

JRPP No.	2013SYW053
DA No.	DA13/0471
Proposed Development	Expansion of Waste Facility
Applicant:	Worth Recycling
Property Description	Lot 300 DP 1143213
Property Address	42-46 Charles Street ST MARYS NSW 2760
Date Received	20 May 2013
Report by	Hannah Van De Werff, Environmental Planner (Penrith City Council)
Category of Development	Designated/Integrated
Recommendation	Approval

Assessment Report

Executive Summary

On 20 May 2013, Council received a Development Application from Worth Recycling to expand a Waste Facility at 42-46 Charles Street, St Marys.

Under Penrith Local Environmental Plan (LEP) 2010, the subject site is zoned IN1 – General Industrial.

The LEP defines the proposed use as a **waste or resource management facility** and since it does not explicitly permit the use of this site for the purpose of waste or resource management, it is a prohibited land use under the provisions of the local plan however; it is separately defined under Clause 121 of State Environmental Planning Policy (SEPP) (Infrastructure) 2007.

SEPP (Infrastructure) 2007 permits the use of IN1 – General Industrial zoned land for the purpose of waste or resource management. The SEPP prevails to the extent of any inconsistencies with the LEP and therefore the development is a permissible land use in the zone.

The application is also Designated Development (under Schedule 3 of the Environmental Planning & Assessment Regulation 2000) and therefore in accordance with Schedule 4A of the Environmental Planning & Assessment Act 1979 (the EP&A Act 1979), is to be determined by the Sydney West Joint Regional Planning Panel.

The application is Integrated (under Section 91 of the Environmental Planning & Assessment Act 1979). Accordingly, the application was referred to the NSW Environmental Protection Authority and General Terms of Approval have been

provided, which require an Environmental Protection License (EPL) to be issued for the use of the site, under the Protection of Environmental Operations Act 1997.

In accordance with the Penrith Development Control Plan (DCP) 2010 the development application was notified to the surrounding neighbours and publicly exhibited (advertised) between 3 June 2013 - 3 July 2013. No submissions were received.

An assessment under Section 23G and Section 79C of the EP&A Act 1979 (as amended) has been undertaken and the application is recommended for approval.

Background

In 2008, Council granted consent to DA08/0805 which included alterations and additions and use of the site as a metal recycling facility. The approval included the retrospective approval of existing works on the site, staged construction of a weighbridge, offices, employee facilities, gates, fence, and landscaping improvements and stormwater drainage via an easement which transverses the site.

In 2009, Council granted consent to a modification to DA08/0805 which included the amendment of conditions in regard to stormwater drainage for the site. The rationale for the Section 96 application was that the owner of the site was not able to obtain a legal right to drain to the easement and therefore was required to provide an alternative drainage solution.

Conditions of development consent were issued to require a Roads Act Approval for the civil works associated with stormwater infrastructure to Charles Street for a new drainage connection.

During the time that the above matter was being resolved between relevant parties, Worth Recycling acquired the site and were provided with an Interim Occupation Certificate which was limited to 6 months. An alternative solution to the above drainage requirements was to be implemented prior to the issue of a Final Occupation Certificate.

The matter of stormwater drainage remains outstanding and despite a new consent being issued for use of the site (DA12/0780) as a Waste Recycling Facility, to date no operation has commenced.

During the assessment of the current Development Application, the matter of drainage infrastructure was raised with the applicant who subsequently provided a stormwater concept plan which indicates movement toward seeking a Roads Act Approval and commencing civil works to deliver the drainage infrastructure to the street.

The applicant is aware that a Roads Act Approval should be sought (under DA08/0805) to facilitate the works and permit a Final Occupation Certificate for the site.

The proponent did not attend a pre-lodgement meeting specifically for this development however they have had ongoing consultation with Council since 2011.

The Proposed Development

The proposed development includes the following aspects:

- Installation of 2 x 7m storage tanks to the west of Area 1 for drill mud;
- Installation of 3 x 7m water storage mud plant items to the north of Area 2;

- Use of Area 2, 3 and 4 for Drill mud processed and solid waste storage;
- Use of Area 1 for processing of Acid Sulphate Soils (ASS);
- Installation of bunded storage areas to the far eastern boundary of the site for temporary storage of materials;
- Installation of four water treatment plant to the north of the existing portable driver amenities building;
- Use of Area 5, 6 and 7 as truck wash, maintenance/store area;
- Installation of three 6m high storage hoppers/solos to the south of area 1 for the storage of agents and chemicals;
- Installation of a Dangerous Goods (DG) container and quality control portable lab to the southern boundary;
- An extension of operating hours to permit 24 hour operation and;
- Use of the site to process 99,400 Tonne of waste per annum.

The following documents and plans accompanied the Development Application:

- Environmental Impact Statement prepared by AECOM Australia Pty Ltd
- Director General Requirements issued by NSW Department of Planning & Infrastructure
- Site Plans prepared by CK Architects
- Operational Environmental management Plan prepared by AECOM Australia Pty Ltd
- Waste Management Plan prepared by AECOM Australia Pty Ltd
- Air Quality Impact Assessment prepared by AECOM Australia Pty Ltd
- Noise and Vibration Impact Assessment prepared by AECOM Australia Pty Ltd
- Traffic and Transport Impact Assessment prepared by AECOM Australia Pty Ltd
- SEPP 33 Risk Screening prepared by AECOM Australia Pty Ltd
- Ecology Desktop Searches prepared by AECOM Australia Pty Ltd
- Greenhouse Gas Assessment prepared by AECOM Australia Pty Ltd
- Proposed Stormwater Mains Redivert Plan prepared by Worth Recycling

Site and Surrounds

The subject site is situated on the southern end of Charles Street, with the southern portion adjoining Dunheved Circuit thus providing dual ingress and egress for vehicular traffic. The site is located within a central location of the industrial precinct of St Marys and is serviced by Link Road to the north. It is 1.528 Ha in area and the main entry is orientated in a western direction. The site is completely occupied by hardstand area except for some formal landscaping around the main reception/office area.

The site includes a recently approved industrial development comprising of two weighbridges, 424m² of office space and employee facilities, 2133m² of outbuildings or designated storage areas, fence with automated opening and closing facilities, boomgates and landscaping.

The surrounding area is characterised by large scale industrial development.



Planning Assessment

The development has been assessed in accordance with the matters for consideration under Section 23G and 79C of the Environmental Planning and Assessment Act 1979 as follows:

1. Section 23G - Joint Regional Planning Panels

Under Section 23G of the Environmental Planning and Assessment Act 1979, the functions of Council are conferred to a regional panel if stipulated under an environmental planning instrument.

In this case, Section 8(c) of Schedule 4A of the Environmental Planning & Assessment Act 1979 delegates the function of 'consent authority' for Designated Development Applications (including waste management facilities or works) to a regional panel.

As a result the Development Application has been referred to the Joint Regional Planning Panel for determination.

2. Section 77A – Designated Development

Under Clause 4 of the EP&A Act 1979, development listed in Part 1 of Schedule 3 of the Regulation is designated development unless it is declared not to be by a provision in Part 2 of that Schedule.

The proposed development falls within the category of *contaminated soil treatment works* due to its capacity proposed under this application, to treat 'more than 1,000 cubic metres per year of contaminated soil not originating from the site on which the development is located'.

It is also classified within the category of *waste management facilities or works* under Schedule 3 of the Regulation due to activities which include 'sort, consolidate or temporarily store waste at transfer station or material recycling facilities to transfer to another site for final disposal, permanent storage, processing, recycling, use or reuse and handle substances classified in the Dangerous Goods Code.'

As a result the proposal is deemed to be 'Designated Development', and an EIS has been prepared under Director General Requirements (DGR's) which are included in Appendix B.

Informal consultation with the NSW Department of Planning & Infrastructure was undertaken to invite the department to provide referral advice to Council, on the EIS. However, subject to Council's satisfaction that the EIS suitably responds to the DGR's and no submissions being received during the exhibition period, no further consultation was required.

The EIS has suitably addresses all matters outlined in the DGR's.

3. Section 91 – Integrated Development

The proposed development has been lodged as Integrated Development under the EP&A Act as it requires an Environmental Protection License (EPL) under the Protection of Environmental Operations Act 1997, based on the types and volumes of materials being processed on the site.

As such, General Terms of Approval have been sought and issued by the Environmental Protection Authority (Refer to Appendix E).

In accordance with the DGR's, the applicant has demonstrated that no other integrated approvals are required, including the NSW Office of Water under the Water Management Act 2000.

To ensure compliance with the DGR's and Section 91 of the Act, Council referred the application to Sydney Water for consideration and comment. A response was received on 14 August 2013, raising no objection to the development subject to Section 73 Certification. A condition of consent is recommended to require a Section 73 Certificate from Sydney Water prior to the issue of the Occupation Certificate

4. Section 79C(1)(a)(i) – Any Environmental Planning Instrument

Sydney Regional Environmental Plan No 20 – Hawkesbury/Nepean River catchment

Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No. 2 – 1997) (REP 20) integrates planning with catchment management to protect the Hawkesbury-Nepean river system, requiring the impact of future land use to be considered in a regional context. The plan covers water quality and quantity, environmentally sensitive areas, riverine scenic quality, agriculture and urban and rural-residential development. It controls development that has the potential to impact on the river environment. The REP is supported by an Action Plan, which includes actions necessary to improve existing conditions.

The development proposal has been assessed and subject to conditions of development consent, found to be in accordance with the general planning considerations set out in Clause 5 of the REP and the relevant specific planning policies and related recommended strategies set out in Clause 6.

State Environmental Planning Policy (State and Regional Development) 2011

The aim of this policy is to identify development that is state significant and confer functions on Joint Regional Planning Panel to determine certain development applications.

Clause 23 of Schedule 1 of the SEPP identifies circumstances where waste and Resource Management Facilities are considered to be classified as state significant based on its processing thresholds, that being facilities which handle more than 100,000 tonnes per year of waste or more than 1,000 Tonne per year of classified Dangerous Goods.

The proposal seeks consent for the use of the site to process a maximum of 99,400 Tonne of waste per annum. Existing approvals permit 30,000 tonne of Acid Sulphate Soil to be received and processed on the site. However, a condition of development is consent is recommended to limit the sites processing capacity to 99,400 thus incorporating the previously approved processing function into the subject application. This will ensure the previously approved capacity is covered as part of the subject development and relevant Environmental Protection Licenses (EPL's).

The development will include the use of potentially classified Dangerous Goods however based on the SEPP 33 Review Report provided with the application, the thresholds are significantly below the limitations under this SEPP.

As such, the consent authority can be satisfied that the development is not state or regionally significant development.

State Environmental Planning Policy (Infrastructure) 2007

Part 3 of the SEPP (Infrastructure) 2007 sets out prevailing development controls for certain types of developments which are considered to be significant to the State in terms of a developments' ability to deliver a facility or service forming critical infrastructure to the region.

The proposed development can be suitably defined as a Waste or Resource Management Facility which under the instrument, means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.

Division 23 sets out prescribed zones for Waste or Resource Management Facilities which includes IN1 – General Industrial. Accordingly, having regard to the definition as discussed above, Council can be satisfied that the proposed development is a permissible land use in the zone.

Schedule 3 – Traffic Generating Development

Schedule 3 of the SEPP identifies circumstances where development applications should be referred to the Roads and Maritime for consideration. Development for the purpose of landfill, recycling facilities or waste transfer stations of any size or capacity is listed in Schedule 3 and therefore the application was referred to the Roads and maritime Service for consideration.

The application was referred to the NSW Roads and Maritime Service for consideration and it was advised that since the development will have minimal impact to the state road network, no objection is raised (Refer to Appendix D).

State Environmental Planning Policy No 55 – Remediation of Land

This policy aims to provide a state-wide approach to remediation of contaminated land. Of particular relevance to the current proposal are the requirements of Clause 7, which provides:

- (1) A consent authority must not consent to the carrying out of any development on land unless:
- (a) it has considered whether the land is contaminated, and
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
 - (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

Council holds Stage 1 Environmental Site Assessment Reports for the subject site. The report identifies low levels and isolated instances of soil contamination on the site however since the proposed development is not for residential habitable land use, the findings of the report would not compromise the intended use of the site and therefore no remediation or Stage 2 investigation reports is required for this development.

Perusal of Council records indicate that as recommended in the contamination report, a notation on the property details is affixed making reference to the land being affected by Contaminated Land Management Act 1997.

State Environmental Planning Policy No 33 – Hazardous and Offensive development

In accordance with State Environmental Planning Policy No.33 (SEPP 33) - Hazardous and Offensive Development, the proposal may be defined as a 'potentially hazardous / offensive industry', 'hazardous / offensive industry' and/or 'hazardous / offensive storage establishment'.

The applicant has provided a SEPP 33 Review to determine whether it is necessary to undertake a Preliminary Hazard Analysis (PHA) for the development.

The report identifies three categories of substances which are applicable to SEPP 33 assessment and the expected quantities of those substances against the thresholds provided in the SEPP 33 Guidelines document (refer to summary table below).

Substance	SEPP 33 Threshold	Proposed Threshold	SEPP 33 Threshold exceedence
Corrosive Substances (Class 8 Packing Group II)	25,000kg/L or 25 Tonne	6.3 Tonne	Not exceedence
Hydrogen Peroxide (Class 5.1 PG II)	5,000kg/L or 5 Tonne for PG II & III materials	4.8 Tonne	No exceedence
Flammable Liquids	Based on matrix of storage vs location at boundary (22,000L or 20 Tonne for 5 metre distance from boundary)	10,000L or 9 Tonne at 5 metres from boundary.	No exceedence

In conclusion, the assessment revealed that whilst chemicals may be used for the treatment of process water on site, and a number of the waste material delivered to the site may be classified as Dangerous Goods (DG's), the types and quantities of materials do not exceed the threshold under the SEPP 33 Guidelines.

Moreover, the SEPP 33 Guidelines stipulate that if the EPA is willing to issue a license under its pollution control legislation (Protection of Environmental Operations Act 1997), it is considered the level of offence would not be significant.

GTA's have been received which indicate (subject to compliance with the approval terms) a license would be considered by the EPA. As such, the SEPP 33 assessment criteria has been satisfied for the purpose of this development.

Penrith Local Environmental Plan 2010

Permissibility

Under Penrith Local Environmental Plan (LEP) 2010, the subject site is zoned IN1 – General Industrial. The LEP defines the proposed use as a **waste or resource management facility** and since it does not explicitly permit the use of this site for the purpose of waste or resource management, it is a prohibited land use under the provisions of the local plan however it is separately defined under Clause 121 of State Environmental Planning Policy (SEPP) (Infrastructure) 2007. SEPP (Infrastructure) 2007 permits the use of IN1 – General Industrial zoned land for the purpose of waste or resource management. The SEPP prevails to the extent of any inconsistencies with the LEP and therefore the development is a permissible land use in the zone.

LEP and Zones Objectives

The proposed development satisfies the aims and objectives of both the LEP and the zone itself, particularly in relation to:

- The promotion of sustainable development that is consistent with the Council's vision for Penrith,
- The encouragement of development to be designed in a way that assists in reducing and adapting to the likely impacts of climate change,
- The encouragement of employment opportunities,
- The minimisation of adverse effect of industry on other land uses and,
- Supporting and protecting industrial land for industrial uses and the promotion of development that makes efficient use of industrial land.

Development Standards

Height of Buildings (Clause 4.3)

The subject site is affected by a building height limitation of 12 metres. The proposed structures on the site are all within the 12metre height limitation with the maximum height of a structure being 7metres.

Servicing (clause 6.6)

The proposed development is connected to reticulated water supply and could be adequately serviced by existing infrastructure on the site. However, during the assessment of this application, it was determined that matters relating to stormwater drainage and access to an easement on the site, have been resolved by amended conditions under a previous consent (DA08/0805), however the works have not yet commenced. Under the revised engineering arrangements stormwater infrastructure

will be delivered to the site and connected to existing infrastructure in the street (some 70m north of the site) (subject to Roads Act Approval). Consultation with Councils Development Engineers revealed the applicant is currently liaising with Council to obtain a Roads Act approval and commence civil works to the site. No objection is raised to the development subject to the infrastructure being instated prior to the issue of a Final Occupation Certificate for the site.

Subject to conditions of consent and at the completion of the above works, servicing and infrastructure will be more efficient and streamlined for the site and adequately service the proposed development.

5. Section 79C(1)(a)(ii) – Any Draft Environmental Planning Instruments

Draft Penrith Local Environmental Plan 2010

The Draft Penrith LEP 2010 was placed on public exhibition on 13 May 2013, with the exhibition period to end on 5 July 2013. Therefore the provisions of the Draft LEP are a relevant matter for consideration, noting that the relative weight afforded to the assessment of the current proposal is considered to be less, as the Draft LEP is currently on exhibition and would not be considered 'certain and imminent' as per the judgement in *Terrace Tower Holdings Pty Ltd v Sutherland Shire Council*.

Under the draft LEP, the subject site is not proposed for rezoning and will remain IN1 – General Industrial and therefore the development does not pose any inconsistencies with the assessment contained in Section 4 of this report.

6. Section 79C(1)(a)(iii) – Any Development Control Plan

Penrith Development Control Plan 2010

C3 Water Management

Key considerations under the Water Management DCP requirements relate to catchment management and ensuring water quality through appropriate prevention measures.

The proposal includes a Surface Water management Strategy which outlines the following measures to manage wastewater and its appropriate disposal off site.

- Installation of on-site treatment plant to manage low-contaminant waste water. This infrastructure will primarily cater for waste water generated by the treatment of drill muds, stormwater and canal dredgings.
- Support from the South Windsor Facility to treat the waste water containing contaminants above permitted discharge levels. This would consist of waste water collect by catch drains, such a leachate from the immobilisation Pit (Area 1 on the plan).
- Installation of catch drains at operational areas, which would be temporarily stored on site and collected for treatment offsite;
- Covering of bunker storage areas (proposed under existing roof structure);
- External bunker areas (eastern boundary) will be fitted with retractable cloth covers;
- Use of existing vehicle wash down bay (Area 5)

- Bunding of areas which to separate wastewater diversions based on their level of contaminants and appropriate treatment and storage processes (where required under EPA regulations).

The above mitigation measures satisfactorily respond to the DCP requirements and can be mandated under the Environmental Protection License issued by the regulatory authority.

Conditions of development consent are recommended to require Section 73 Certification from Sydney Water.

C5 Waste Management

The aims and objectives of the Waste Management DCP are to ensure the appropriate disposal, recycle and reuse of waste in accordance with guiding principles of Ecologically Sustainable Development and relevant guidelines and policies.

A detailed performance based Waste Management Plan has been provided in support of the application. The plan has regard to various quantities and types of waste sources including general office and amenity building waste, recyclable office and amenity waste, waste water (sewage) and treated ASS materials and acidic water wastewater.

The plan satisfactorily addresses appropriate management measures which aim to reduce waste generation from the site and dispose of waste in accordance with categorisation and regulated procedures.

Conditions of development consent on a previous DA issued by Council required the applicant to prepare an Operational Environmental Management Plan to address appropriate mitigation measures in regard to Air Quality, Waste Management, Spill Management, Traffic Management, Stormwater Management and Noise Management. Consultation with the relevant authorities, where required, was stipulated in conditions. The plan was provided to Council for consideration and approval as part of the requirements of the previous DA.

The plan has been updated to respond to a more intensified use of the site under the proposed development.

C10 Transport, Access and Parking

The objectives of this chapter of the DCP are to, as far as possible:

- *Integrate transport planning and land use to promote sustainable development and greater use of public transport systems;*
- *Minimise the impacts of traffic generating developments and manage road safety issues;*
- *Ensure that access paths and driveways are integrated in the design of developments and minimise impacts on road systems;*
- *Provide appropriate parking for all development whilst promoting more sustainable transport use;*
- *Facilitate connections and accessibility for those using non vehicle transport by providing appropriate facilities to improve amenity and safety;*
- *Facilitate bicycle connections and provide appropriate bicycle facilities to improve amenity and safety; and*
- *Ensure that access is provided for all people with diverse abilities.*

The proposed facility will have a gross floor area of 2668m² and the site currently features 29 parking spaces. The site, at its peak, will result in 40-45 heavy vehicles entering and exiting the site from Charles Street via the two weighbridges. Heavy vehicles would circulate the site in a clock-wise direction (under staff instruction and appropriate signage) to relevant unloading areas (depending on the type of material being carried).

The development will result in the employment of 30 staff (in total) however the proposal includes a 24 hour operation which will result in shift arrangements for staff. Presuming all staff have vehicles, generating 2 movements each day (60), other vehicle movements could be up to 70 per day. Over a period of 12 hours, that equates to 5-6 movements per hour which is acceptable for an industrial site, especially given the proposed hours of operation and likely shift arrangements. Access to the site for light vehicles is proposed via Dunheved Circuit which further mitigates traffic generation since it delineates ingress and egress between different types of vehicles.

The application is identified in Schedule 3 of the SEPP (Infrastructure) and therefore the submitted EIS and Traffic and Transport Impact Assessment Report was referred to the RMS who raised no objection to the development. The RMS advised the traffic impact of the proposed development on the State road networks is minimal.

The DCP prescribes parking ratios according to the number of employees or the amount of usable floor space (1 per 100m²). The existing parking arrangements are in excess of that required based on the floor area of the site, however falls short by 1 space based on the number of employees. Given the proposed hours of operation, shift arrangements are likely to occur on the site and therefore all staff may not be present at the one time. As such, the existing parking arrangements on the site are considered to be sufficient to service the proposed use.

Additionally, Councils Traffic officers have considered the application, having regard to the local road network and its capacity, parking, circulation and access. No objection is raised to the development and conditions of consent have been recommended to require directional signage to be provided to the site as well as the maintenance and clearance of sight lines around both driveway entrances.

C12 Noise and Vibration

In accordance with the DGR's issued for the proposed Designated Development, the application is accompanied by a detailed Noise Assessment, to consider any impacts on private receptors due to construction, operation and traffic noise associated with the intensified use of the site as a Waste Facility.

The Acoustic Environment was determined at several sensitive receiver locations which represent residential, active recreational, educational, commercial and industrial land uses which surround the subject site. The most sensitive residential receiver location is 865m south-east of the facility and active recreational land uses is located some 600m west of the facility (Golf Course).

The Acoustic Assessment was undertaken in accordance with the NSW Road Noise Policy, NSW Interim Construction Noise Guidelines and the NSW Industrial Noise Policy.

The assessment holds due regard to the noise impact resulting from construction and vibration noise, traffic noise arising from traffic generated by the proposed development and the impact from the actual use of the facility through all periods of the day, evening and night.

Construction Noise

The impact of construction and vibration is mainly sourced from general construction works including the use of construction plant and equipment and rock breaking works.

The assessment of noise impact from these sources on the sensitive receiver locations demonstrates compliance with the Interim Construction Noise guidelines.

Notwithstanding, it has been identified that impact will be caused which may generate human response to people within neighbouring premises, 12 metres from the work area. Mitigation measures have been suggested to reduce the impact and the reporting, modelling and mitigation approaches have been reviewed by Councils Environmental Health Officers to determine its adequacy and no objections have been raised to the findings.

As such, the impact caused by construction noise is not likely to have long term adverse effect on the community.

Road Noise Assessment

An assessment of road traffic noise based on existing and predicted traffic flows arising from the proposed development has been undertaken. The impact assessment is based on both construction and operation associated with the development.

The roads considered as part of the assessment was Forrester Road (South of Links Road) and Forrester Road (North of Links Road), these locations were selected by the consultant based on their locations to sensitive receiver locations under the Road Noise Policy (residential and commercial).

The findings of the assessment conclude that the predicted background road traffic noise level exceeds the criteria for operational traffic noise. However, it has been predicted that noise arising from traffic generated from the development would not add to the current road traffic noise by more than 2dB and therefore the development will comply with the 2dB relative increase criteria prescribed under the Road Noise Policy. Moreover, noise is expected to increase by less than 1dB(A) in the most affected hour, from its predicted flow from the St Mars facility.

Operation Noise Assessment

The Operation Noise Assessment has been conducted having regard to the layout proposed as part of this application and has been prepared to assume that all plant and equipment noise sources are in full operations simultaneously, so to provide a worst case scenario.

The results indicate that no exceedences is likely to occur during the day and evening times however some exceedances were identified at three residential receiver site to the east of the St Marys facility during the night time. The exceedance was caused by the use of excavators and appropriate mitigation measures have been recommended in the report to ensure the development complies with the Industry Noise Policy.

Subject to compliance with the recommendations contained in the report, the development satisfies the NSW Road Noise Policy, NSW Interim Construction Noise Guidelines, NSW Industrial Noise Policy and the DCP objectives as far as:

- *Ensuring the amenity of all residential development and other sensitive land uses is not significantly affected by road traffic noise;*
- *Ensuring the traffic associated with development does not significantly impact upon the amenity of surrounding land uses and;*
- *Ensuring the traffic associated with development does not have a significant noise impact on the existing road network.*

D4 Industrial Development

DCP Objectives

The proposed development outcomes are consistent with the objectives of the Industrial Development DCP as far as:

- *The promotion of industrial development which can operate in a functional, safe and environmentally friendly manner;*
- *Minimisation of conflict between land uses with appropriate mitigation measures;*
- *Ensuring the development does not affect the function, efficiency and safety of all classified roads and other major roads;*
- *Management of traffic and access for larger vehicles and loading facilities and;*
- *The promotion of employment generation.*

Section 4.1 Key Precincts

Penrith City Councils Industrial Lands DCP features general development controls for industrial uses as well as additional controls for sites located in specific precincts.

The subject site is located within Precinct 1 of the St Marys/Dunheved Industrial area. The only special consideration for this precinct under the DCP is the provisions to consider a variation to front setback requirements for developments located in the precinct based on the merits of parking, lot width, landscaped area and the like.

The development proposed will not vary the existing built form located within the front setback, nor will any of the proposed structures encroach the front building line.

Section 4.5 – Storage of Materials and Chemicals

The DCP encourages all goods and materials associated with the use of a site to be stored internally to minimise both visual and environmental impact.

The subject site features a high level of visual amenity to the Charles Street interface. The provision of high quality landscaped areas is located within the front setback and office building designs are appropriately articulated with high quality external colours and finishes.

The proposed alterations and additions will not compromise the sites presentation to the street and will ensure the appropriate storage of goods and materials associated with the use of the site. The proposed layout will facilitate all goods and materials to be stored internally except the proposed bunded storage areas which will be used for the temporary storage of material prior to it be transported

off site. These areas are located to the rear of the site and are unlikely to be visible from the street interface. Furthermore, the development will require an Environmental Protection License and under the relevant provisions, should the covering of the bunded areas be necessitated, it can be managed in consultation with the Environmental Protection Authority.

It is worthy of noting, as part of this assessment, it has been considered whether conditions to require the covering of bunded areas however due to the integrated nature of the consent, local conditions may restrict EPA licensing requirements and therefore no conditions requiring the covering of waste storage areas are recommended as it can be managed under the licensing requirements.

Section 4.6 – Accessing and servicing the site

As previously discussed in this report the proposed access and servicing arrangements for the site is via two weighbridges off Charles Street for heavy vehicles, and via an entry/exit point off Dunheved Circuit for light vehicles (generated by staff and small courier vans). This arrangement satisfies the objectives of Section 4.6 of the DCP as it ensures the safe and efficient movement of vehicles to and within the site and encourages the development of a layout that enhances the function of the site. However, to facilitate improve manoeuvrability and delineate the separate modes of vehicles accessing the site, conditions of development consent are recommended to require directional signage to be erected to the site (including Dunheved Circuit). The signage is required to direct staff and visitors to designated parking areas from appropriate entry and exit points.

7. Section 79C(1)(a)(iv) – The Regulations

The proposal development is satisfactory with respect to the Environmental Planning and Assessment Regulations (2000).

8. Section 79C(1)(b) – The Likely Impacts of the Development

Built and Natural Environment

- In accordance with the DGR's, the development is sported by a Greenhouse Gas Emission (GHG) assessment to determine the impact of the development on air quality, in accordance with relevant EPA guidelines.

The objective of the assessment is to both quantitatively and qualitatively assess the potential impact of greenhouse gas emission sourcing from the construction and operation phase of the development, on the environment. The assessment concludes the only direct sources of impact from both phases of the development is diesel fuel used on site by construction and operational plant equipment and vehicles, as well as the conservative use of electricity. The consumption rate of these sources is equivalent to 0.00004% (for the construction phase) and 0.001% (for the operational phase) of NSW annual GHG emission (based on 2009 and 2010 data collections). The assessment has been considered by the EPA and Councils Environmental Health Officers and no objection is raised subject to conditions. As such, the impact on overall air quality and the cumulative contribution of the development to GHG emission is acceptable for the overall purpose of the proposed use.

- Subject to appropriate mitigation measures (as outlined in the EIS) and compliance with relevant licensing requirements under the Environmental

Protection Authority (as the regulatory body), the development does not pose any significant impact on the environment. Moreover, the processes associated with the treatment and processing of contaminated materials poses a broader benefit to the environment as it encourages the reuse, recycle and safe disposal of contaminated materials.

- The proposed development will involve limited construction activity and the majority of the infrastructure already exists on the site.
- The development will not alter the visual appearance of the site from the public/private interface and therefore poses no impact to the public domain.
- The development is consistent with the character of the area, being an industrial land use in a well established industrial area which is appropriately connected to the broader Sydney metropolitan network.
- Council's traffic officers and RMS have considered the proposal in regard to access, traffic and logistical transportation impacts on existing road infrastructure and no objection has been raised to the development, subject to conditions of development consent and appropriate operational management measures.
- Currently, the site does not feature appropriate drainage infrastructure. However, conditions of development consent on previous applications require a roads act approval to be issued for civil drainage works to take place on the site and within the road reserve. The applicant is aware of these requirements and is currently pursuing an approval to commence works. Subject to compliance with engineering requirements and completion of the works, the infrastructure and services on the site will adequately service the proposed development.

Social and Economic

- The interaction between the development and the community is mostly positive as the proposal has demonstrated to be managed in a way to mitigate potential impacts on the amenity of the local area and the broader community.
- The development provides social, economic and sustainable development opportunities to the Penrith region.

9. Section 79C(1)(c) – The Suitability of the Site for the Development

The strategic location of the subject site and the proposed scale of its' use is consistent with the planning instruments which apply. Appropriate measures can be employed to mitigate potential impacts and therefore it has been demonstrate the site is conducive to the proposed waste recycling facility.

10. Section 79C(1)(d) – Any Submissions made in relation to the Development

(i) Referrals Agencies

The application was referred to the following key stakeholders and their comments have formed part of the assessment:

<i>Referral Body</i>	<i>Comments Received</i>
<i>NSW Environmental Protection Authority (POEO Act 19979)</i>	No objection, General Terms of Approval provided.

<i>Roads and Maritime Services (Traffic Generating Development under iSEPP)</i>	No objection.
<i>Sydney Water</i>	No objection, subject Section 73 Certification. A copy of advisory correspondence from Sydney Water has been provided to the applicant.
<i>Building Surveyor</i>	No objection, subject to conditions of consent.
<i>Development Engineer</i>	No objection.
<i>Traffic Engineers</i>	No objection, subject to conditions of consent.
<i>Environmental Health</i>	No objection, subject to conditions of consent.

Council has met with the Joint Regional Panel for Sydney West Region on the 27 June 2013 for the purpose of presenting and briefing the panel on the development application.

Council has informally consulted with the NSW Department of Planning & Infrastructure and no objection is raised to the issuing of development consent.

(ii) Community Consultation

In accordance with Council's Notification DCP, the proposed development was notified to a total of 65 adjoining property owners/occupiers and placed on public exhibition from 3 June 2013 to 3 July 2013. No submissions were received.

Advice from the Department of Planning & Infrastructure

11. Section 79C(1)(e) – The Public Interest

The proposed development demonstrates consistency with the aims and objectives of Penrith LEP 2010, the zone itself and Penrith Development Control Plan 2010.

The proposed development is consistent with the zone of the land which applies.

No community objections have been raised during the assessment process and the development acclaims the following attributes which contribute positively to the Penrith community and Western Sydney Region.

- The generation of additional employment opportunities;
- Immobilises contaminated materials prior to being disposed to landfill thus conforming to principles of Ecological Sustainable Development (ESD);
- Facilitates the expansion of soil waste immobilisation facilities in NSW to increase the capacity for commercial and industrial waste treatment and improvement to the management of hazardous waste;
- Facilitates improved environmental controls over the management of process water, surface water and site drainage.

Therefore based on the above factors, it is considered the proposed development would be in the broader public interest.

Section 94 Contributions

There is no Section 94 Contributions Plan applicable to the subject development.

Conclusion

The proposed development is in accordance with the relevant provisions of the environmental planning instruments, and DCP pertaining to the land. Subject to the recommended conditions, the proposed development is unlikely to have a significant negative impact on the surrounding environment. The proposed development represents a significant contribution to our waste recycling functions in the St Marys Industrial area and has commendable environmental sustainability initiatives.

The proposed development has been assessed against the relevant heads of consideration contained in Section 91, Section 77A and Section 79C of the *Environmental Planning and Assessment Act 1979 and Regulations 2000* and has been found to be satisfactory. The likely impacts have been considered and found to be satisfactory and the site is suitable for the proposed development and the proposal is in the public interest. The proposal is therefore worthy of support.

Recommendations

That:

1. The Development Application for Waste Facility at 42-46 Charles Street ST MARYS NSW 2760 (Lot 300 DP 1143213) be approved subject to the conditions contained in Appendix A and the General Terms of Approval issued by the Environmental Protection Authority (contained in Appendix E).
2. A copy of the decision is forwarded to external authorities for their record.

Appendix A – Proposed conditions of Development Consent

GENERAL

- 1 The development must be implemented substantially in accordance with the following plans and reports:

Drawing Title	Drawing No.	Rev	Prepared By	Dated
Environmental Impact Statement	60283208	C	AECOM Australia Pty Ltd	20 May 2013
Site Plan (Proposed Infrastructure)	WR0113-A102	1	CK Architects	-
Office A & B	WR0113-A103	-	CK Architects	-
Area 1,2,3,4 & 5,6,7	WR0113 -A104	1	CK Architects	-
Operational Environmental Management Plan	60270987	3	AECOM Australia Pty Ltd	14 May 2013
Waste Management Plan	60270987	C	AECOM Australia Pty Ltd	14 May 2013
Air Quality Impact Assessment	60283208	B	AECOM Australia Pty Ltd	23 April 2013
Noise and Vibration Impact Assessment	60283208	2	AECOM Australia Pty Ltd	02 May 2013
Traffic and Transport Impact Assessment	60283208	C	AECOM Australia Pty Ltd	01 May 2013
Greenhouse Gas Assessment	60283208	2	AECOM Australia Pty Ltd	11 April 2013

As well as any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

- 2 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 3 A copy of the General Terms of Approval issued by the Environmental Protection Authority under the Protection of Environmental Operations Act 1997 shall be submitted to the Principal Certifying Authority, **before the Construction Certificate can be issued** for the same development. A copy of the approval shall be submitted to Penrith City Council with the copy of the Construction Certificate, if Council is not the Principal Certifying Authority.
- 4 A separate development application is required for the erection of a sign or advertising structure(s), other than an advertisement listed as exempt development or directional signage required under conditions of consent.
- 5 The development is permitted to operate 24 hours a day, 7 days a week.
- 6 Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be the minimum level of illumination necessary for safe operation. The lighting shall be in accordance with AS 4282 "Control of the obtrusive effects of outdoor lighting" (1997).

- 7 The finishes of all structures and buildings are to be maintained at all times and any graffiti or vandalism immediately removed/repaired.
- 8 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 9 The approved waste processing capacity under this consent is 99,400.
- 10 Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.
- 11 Mud and soil from vehicular movements to and from the site must not be deposited on the road.
- 12 Demolition and Construction works will be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:
 - ☐ Mondays to Fridays, 7am to 6pm
 - ☐ Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
 - ☐ No demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building and do not involve external walls or the roof, and do not involve the use of equipment that emits noise then the demolition works are not restricted to the hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

ENVIRONMENTAL MATTERS

- 13 Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Housing NSW "Managing Urban Stormwater: Soils and Construction" 2004.

(Note: To obtain a copy of the publication, you should contact Urban Growth NSW on (02) 98418600).
- 14 No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury-Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.
- 15 All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins

so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

- 16 All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

- 17 **No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to Council.** The Validation Certificate shall:

- a) state the legal property description of the fill material source site,
- b) be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- c) clearly indicate the legal property description of the fill material source site,
- d) provide details of the volume of fill material to be used in the filling operations,
- e) provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and;
- f) (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

An appropriately qualified person/s (as defined in the Penrith City Council Contaminated Land Development Control Plan) shall:

- a) Supervise the filling works,
- b) (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and shall submit a review findings report to Council and any Principal Certifying Authority,
- c) Certify by way of certificate or written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The contact details of any appropriately qualified person/s engaged for the works shall be provided with the Notice of Commencement.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

{Note: Penrith Contaminated Land Development Control Plan defines an appropriately qualified person as “a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance.”}

An EPA Accredited Site Auditor (as accredited under the Contaminated Land Management Act 1997) shall supervise the filling works. A Site Audit Statement and Site Audit Report must be submitted to Penrith City Council and any Principal Certifying Authority on completion of the filling works. The site must be suitable for its intended landuse and shall not pose any unacceptable risk to human health or the environment.

The contact details of the EPA Accredited Site Auditor engaged for the works shall be provided with the Notice of Commencement.

- 18 Operations on the site shall not commence until an Environmental Protection License has been issued by the NSW Environment Protection Authority for the development and a copy of this License has been submitted to Penrith City Council
- 19 Activities on the premises must be carried out in accordance with an Environmental Protection License issued by the Environmental Protection Authority. Should the license be rescinded, an application is to be submitted to Penrith City Council for consideration of matters contained in the license.

BCA ISSUES

- 20 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
 - a) complying with the deemed to satisfy provisions, or
 - b) formulating an alternative solution which:
 - ☐ complies with the performance requirements, or
 - ☐ is shown to be at least equivalent to the deemed to satisfy provision, or
 - c) a combination of (a) and (b).
- 21 Access and sanitary facilities for persons with disabilities are to be provided and maintained in accordance with the requirements of the Building Code of

Australia and AS 1428 “Design for Access and Mobility”. Details of compliance are to be provided in the relevant plans and specifications accompanying the Construction Certificate application.

- 22 A fire safety list of essential fire or other safety measures shall be submitted to Penrith City Council **prior to the issue of the Construction Certificate**. The fire safety list shall specify all measures (both current and proposed) that are required for the building so as to ensure the safety of persons in the building in the event of fire. The fire safety list must distinguish between:
- a) the measures that are currently implemented in the building premises,
 - b) and the measures that are to be proposed to be implemented in the building premises, and must specify the minimum standard of performance for each measure.
- 23 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:
- (a) deal with each essential fire safety measure in the building premises, and
 - (b) be given:
 - within 12 months after the last such statement was given, or
 - if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- Prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

UTILITY SERVICES

- 24 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s website at www.sydneywater.com.au then the “e-developer” icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

CONSTRUCTION

- 25 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,

- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details is to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed **when the Occupation Certificate has been issued for the development.**

26 Prior to the commencement of construction works:

- (a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:
 - a standard flushing toilet connected to a public sewer, or
 - if that is not practicable, an accredited sewage management facility approved by the council, or
 - alternatively, any other sewage management facility approved by council.
- (b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
- (c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - must preserve and protect the building from damage, and
 - if necessary, must underpin and support the building in an approved manner, and
 - must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).
- (d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:
 - if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,

- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and any such hoarding, fence or awning is to be removed when the work has been completed.
- 27 Detailed engineering plans and specifications relating to the work shall be submitted for consideration and approval **prior to the issue of a Construction Certificate.**
- 28 Construction works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:
- Mondays to Fridays, 7am to 6pm
 - Saturdays, 7am to 1pm (if inaudible on neighbouring residential premises), otherwise 8am to 1pm
 - No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the Protection of the Environment Operations Act, 1997 in regulating offensive noise also apply to all construction works.

ENGINEERING

- 29 A directional sign indicating the location of customer parking is to be provided to light vehicle entry points on the site.
- 30 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Council's Public Infrastructure Assets. The bond is to be lodged with Council **prior to the issue of a Construction Certificate.** The bond is based upon the estimated value of the works with a bond of \$5,000.00 being payable for the subject development.

The bond is refundable once a final inspection has been carried out by Council's Works Department and the works have been completed to Council's satisfaction. The bond may be used to repair or reinstate any damage that occurs to Council's Public Infrastructure Assets as a result of the development works.

Contact Council's City Works Department on 4732 7777 or visit website to obtain the form and request for final inspection.

- 31 **Prior to the issue of an Occupation Certificate,** the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

- 32 **Prior to the issue of an Occupation Certificate**, directional signage and line marking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Penrith City Council.

LANDSCAPING

- 33 All trees and vegetation on the site is to be protected in accordance with the minimum tree protection standards prescribed in section F4 of Councils Landscape Development Control Plan.
- 34 Existing landscaping is to be retained and maintained at all times.

PAYMENT OF FEES

- 35 All roadworks, dedications and drainage works are to be carried out at the applicant's cost.
- 36 **Prior to the commencement of any works on site**, all fees associated with Penrith City Council-owned land and infrastructure shall be paid to Council. These fees include Road Opening fees and Infrastructure Restoration fees.

CERTIFICATION

- 37 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and **prior to the occupation of the building/tenancy and commencement of the approved use**. The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding, and the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

Before the Occupation Certificate can be issued for the development, Fire Safety Certificates issued for the building are to be submitted to Penrith City Council and the New South Wales Fire Brigades.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of that Certificate including the abovementioned documents shall be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

- 38 Prior to the commencement of any earthworks or construction works on site, the proponent is to:
- a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
 - b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an “Appointment of Principal Certifying Authority” in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a “Notice of Commencement” to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Appendix B – Director General's Requirements



**Planning &
Infrastructure**

Mining & Industry Projects

Contact: Brendan Liew

Phone: 9228 6310

Fax: 9228 6466

Email: Brendan.liew@planning.nsw.gov.au

Our ref: 13/02692

Ms Caitlin Bennett
AECOM Australia Pty Ltd
PO Box Q410
Sydney NSW 1230

Dear Ms Caitlin Bennett

**Waste management facility – Sylvania (DGR 701)
Director-General's Requirements**

I refer to your request for the Director-General's Requirements (DGRs) for the preparation on an Environmental Impact Statement (EIS) for the above development proposal. I have attached a copy of these requirements.

I have attached a copy of these requirements.

In your Form A, you indicated that your proposal could potentially be integrated development and may require an approval and/or license under the *Protection of the Environment Operations Act 1997*. The Department has consulted with the Environment Protection Authority (EPA) and the Office of Environment and Heritage (OEH) on your proposal. Unfortunately, the OEH and EPA were unable to respond in time, and therefore, you are advised to consult with them directly for their requirements for your EIS.

If other integrated approvals are identified before the Development Application (DA) is lodged, you must undertake your own direct consultation with the relevant agencies, and address their requirements in the EIS.

If your proposal contains any actions that could have a significant impact on matters of National Environmental Significance, then it will require an additional approval under the *Commonwealth Environment Protection Biodiversity Conservation Act 1999* (EPBC Act). This approval is in addition to any approvals required under NSW legislation. If you have any questions about the application of the EPBC Act to your proposal, you should contact the Department of Sustainability, Environment, Water, Population and Communities (SEWPaC) in Canberra on 6274 1111 or www.environment.gov.au.

If you have any enquiries about these requirements, please contact Brendan Liew on 9228 6310.

Yours sincerely

Chris Ritchie
Manager - Industry
Major Projects Assessment
as delegate for the Director-General

12/2/13.

Department of Planning & Infrastructure

22-33 Bridge Street Sydney NSW 2000 | GPO Box 39 Sydney NSW 2001 | T 02 9228 6111 | F 02 9228 6455 | www.planning.nsw.gov.au

Director-General's Requirements

Section 78A (8) of the *Environmental Planning and Assessment Act 1979*.

Designated Development

DGR Number	701
Proposal	Waste management facility, Penrith local government area
Location	42-46 Charles Street, St Marys (Lot 300 DP01143213)
Applicant	Caitlin Bennett
General Requirements	The Environmental Impact Statement (EIS) must meet the minimum form and content requirements in clauses 6 and 7 of Schedule 2 of the Environmental Planning and Assessment Regulation 2000.
Key Issues	<ul style="list-style-type: none"> • waste management – including: <ul style="list-style-type: none"> – the measures that would be implemented to ensure that the project is consistent with the aims, objectives, and guidance in the <i>NSW Waste Avoidance and Resource Recovery Strategy 2007</i> and other relevant NSW government policy; – identification of the quantity and type of waste that would be accepted, handled, stored, processed or disposed of at the facility; and – a description of how this waste would be stored and handled on site, and transported to and from the site. • soil and water – including: <ul style="list-style-type: none"> – consideration of any contaminated soil (including acid sulphate soils) and water on-site, in accordance with relevant guidelines; – identification of any licensing requirements or other approvals under the <i>Water Act 1912</i> and/or <i>Water Management Act 2000</i>; – an assessment of potential impacts on the quality and quantity of existing surface and groundwater resources and any potential impacts from flooding; – a detailed description of the proposed water management system (including sewage), water monitoring program and other measures to mitigate surface and groundwater impacts; and – details of leachate collection and management. • air quality – including odour, dust and greenhouse gas emissions in accordance with relevant EPA guidelines. This assessment must consider any potential impacts on nearby private receptors; • noise – including construction, operation and traffic noise in accordance with relevant EPA guidelines. This assessment must consider any potential impacts on nearby private receptors; • traffic and transport – including: <ul style="list-style-type: none"> – an assessment of potential traffic impacts on the capacity, efficiency and safety of the road network; and – a description of the measures that would be implemented to maintain and/or improve the capacity, efficiency and safety of the road network in the surrounding area. • hazards and risk – including a preliminary risk screening undertaken in accordance with <i>State Environmental Planning Policy No. 33 – Hazardous and Offensive Development</i> (SEPP 33) and <i>Applying SEPP 33</i> (DoP, 2011), and if necessary, a Preliminary Hazard Analysis (PHA); and • heritage – including Aboriginal cultural heritage.
Environmental Planning Instruments	<p>The EIS must assess the proposal against the relevant environmental planning instruments, including but not limited to</p> <ul style="list-style-type: none"> • <i>State Environmental Planning Policy No. 33 – Hazardous and Offensive Development</i>;

	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Infrastructure) 2007;</i> • <i>Draft South West Subregional Strategy;</i> • <i>Penrith Local Environmental Plan 2010;</i> • relevant development control plans and section 94 plans.
Guidelines	There are no specific guidelines for waste transfer stations or resource recovery facilities. However, Attachment No.1 provides some guidance on the preparation of the EIS.
Consultation	<p>During the preparation of the EIS, you should/must consult the relevant local, State and Commonwealth government authorities, service providers and community groups, and address any issues they may raise in the EIS. In particular, you should consult surrounding landowners and occupiers that are likely to be impacted by the proposal.</p> <p>Details of the consultations carried out and issues raised must be included in the EIS.</p>

ATTACHMENT NO. 1

ADVICE ON THE PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT (EIS) FOR WASTE MANAGEMENT

The purpose of this paper is to outline various issues relevant to the preparation and consideration of an EIS for a waste management facility. It is intended to assist the preparation of the EIS. However, it is the applicant's responsibility to identify and address as fully as possible the matters relevant to the specific development proposal in complying with the requirements for EIS preparation (see Attachment No 1).

The matters nominated in this paper are not intended as a comprehensive identification of all issues, which may arise in respect of a waste management facility. Some of the issues nominated may not be relevant to a specific proposal. On the other hand, there may be other issues, not included, that are appropriate for consideration in the EIS.

Information provided should be clear, succinct and objective and where appropriate be supported by maps, plans, diagrams or other descriptive detail. The purpose of the EIS is to enable members of the public, the consent authority (usually the Council) and the Department of Planning to properly understand the environmental consequences of the proposed development.

The particular matters outlined in the following should be included in the EIS.

1. Background information

Sufficient background information should be provided and include:

- objectives of proposal;
- relationship with any regional waste management strategies;
- location of the operations and indication of existing and proposed adjacent developments;
- broad nature and extent of operations proposed;
- land tenure, boundaries, site details in relation to environmental planning instrument zonings and any other land use constraints.

2. Detailed description of proposal

This description should not only describe the proposal at the site but also describe all associated operations such as handling and transport of materials, disposal of wastes and residues, and safety, pollution and environmental controls incorporated into the proposal.

Particular matters to be covered include:

- construction programme and practices;
- plans of operations, reception, segregation and control of incoming waste;
- nature of waste stream including chemical and physical properties, sources and volumes;
- quantities of waste stored and storage arrangements and safeguards of materials, particularly in regard to the storage and disposal of flammable, toxic or hazardous chemicals;
- nature, volume and disposal methods of waste produced by the management facility including fly ash, sludge and the like;
- resources recovery;
- air, odour, noise and vibration emission levels;
- site drainage and contamination controls particularly in regard to leachates, washdown and stormwater run off and contaminated fire water in the event of an emergency;
- plant capacity and major components, types of machinery and equipment to be used;
- stack height and characteristics including dispersion zone requirements;
- expected life of the plant;
- number of persons to be employed;
- hours of operation;
- access arrangements - truck routes and number of truck movements;
- daily operational plan;
- security, fire fighting and counter disaster provisions;
- proposals for landscaping.

3. Alternatives

The EIS should canvass alternatives to the proposed means/strategy of waste management, the proposed site and the proposed methods to undertake the operation.

In particular the EIS should:

- assess strategies which may enable resource recovery, or recycling as an alternative to this proposal or to reduce the scale of this proposal especially in regard to glass, ferrous metal, aluminium, paper, certain plastics and organic material suitable for composting;
- outline the criteria used in selecting the proposed site and justification of that selection, (particularly in terms of safety and pollution issues), including consideration of feasible alternative locations to the proposal and reasons for their rejection as well as the consequences of not undertaking the activity as proposed;
- review the existing performance of the proposed waste management method having regard to overseas experience and technologies as well as local landfill and waste minimising strategies.

4. Description of the environment

This description shall provide details of the environment in the vicinity of the development site and also of aspects of the environment likely to be affected by any facets of the proposal. In this regard, physical, natural, social, archaeological and economic aspects of the environment should be described to the extent necessary for assessment of the environmental impact of the proposed development. Particular attention should focus on existing air quality, ambient noise levels, climatic conditions, amenity and utility provision.

5. Analysis of impacts

The assessment of environmental impact and measures to be taken to reduce the impact should have particular respect to:

- air emission controls, dispersion analysis which indicates ground level emission concentrations under likely atmospheric and weather conditions;
- water pollution controls, surface and groundwater;
- health implications for nearby residents, pedestrians, workers, school children and the like;
- likely noise and odour disturbance caused by the operations, including transport operations, on nearby residences;
- other impacts of trucking movements;
- potential for soil contamination;
- litter and dust control and any nuisance likely to be caused;
- treatment and disposal of residues and leachates;
- litter controls and site maintenance;
- landscaping measures and effects on the visual environment;
- monitoring (especially for emissions and leachates) and site management requirements.

The EIS should clearly specify whether any medical or quarantine wastes, asbestos bearing material and toxic and hazardous wastes are to be received and outline proposals for safe handling of these substances to avoid risk to public health.

In the event that toxic or hazardous substances are to be disposed of, treated or created, either temporarily or permanently, through the process of incineration or waste handling, the EIS should include a preliminary hazard analysis.

6. Authorities contacted

In preparing the EIS, it is suggested that authorities, such as those listed below, should be consulted and their comments taken into account in the EIS.

- The Department of Environment and Climate Change (formerly Environment Protection Authority) in regard to air, water and noise impacts and relevant pollution control legislation requirements;
- The Heritage Office (now part of the Department of Planning) if the proposal is likely to affect any place or building having heritage significance for the State;
- the Department of Environment and Climate Change (formerly National Parks and Wildlife Service) if Aboriginal places or relics are likely to be affected;
- Department of Primary Industries should be contacted if prime agricultural land or areas of significant fish habitat may be affected by the proposal.

- . Department of Water and Energy or The Department of Environment and Climate Change if the proposal may have implications for soil erosion, or will disturb acid sulphate soils, or on water bodies subject to the legislative responsibilities of these agencies.

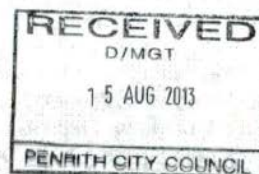
It is the responsibility of the person preparing the EIS to determine those Departments relevant to the proposed development.

Appendix C - Correspondence from Sydney Water



14 August 2013

Hannah Van De Werff
Environmental Planner
Penrith City Council
PO Box 60
Penrith, NSW 2751



DA13/0471 – 42 Charles Street, St Marys

Dear Ms Van De Werff

Thank you for your letter about the proposed development referenced above. Sydney Water has reviewed the application and provides the following comments for your consideration.

Water and Wastewater Servicing

The proposed development can be serviced by the existing drinking water and wastewater connections. Where proposed works are in close proximity to a Sydney Water asset, the developer will need to meet Sydney Water's requirements for building over and adjacent to Sydney Water assets. Detailed requirements will be provided at the Section 73 application phase.

Trade Waste Information

Should this development generate trade waste, this correspondence does not guarantee the applicant that Sydney Water will accept the trade waste to its wastewater system. In the event trade waste is generated, the property owner is required to submit an application for permission to discharge trade waste to the wastewater system before business activities commence. A boundary trap will be required where arrestors and special units are installed for trade waste pre-treatment.

For further information please visit the Sydney Water website at:

<http://www.sydneywater.com.au/OurSystemsandOperations/TradeWaste/>

Sydney Water Servicing

Sydney Water will further assess the impact of any subsequent development when the developer applies for a Section 73 Certificate. This assessment will enable Sydney Water to specify any works required as a result of future development and to assess if amplification and/or changes to the system are applicable. The developer must fund any adjustments needed to Sydney Water infrastructure as a result of the development.

The developer should engage a Water Servicing Coordinator to get a Section 73 Certificate and manage the servicing aspects of the development including building over and adjacent to Sydney Water assets. The Water Servicing Coordinator will ensure submitted infrastructure designs are

Sydney Water Corporation ABN 49 776 225 038

1 Smith St Parramatta 2150 | PO Box 399 Parramatta 2124 | DX 14 Sydney | T 13 20 92 | www.sydneywater.com.au

Delivering essential and sustainable water services for the benefit of the community

sized and configured according to the Water Supply Code of Australia (Sydney Water Edition WSA 03-2002) and the Sewerage Code of Australia (Sydney Water Edition WSA 02-2002).

Sydney Water e-planning

Sydney Water has an email address for planning authorities submit statutory or strategic planning documents for review. This email address is urbangrowth@sydneywater.com.au. The use of this email will help Sydney Water provide advice on planning projects faster, in line with current planning reforms. It will also reduce the amount of printed material being produced.

If you require any further information, please contact Jordan Faeghi of the Urban Growth Branch on 02 8849 4649 or e-mail jordan.faeghi@sydneywater.com.au.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "C Loughlin".

Cassandra Loughlin,
Growth Planner, Growth Strategy

Appendix D – Roads Maritime Service referral advice



Transport
Roads & Maritime
Services

28 June 2013

The General Manager
Penrith City Council
PO Box 60
PENRITH NSW 2751

RMS Ref: SYD13/00653 (A4190148)
Council Ref: DA13/0471

Attention: Hannah Van De Werff

Dear Sir/Madam

PROPOSED WASTE FACILITY – 42-46 CHARLES STREET, ST MARYS

Reference is made to Council's letter dated 4 June 2013, regarding the abovementioned Application which was referred to Roads and Maritime Services (RMS) for comments.

RMS has reviewed the submitted application and raises no objection to the proposed waste facility as the traffic impact of the proposed development on the State road network is minimal.

Any inquiries in relation to this development application can be directed to Pahee Sellathurai on 8849 2219.

Yours faithfully

A handwritten signature in black ink, appearing to read "O. Hodgson".

Owen Hodgson
Senior Land Use Planner
Transport Planning, Sydney Region

Roads & Maritime Services

Level 11, 27-31 Argyle Street, Parramatta NSW 2150 | PO Box 973 Parramatta CBD NSW 2150 DX28555 Parramatta
T 02 8849 2490 | F 02 8849 2918 | E development.sydney@rms.nsw.gov.au www.rms.nsw.gov.au | 13 22 13

Appendix E – Environmental Protection Authority General Terms of Approval



Our reference: DOC13/34196
Notice No.: 1514926 (Lic. No. 20271)

The General Manager
Penrith City Council
PO Box 60
PENRITH NSW 2751

Attention: Hannah Van de Werff

Dear Sir/Madam

**Development Application - DA13/0471
Lot 300 DP 1143213, 42-46 Charles Street St Marys NSW 2760.**

I refer to your letter dated 23 May 2013 and accompanying Environmental Impact Statement ("EIS") prepared by AECOM Australia Pty Ltd on behalf of Worth Recycling Pty Ltd, ("the Proponent") submitted to the Environment Protection Authority ("EPA") for the proposed expansion of the waste management facility at 42-46 Charles Street St Marys NSW 2760 ("the Premises").

The EPA has reviewed the information contained within the EIS and provides the attached General Terms of Approval ("GTA") in respect of the Proposal to assist Penrith City Council in making its determination on the Development Application.

The Proponent currently operates a waste processing facility at 42-46 Charles Street, St Marys. The site is licensed under the Environment Protection Licence No. 20271. The EPA advises that should approval for the Proposal be successfully obtained, the existing environment protection licence for the premises may need to be varied before the new operations can be commenced. The proponent will need to make a separate application to the EPA for the variation of the environment protection licence once development approval is granted.

These General Terms of Approval relate to the development as proposed in the EIS and information currently provided to EPA. In the event that the development is modified either by the applicant prior to the granting of consent or as a result of the conditions proposed to be attached to the consent, it will be necessary to consult with EPA about the changes before the consent is issued. This will enable EPA to determine whether its general terms need to be modified in light of the changes.

If you have any further questions regarding this matter please do not hesitate to contact Mr Jeevan Jacob on (02) 9995 5902.

Yours sincerely

GREG THOMAS
Manager Hazardous Materials Advice
Environment Protection Authority
15 July, 2013

PO Box A290 Sydney South NSW 1232
59-61 Goulburn St Sydney NSW 2000
Tel: (02) 9995 5000 Fax: (02) 9995 5999
TTY (02) 9211 4723
ABN 30 841 387 271
www.environment.nsw.gov.au

General Terms of Approval - Issued



Notice No: 1514926

General Manager
Penrith Council
PO Box 60
PENRITH NSW 2751

Attention: Hannah Van de Werff

Notice Number 1514926
File Number SF13/1634
Date 15-Jul-2013

**Re: Development Application DA13/0471
Waste Facility - Lot 300 DP 1143213, 42-46 Charles Street St Marys NSW 2760
Issued pursuant to Section 91A(2) Environmental Planning and Assessment Act 1979**

I refer to the development application and accompanying information provided for the waste management expansion proposal received by the Environment Protection Authority (EPA) on 30 May 2013.

EPA has reviewed the information provided and has determined that it is able to issue a licence for the proposal, subject to a number of conditions. The applicant will need to make a separate application to EPA to obtain this licence.

The general terms of approval for this proposal are provided at attachment A. If Penrith City Council grants development consent for this proposal these conditions should be incorporated into the consent.

These general terms relate to the development as proposed in the documents and information currently provided to EPA. In the event that the development is modified either by the applicant prior to the granting of consent or as a result of the conditions proposed to be attached to the consent, it will be necessary to consult with EPA about the changes before the consent is issued. This will enable EPA to determine whether its general terms need to be modified in light of the changes.

If you have any questions, or wish to discuss this matter further please contact Jeevan Jacob on 02 9995 5902.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Greg Thomas'.

Greg Thomas
Manager Hazardous Materials Advice
Hazardous Materials, Chemicals & Radiation
(by Delegation)

Page 1

General Terms of Approval - Issued



Notice No: 1514926

Administrative conditions

A1. Information supplied to the EPA

A1.1 Except as expressly provided by these general terms of approval, works and activities must be carried out in accordance with the proposal contained in:

- the development application DA13/0471 submitted to Penrith City Council;
- any environmental impact statement relating to the development; and
- all additional documents supplied to the EPA in relation to the development "St Marys Waste Management Facility Expansion Environmental Impact Statement" prepared for Worth Recycling Pty Ltd by Aecom Australia Pty Ltd.

A2. Fit and Proper Person

A2.1 The applicant must, in the opinion of the EPA, be a fit and proper person to hold a licence under the Protection of the Environment Operations Act 1997, having regard to the matters in s.83 of that Act.

Limit conditions

L1. Pollution of waters

L1.1 Except as may be expressly provided by a licence under the Protection of the Environment Operations Act 1997 in relation of the development, section 120 of the Protection of the Environment Operations Act 1997 must be complied with in and in connection with the carrying out of the development.

L2. Waste

L2.1 The licensee must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the Protection of the Environment Operations Act 1997.

L2.2 This condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the premises if it requires an environment protection licence under the Protection of the Environment Operations Act 1997.

L3. Noise limits

All operations and activities occurring on the premises must be conducted in a manner that will not cause or permit any offensive noise beyond the boundaries of the premises

Operating conditions

O1. Odour

The proponent must comply with section 129 of the *Protection of the Environment Operations Act 1997*.

General Terms of Approval - Issued



Notice No: 1514926

Section 129 of the Protection of the Environment Operations Act 1997 provides that the licensee must not cause or permit the emission of any offensive odour from the premises.

02. Dust

02.1 Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

02.2 Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading.

02.3 All dust emissions from hazardous and/or restricted waste handling, storage or treatment must be directed through appropriate air pollution control system(s).

03. Stormwater/sediment control - Operation Phase

03.1 A Stormwater Management Scheme must be prepared for the development and must be implemented. Implementation of the Scheme must mitigate the impacts of stormwater run-off from and within the premises following the completion of construction activities. The Scheme should be consistent with the Stormwater Management Plan for the catchment. Where a Stormwater Management Plan has not yet been prepared the Scheme should be consistent with the guidance contained in *Managing Urban Stormwater: Council Handbook* (available from the EPA).

04. Air Emissions

04.1 All air emissions including particulates from storage, handling or processing of hazardous and/or restricted waste must be contained and discharged through appropriate air pollution control devices and the emissions from the air pollution control devices must be monitored wherever applicable.

04.2 All hazardous and/or restricted waste storage, handling or treatment must be carried out within enclosed buildings that have appropriate safety and emission control mechanisms.

M1 Monitoring records

M1.1 The results of any monitoring required to be conducted by the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, in relation to the development or in order to comply with the load calculation protocol must be recorded and retained as set out in conditions M1.2 and M1.3.

M1.2 All records required to be kept by the licence must be:

in a legible form, or in a form that can readily be reduced to a legible form;

kept for at least 4 years after the monitoring or event to which they relate took place; and

produced in a legible form to any authorised officer of the EPA who asks to see them.

M1.3 The following records must be kept in respect of any samples required to be collected: the date(s) on which the sample was taken;

the time(s) at which the sample was collected;

the point at which the sample was taken; and

the name of the person who collected the sample.

General Terms of Approval - Issued



Notice No: 1514926

Reporting conditions

R1.1 The applicant must provide an annual return to the EPA in relation to the development as required by any licence under the Protection of the Environment Operations Act 1997 in relation to the development. In the return the applicant must report on the annual monitoring undertaken (where the activity results in pollutant discharges), provide a summary of complaints relating to the development, report on compliance with licence conditions and provide a calculation of licence fees (administrative fees and, where relevant, load based fees) that are payable. If load based fees apply to the activity the applicant will be required to submit load-based fee calculation worksheets with the return.