITY COUNCIL

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 21 of 31

Landscaping	Referral – Yes
<p>The original landscape plan lacked detail such as plant quantities, plant sizes at planting, soil treatment, establishment maintenance etc.</p> <p>The development consent required that a detailed Landscape plan prepared by a qualified Landscape Architect / landscape designer that addresses the above points is required to be prepared prior to the issue of a Construction Certificate. The landscape plan is to primarily use longer living plants that are found in the natural vegetation of the local area. Plantings are to be grouped to give a natural looking but orderly design.</p>	
Health	Referral – Yes
<p>The EPA's Noise Assessment Unit have undertaken their own internal cross checking of the calculations presented in the Environmental Noise Impact Report (Report No. 4135 REV C) prepared by Day Design Pty Ltd, dated 5 September 2012 which is in support of the application. The EPA have advised that the predicted noise levels at the closest residential receivers will in fact be deemed to be offensive in nature should the facility be granted approval to extend their hours of operation.</p> <p>Taking into consideration the EPA's comments Council's Environmental Health Section is unable to support DA – 410/2012/A.</p>	
Flooding	Referral – Yes
<p>The site is located adjacent to Cabramatta Creek and is affected by flooding under the 1% Annual Exceedance Probability (AEP) event. In the approved proposal (DA-410/2010), the proposed processing area for recovered aggregate was located outside 1% AEP flood extent. However, in the modified proposal, the processing area for recovered aggregate has been extended to 1% AEP flood extent, which has the potential to cause adverse impact. Hence the proposed Section 96 modification application is not supported. The proposed processing area for recovered aggregate needs to be located outside the 1% AEP flood extent.</p>	
EXTERNAL REFERRALS:	
NSW Rural Fire Service	Referral – Yes
<p>No comments received.</p>	
Transgrid	Referral – Yes
<p>No objections or comments. The site is clear of any existing Transgrid infrastructure.</p>	

LIVERPOOL CITY COUNCIL

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 22 of 31

Endeavour Energy	Referral – Yes
<p>No objection to proposed car park redesign subject to the following conditions of approval.</p> <p>A. No objections are raised to the proposed layout of the materials handling facility as set out in your plan SK02 Rev; H.</p> <p>B. To ensure statutory clearance to the conductors at all times, it is crucial that the RL levels do not alter from that outlined in Drawing SK02:H. Assessment has taken place on the levels shown within this plan. As previously advised, it is particularly crucial that final levels between chainages 150m and 220m not exceed 28.5.</p> <p>C. Structures within the property are to be protected from vehicle impact. We note your intent to utilise “Jersey Kerb” barriers. Endeavour Energy has no objections however, they are not to be placed within 5 metres of any poles or supporting guy and they are to be positioned as such to allow for pedestrian access with a ladder, to the structures without the need to move them for this type of access.</p> <p>D. Suitable heavy vehicle access to the two pole structure adjacent to the car park area is to be made available via a rollover kerb either adjacent to the car park or at the end of the hardstand car park area. This kerb and access area is to be a minimum of 4.3 metres wide.</p> <p>E. No buildings, wash bays or refuelling facilities are permitted to encroach on the easement area.</p> <p>F. Signage warning of the overhead powerlines and danger from direct or inadvertent contact are to be installed at entry points to the easement area. Signs should also advise drivers that that all tippers are to be in the lowered position prior to entering the easement area. Endeavour Energy recommends that a limiting device be located outside of the easement to ensure that there is no direct or inadvertent contact via any truck trailers.</p> <p>G. Endeavour Energy advise that no request has been made for any of the following encroachments and as such none are approved within this document: underground services additional to electrical service conduits approved in our correspondence of 11/9/12, car park lighting, fencing, signage or landscaping or any other item not specifically requested.</p>	
Roads and Traffic Authority	Referral – Yes
<p>No objection to the proposed modifications as it will not have an adverse impact on the classified road network</p>	
Office of Water	Referral – Yes
<p>No objection subject to compliance with the originally issued General Terms of Approval.</p>	

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 24 of 31

- Watering of the material to be screened to be undertaken as required (in the event that visible dust is seen by the screen operator or yard manager beyond the site boundary).
- Regular watering of unsealed roads, exposed surfaces and stockpiles;
- Employee induction to ensure awareness of dust management measures;
- Regular sweeping of sealed roads;
- Stockpiles will be managed to minimise potential for dust generation. Only Recycled Asphalt Product (RAP) will be stored in outdoor stockpiles.
- During adverse wind conditions, outdoor stockpiles will be sprayed directly with water to suppress dust generation;
- Mobile machinery movement will be restricted to designated routes and standing areas;
- Vehicle speeds will be controlled on site (10 km/h) to minimise dust generation and also for safety reasons;
- The unloading area within the recovered aggregate stockpile will be serviced by a water spray system which will be activated by the driver prior to unloading aggregate on site;
- Stockpile bins will be three-sided and roofed;
- Within the stockpile bin area, dust generated by the loading and unloading of aggregate material will be controlled by a water mist spray system which will be activated by any vehicle entering the stockpile bin area. The water spray system will be on a timer to minimise water use as the stockpile aggregate is required as a dry product;
- The recovered aggregate stockpiles will be stored to a height not exceeding 6 metres; and
- The proposed car park will be bitumen sealed.
- Proposed frontage works to Yarrowa Street by the applicant as well as by the developer or the property on the opposite side of Yarrowa

It is to be noted that no crushing only screening / sieving of recycled asphalt material is carried out on site. A screen fence is to be erected around the sieve machine.

ISSUE 2: History of unauthorised site development and activity and compliance with conditions. The proposed modified car park has commenced prior to any approval being issued.

Comments

It is noted that consent authorities must assess each application on its merits as presented. Approval is not being given retrospectively to past activities but rather to the carrying out of future activities in accordance with the submitted proposal.

It is noted that work on the car park has been commenced and if the subject Section 96 Modification is not approved, this work would need to be removed.

Council records indicate that enforcement action has taken place with appropriate penalties being imposed to the operator for a number of breaches in respect to their consent.

ISSUE 3: Light spill and glare nuisance particularly from moving trucks and equipment

Comments

Fixed site lights are relatively easy to shield and/or aim to minimise glare nuisance. Existing conditions of consent can be utilised to manage this aspect

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 25 of 31

Distance separation and site screening by fencing and/or landscaping is required to minimise glare nuisance from mobile plant and vehicular sources. Operational measures such as non-use of vehicle high beams and ensuring headlights are correctly aligned can also reduce the impact. In particular, the headlights of mobile plant can be aimed correspondingly lower and closer because of their slower speeds and nature of operation.

Refusal of the extended hours of operation is considered appropriate in managing the amount of light nuisance from the site.

ISSUE 4: Noise impacts on residential properties

The development and its operation are likely to have an adverse noise impacts on neighbouring residential areas.

Comments

The acoustic assessment submitted indicates that the development would comply with the requisite noise criteria. The following data is taken from the applicant's noise impact assessment:

**Table 5.8a Predicted Overall Noise Level at the Nearest Affected Residences – Daytime
(Without noise controls)**

Receptor Location	Activity	Predicted Leq, 15 minute Noise Level	Acceptable Noise Level	Compliance
Residences south west of site (shown as noise assessment Location 1 in Fig 1)	Trucks arriving / leaving	34 dBA		
	Trucks being loaded / unloaded	28 dBA		
	Staff car park	27 dBA		
	Sorting / screening machine	35 dBA		
	Workshop / service building	30 dBA		
	Wash Bay	31 dBA		
	Compressor room	32 dBA		
	Overall noise level (Leq 15 min)	40 dBA	40 dBA	Yes
Residences south west of site (shown as Location 2 in Fig 1)	Trucks arriving / leaving	32 dBA		
	Trucks being loaded / unloaded	31 dBA		
	Staff car park	27 dBA		
	Sorting / screening machine	30 dBA		

LIVERPOOL CITY COUNCIL

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 26 of 31

	Workshop / service building	30 dBA		
	Wash Bay	31 dBA		
	Compressor room	32 dBA		

**Table 5.8b Predicted Overall Noise Level at the Nearest Affected Residences – Daytime
(Without noise controls)**

	Overall Noise level (Leq 15 min)	39 dBA	40 dBA	Yes
Residences north west of site (shown as Location 3 in Fig 1)	Trucks arriving / leaving	24 dBA		
	Trucks being loaded / unloaded	30 dBA		
	Staff car park	<15 dBA		
	Sorting / screening machine	37 dBA		
	Workshop / service building	20 dBA		
	Wash Bay	20 dBA		
	Compressor room	20 dBA		
	Overall Noise level (Leq 15 min)	38 dBA	40 dBA	Yes
Residences south west of site (shown as Location 4 in Fig 1)	Trucks arriving / leaving	48 dBA		
	Trucks being loaded / unloaded	52 dBA		
	Staff car park	32 dBA		
	Sorting / screening machine	62 dBA		
	Workshop / service building	45 dBA		
	Wash Bay	41 dBA		
	Compressor room	25 dBA		
	Overall Noise level (Leq 15 min)	63 dBA	70 dBA	Yes

LIVERPOOL CITY COUNCIL

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 27 of 31

Note: Location 4 is a dwelling house on a property opposite an entrance to the site and has been approved by Council for conversion into an office for a transport company to be located on the site.

Predicted Overall Noise Level at the Nearest Affected Residences – Night time (Without noise controls)

Receptor Location	Activity	Predicted Leq, 15 minute Noise Level	Acceptable Noise Level	Compliance
Residences south west of site (shown as Location 1 in Fig 1)	Trucks arriving / leaving	33 dBA		
	Trucks being loaded / unloaded	22 dBA		
	Staff car park	27 dBA		
	Overall Noise level (Leq 15 min)	35 dBA		
	Overall Noise level affected by temperature inversion	38 dBA	40 dBA	Yes
Residences south west of site (shown as Location 2 in Fig 1)	Trucks arriving / leaving	28 dBA		
	Trucks being loaded / unloaded	34 dBA		
	Staff car park	24 dBA		
	Overall noise level (Leq 15 min)	36 dBA		
	Overall Noise level affected by temperature inversion	39 dBA	40 dBA	Yes
Residences south west of site (shown as Location 3 in Fig 1)	Trucks arriving / leaving	26 dBA		
	Trucks being loaded / unloaded	34 dBA		
	Staff car park	<15 dBA		
	Overall Noise level (Leq 15 min)	34 dBA		

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 28 of 31

	Overall Noise level affected by temperature inversion	37 dBA	40 dBA	Yes

The EPA has advised the following in relation to the applicant's acoustic report:

- Table 5.1.3 presents the derivation of an assumed excess attenuation over 200m between the development site and the residences to the south-west. For the source used in the derivation, a loader, if the calculations are extended out 200m, the distance nominated between the development and the residence to the south-west, the resultant level is 47dBA. This is 24dB higher than the predicted level of 23dBA for a truck being loaded / unloaded, in Table 5.9. and there does not appear to be any explanation for this significant difference.
- In Section 5.2 is stated that an "...L1 of 77dBA was measured at 20 metres away from a truck being unloaded on site...The measured levels...included...the tail gates banging during unloading." Below Table 5.2 is a predicted L1,1minute level of 46dBA for the residences to the south-west. Based on geometric spreading alone, an L1 of 77dBA at 20m results in a level of 57dBA at 200m distance. Even subtracting the 8dBA for excess attenuation from Table 5.1.3 gives a result of 49dBA. Section 5.1.7 says that 3dB has to be added to predicted levels during the night-time to allow for the effect of temperature inversions. EPA measured Lmax levels of around 60dBA at the residences in Coffs Harbour Drive as a result of tail gates banging during unloading at around 9.45am on Friday 7 December 2012.
- Tables 5.8a and 5.9 are of predicted noise levels without noise controls – the only apparent difference appears to be that 5.8a is labelled "Daytime" whereas 5.9 is labelled "Night", yet they have different predicted levels for residences south-west of the development site for the activity of a truck being loaded / unloaded (28dBA in Table 5.8a versus a lower level of 23 in Table 5.9, when the level at night should be at least 3dB higher to allow for inversions). There does not appear to be any explanation for this.

Notwithstanding, an assessment made by the EPA indicates that the noise generated from the proposed extended hours would be unacceptable and is therefore not supported.

ISSUE 5: Tree loss

Comments:

The proposed modifications do not result in any significant loss of vegetation.

ISSUE 6: Odours from bitumen material

Comments:

Bitumen/asphalt material is screened on-site. No crushing, heating or solvent processes are employed.

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 29 of 31

ISSUE 7: Impact on Cabramatta Creek

Comments:

Previous investigations have shown that the existing development is not impacting adversely on Cabramatta Creek. The approved development and the proposed modifications are not expected to have any adverse impacts.

ISSUE 8: The development of nearby housing, schools, child care centres and Brownes Farm Reserve requires extra consideration be given to the development.

Comments:

The planning for the area separates the Prestons industrial lands from the Hoxton Park residential areas with buffer zones centred on the Cabramatta Creek corridor. The buffer zones comprise land zoned E2 - Environmental Conservation, SP2 Drainage and RE1 Public Recreation. Accordingly, sufficient distance is available to ensure the management of any land use conflict.

SECTION 79C CONSIDERATION

The following summarises the assessment of the proposal in terms of the heads of consideration in Section 79C of the Environmental Planning and Assessment Act 1979.

(a) The provisions of:

(i) Any Environmental Planning Instrument

The proposed development is defined as a 'resource recovery facility' under Liverpool Local Environmental Plan 2008.

Under the provisions of Liverpool Local Environmental Plan 2008 and State Environmental Planning Policy (Infrastructure) 2007, 'resource recovery facilities' are permitted with consent in the IN3 Heavy Industrial zone portion of the site only.

The proposed amended car park encroaches on the E2 zone and is therefore not permitted in that zone.

(ii) Any Draft Environmental Planning Instrument

No draft environmental planning instrument relates to the site.

(iii) Any Development Control Plan

Parts 1.1, 1.2 and 7 of Liverpool Development Control Plan 2008 apply to the application.

The proposed amended development demonstrates general compliance with the requirements of LDGP 2008.

(iiia) Any Planning Agreement

No planning agreement relates to the site or proposed development.

(iv) The Regulations

There are no matters prescribed by the Regulations that apply to this development.

(b) The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

As the development is not proposing to disturb the watercourse traversing the site or the vegetation on the site, it is considered that the development would have minimal impact on the natural environment.

(c) The suitability of the site for the development

The site is not suitable for various components of the proposed modified development. The zoning of a portion of the site does not permit the development. The proximity of residential properties means that extended hours of operation will have unacceptable noise impacts.

(d) Any submissions made

The public submissions are detailed within this report.

(e) The public interest

The public interest is taken to include the facilitation of resource recovery facilities in a manner that does not adversely impact on local neighbourhood amenity so that road and civil engineering projects that benefit the broader community are able to be undertaken on a more environmentally sustainable basis.

The issues raised in the objections with respect to this proposal have been suitably addressed throughout this report. It is considered that proposed modifications A, B and D of the proposed development are not in the public interest. Proposed modification 'C' is worthy of support only.

CONCLUSION:

The proposed development generally complies with the Liverpool Local Environmental Plan 2008 and Liverpool Development Control Plan 2008 Parts 1.1, 1.2 and 7.

The main issues relate to dust and noise generation. Accordingly, proposed modifications A, B and D are not supported.

It is considered that the noise impacts of the amended development as proposed are unacceptable. The development is not considered to maintain an acceptable distance from neighbouring residential areas to permit the requested extended operating hours.

JOINT REGIONAL PLANNING PANEL - ASSESSMENT REPORT

PAGE - 31 of 31

Overall, the development is compatible with the developing industrial character of the immediate area and proposed modification 'C' can be conditioned and controlled to minimise any impacts.

RECOMMENDATION:

That:

1. The Joint Regional Planning Panel refuses the subject Section 96 Modifications identified as "A", "B" and "D" of Development Application DA-410/2010.
2. The Joint Regional Planning Panel approves the subject Section 96 Modification identified as "C" of Development Application DA-410/2010.
3. An amended plan to be submitted by the applicant for approval stamping showing the proposed modification of the storage bins minus the proposed car park and processing platform area modifications which are recommended for refusal.
4. Persons who made a submission with respect to the proposed development are notified in writing of the JRPP's decision.