

<b>Report to The Sydney West Joint Regional Planning Panel</b>	
<b>JRPP No</b>	2014SYW034
<b>DA Number</b>	Development Application 010.2014.00000034.001
<b>Local Government Area</b>	Wollondilly Shire Council
<b>Proposed Development</b>	Continued use of a Rural Industry (Horticultural Products Facility) comprising a "Composting Facility" and a "Resource Recovery Facility"
<b>Street Address</b>	665 Bents Basin Road,Wallacia
<b>Applicant:</b> <b>Owner:</b>	Bernie Fussell BJ & LM Fussell
<b>Number of Submissions</b>	<p>The exhibition of the application commenced on 9 April 2014 concluding on 12 May 2014. No submissions were received during this time.</p> <p>The application was re-advertised commencing 16 September 2014 concluding on 16 October 2014. One (1) submission was received during this time.</p>
<b>Environmental Planning and Assessment Act 1979</b>	<p>The proposed development is a development type for which regional panels may be authorised to exercise consent authority functions of councils in accordance with Schedule 4A of Environmental Planning and Assessment Act 1979 (the Act).</p> <p>The application is Integrated Development in accordance with the provisions of Section 91 of the Act as the development will be undertaken within 40 metres of a mapped watercourse as defined by the Water Management Act 2000.</p> <p>Further, the development is a scheduled activity under the provisions of Clauses 12, 34, 41 and 42, Schedule 1 of the Protection of the Environment Operations Act 1997.</p>
<b>Environmental Planning and Assessment Regulation 2000</b>	<p>The proposal is Designated Development for the following reasons:</p> <p>The development involves composting of materials. The composting activity involves the production of 45,000 tonnes/year, will be located within 100 metres of a watercourse and within 250m of a dwelling house not associated with the development. As such, under the provisions of Clause 13(a), (b)(i), (v) and (vi), Schedule 3 of the Regulations, the development is Designated.</p> <p>The development involves the storage and processing of 'waste' materials for the production of garden mixes, compost, manures, mulches, potting and garden media.</p>

	Further, the production of the aforementioned products will be undertaken within 100 metres of a mapped watercourse, within 250 metres of a dwelling house that is not associated with the development. Under the provisions of Clause 32(1)(a)(iv) (d)(i)(v) and (vi), Schedule 3 of the Regulations, the development is Designated.
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## BACKGROUND

Development Consent D1070-02 was approved by Council on 27 March 2003 for “the erection of a rural shed, covered storage bin and use of the subject land for a Rural Industry – Mixing and Bagging of Garden and Potting Mixes”.

Complaints were received and upon investigation, it was found the consent had been contravened to a point that:

- a) a new Development Application is required,
- b) a very large shed approximately four hundred square metres (400m<sup>2</sup>) in area had been erected without consent; and
- c) a further two (2) roofed structures had also been erected without consent.

As a result of Council's compliance actions, the matter was heard before the Local Court and on 30 May 2013, the judgement found the use of the land was being carried out without development consent and to cease use of the premises for the storage and disposal of materials (waste) and removal to a lawful waste facility.

The subject application was lodged in response to the court's judgement and seeks development consent for the continued use of a Rural Industry (Horticultural Products Facility) comprising a “Composting Facility” and a “Resource Recovery Facility”.

## CONSULTATION

The development application has been referred to the following internal and external referral bodies:

Internal Referrals	Response
Development Engineering Section	Conditions recommended
Building Services	While concerns have been raised, conditions can be used to mitigate issues
Environmental Health Officer	Conditions recommended
Environmental Services Section	Concerns raised. Conditions recommended
Contamination Officer	More information requested a Phase 2 Assessment
Design Engineer	No objections. No conditions
Heritage Advisor	No objection

External Referrals	Response
Roads and Maritime Services	No objection to the proposal
Environmental Protection Agency	General Terms of Approval are refused
NSW Department of Primary Industries - Office of Water	General Terms of Approval issued
Local Aboriginal Land Councils	No comments

## PROPOSAL

### 1.1 Description of the site and surrounding area

The subject land is located on the eastern side of Bents Basin Road, approximately 6.5 kilometres by road south of the Bents Basin and Silverdale Roads intersection.

The land is 10.47 hectares in area slightly irregular in shape. The land is bound on its eastern boundary by the Nepean River and Bents Basin Road forms the land's western boundary. A third order stream is located in the western portion of the site.

The site contains a dwelling house and a number of buildings associated with the development. The site is currently being used for the production of garden and potting mixes and other horticultural products.

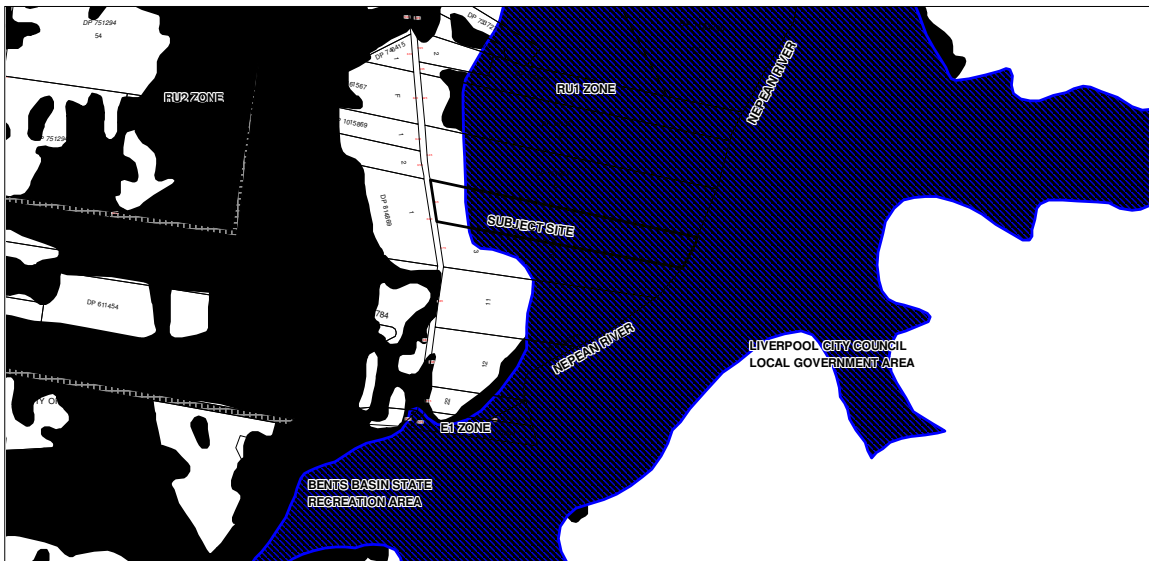
Within 100 metres of the site, there are two (2) dwellings that are not associated with the proposed development. Within 250 metres of the site, there are a total of seven (7) dwelling houses that are not associated with the development.

The two parcels of land immediately north of the subject site are being used for primary production (field based market gardens). The land immediately south is used for rural residential purposes only but the parcel located south of the aforementioned allotment is used for primary production (field based market gardens). Immediately east of the site is the Nepean River but beyond that are properties also being used for primary production (field based market gardens). Immediately west of the site is Bents Basin Road and beyond the road are properties being used for rural residential purposes only.

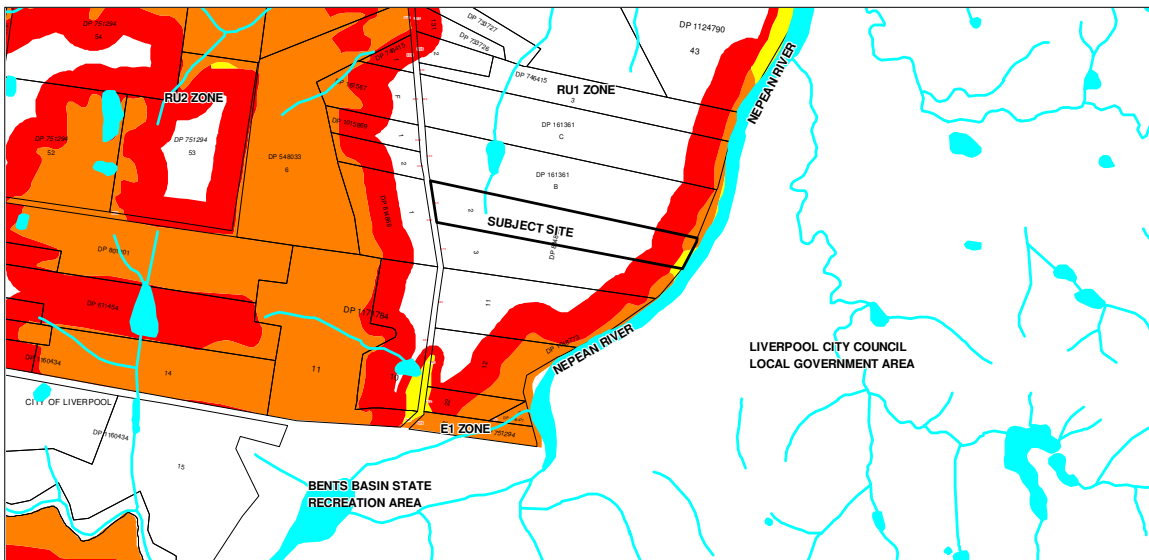
Seven hundred (700) metres south of the subject land (by road) is the Bents Basin State Recreation Area and the Gulguer Nature Reserve. These are located within the Liverpool Local Government Area.



Map 1: Wollondilly Local Environmental Plan 2011



*Map 2: Site constraints including flooding, and threatened species*



*Map 3: Site constraints including topography drainage lines and bushfire.*

## 1.2 Description of the Development

Development consent is being sought for the Continued use of a Rural Industry (Horticultural Products Facility) comprising a Composting Facility” and a “Resource Recovery Facility”.

Originally the application proposed the manufacture of polythylene water tanks. However this component of the development was withdrawn as it was determined this land use activity was not permitted to be undertaken in accordance with the provisions of the Wollondilly Local Environmental Plan 2011.

The applicant has provided the following regarding the development:

## Process Description

The owner is seeking approval for up to 45,000 tonnes per year of composting and other horticultural materials to be received and up to 20,000 tonnes per year to be stockpiled onsite at any one time.

A range of bulk and bagged product will be produced at the site, some of the bulk product will be supplied to the bagging plant for bagging and sold as bagged product, and the remaining bulk product will leave the site on trucks to be sold to wholesalers.

There are four main product types. A variety of blends or standard mixes will be generated for each of these products, including:

1. Garden mixes
2. Compost and manures
3. Potting mixes and growing media
4. Mulches

The processes are simple and no mixing using a mechanical mixer is undertaken.

The main waste types brought to the site include the following:

- Compost and manures, mainly mushroom compost
- Duck litter
- Tree waste products such as green waste, leaf mulch, wood waste and bark that are mulched offsite
- Cardboard related products such as paper waste from cardboard manufactures and tissue paper production
- Food processing wastes such as, but not exclusive to coffee, orange fibre, lemon skins, potato peel and yeast
- Food wastes
- Organic based wastes
- Construction aggregates such as sand, gravel, road base and expanded clay
- Inert light-weight minerals including vermiculite and perlite waste from cardboard and packaging manufacturers
- Plasterboard waste to provide a source of gypsum and organic fibre (i.e. paper)

Mulching is not proposed to be undertaken onsite and chicken litter will not be brought to the site.

The waste streams, raw materials or finished products do not include liquids or sludge(s).

## Regularisation of existing operations and buildings

The application proposes the regularisation of existing and current site operations and the expansion of the business as follows:

- Shed 1 – (existing) being used for equipment maintenance and workshop, product bagging, spare part storage, workers amenities
- Shed 2 – (existing) used for equipment storage, stockpiling of materials that have been processed and ready for transfer to the bagging plant, project engineering, management office, and workshop for specialised screening machinery used onsite. A mezzanine component is located above the office.
- The bunkers associated with the hopper and bagging machinery
- The use of a roofed machinery storage area
- The operation of the hopper, conveyor and elevated trammel screen

- The operation of a mobile screening plant (the Sandvik machinery)
- The use of ancillary equipment for research and development followed by pilot production processes
- The expansion of the processing operations to include addition of raw materials – whether these are considered as wastes, by-products of other industries' processes or resources available to be recovered is immaterial to the purpose of this development – as listed in Section 3.2.3 under the heading of Raw Materials (in the EIS documentation)
- Expansion of stockpiling to bring up to 20,000 tonnes at any one time
- An increase in the annual production up to 45,000 tonnes/p.a.
- Production of plastic moulded water tanks (this has been withdrawn from the development)
- Storage of bagged product with up to 250 pallets stored on hardstand areas awaiting transport
- Provision of the suite of environmental controls found to be needed by the Environmental Impact Statement

The applicant states products are currently mixed in the paddocks. The application seeks to modernise the processes and enable mixing of materials undercover eliminating delays caused by weather. The higher risks activities are proposed to be undertaken within an enclosed area to minimise potential of environmental releases such as dust, noise and leachate resulting from rainwater percolating through mixes.

Incoming loads will be delivered at the rear of the property, either to new a raw materials shed or to the storage yard adjacent to the shed. Materials will undergo the composting process within the shed and then be moved to the screening area. After screening, the finished product will be either loaded onto a truck or placed into the external storage bins.

The site contains an existing earth dam and new water tanks for each shed will be used to collect water for reuse as the land is not serviced by mains water.

#### Proposed Building Works

Construction of a new 3,360m<sup>2</sup> shed adjacent to the existing stockpiles to house the composting operations. The shed will measure 42m x 80m x 12.5m and have a 12.5° pitched roof. The shed will be located approximately 530m from the front of the site.

A breezeway with a colourbond awning is proposed to be constructed between the existing green shed (Shed 2) and the existing Colourbond awning used for truck parking.

New 3m high concrete walls will be installed around the existing awning area and eight stock bins for use as material holding areas will be provided

#### Proposed Site Layout

The main changes to the existing site layout are as follows:

A new rural shed is to be constructed and accommodate the composting operations. This will be located on the western side of the embankment

### Fit out of Buildings

The sheds will be used for the following:

- Shed 1 – being used for equipment maintenance and workshop, product bagging, spare part storage, workers amenities
- Shed 2 – used for equipment storage, stockpiling of materials that have been processed and ready for transfer to the bagging plant, project engineering, management office and workshop for specialised screening machinery used onsite.

The management office within Shed 2 comprises a meeting room, an office, printing and records archive. A mezzanine level is located above the management office and comprises additional storage space. Part of this storage area will be open while the other within a room.

- The new shed will be divided into a number of material storage bays.

### Parking, Access and Movements

The applicant states the site is located approximately 6.5km by road from the Bents Basin and Silverdale Roads intersection. The applicant details the vast majority of traffic flow will be towards Mulgoa, Park and Greendale Roads (within the Penrith and the Liverpool Local Government Areas).

The proposal is expected to be low traffic generating. The impacts of the additional traffic generated by the development will be negligible. The site will adequately contain all vehicular movements and activity safely within the boundaries in accordance with the Roads and Maritime Services guidelines, Australian Standards and Austroads Guide to Road Design.

The site is serviced by a range of vehicles from articulated semi-trailers or truck and dog to small rigid vehicles. The applicant has provided the following regarding vehicle movements:

- Incoming Materials:
  - i) Semi-trailer and truck & dog (27 to 32 tonne capacity)
  - ii) 1,500 trips/p.a. or 5 trips/day (the latter based on 300 weekday and Saturday days of operation)
- Outgoing Materials
  - a) Pallets:
    - i) Medium rigid truck (8 to 14 tonne capacity) equating to 1,200 trips p.a. or 4 trips/day
  - b) Bulk:
    - i) Truck type: 30,000 tonnes/p.a. material taken by articulated trucks with 30 tonnes capacity equating to 1,000 trips/p.a. or 3.3 trips/day
    - ii) 3,000 tonnes/p.a. material taken by small to medium rigid trucks, average capacity 8 tonnes equating to 375 trips/p.a. or 1.25 trips/day

It is anticipated that 4 vehicle trips will occur between 7am to 9am and 8 trips between 9am to close. This equates to a total of 12 vehicle trips per day (but not including staff and/or visitors).

All vehicles are able to enter and leave in a forward direction and have the ability to manoeuvre onsite. Trucks are only stationary onsite during loading and unloading and there are no plans, apart from a water tanker) to store such vehicles onsite.

A total of ten (10) car parking spaces are proposed to cater for all staff required onsite. The applicant details that only eight (8) parking spaces will be required to cater for all activities being undertaken onsite but two (2) parking spaces will be provided for visitors. A variation to Council's Development Control Plan is requested regarding parking numbers.

Amended plans have been submitted showing the location of loading and unloading zones. The applicant has described trucks are not onsite for an extended period of time. No trucks are proposed to be kept onsite.

A Traffic Impact Assessment and Noise Impact Assessment Reports have been submitted with the Environmental Impact Statement.

### Flora and Fauna

The applicant states the existing ecological value of the site and other sites in the vicinity is poor as a result of past clearing activities and primary production pursuits that have occurred along those parcels of land gaining access from Bents Basin Road.

The Flora and Fauna Report have made the following recommendations:

- The riparian zone along the river frontage should be established as an exclusion zone where no activities associated with the site's rural use are permitted
- The river flat should be established as a support zone for the aforementioned riparian zone
- Vegetation plantings should be selected from the Alluvial Woodland, Riparian Woodland and Riparian Forest communities list provided in the ecological statement
- The site should be managed to minimise direct runoff to the Nepean River
- A buffer zone to be established on the steep embankment separating the river flat from the upper site where existing activities have been undertaken and the proposed areas accommodating the increase of site activities
- The site be managed to minimise threats to stands of remnant native vegetation along the river, in the slopes to the west and in Bents Basin Reserve to the south
- Exotic plantings to be avoided in the future and existing plantings (mostly near the western boundary) be progressively removed as new plantings are established
- Weeds to be controlled through practical measures such as mowing and hand removal to support the establishment of new landscaping
- Screen plantings for dust control and visual amenity along the north and southern boundaries. Landscaping should be fine leaved species as recommended in the ecological statement.

An Ecological Assessment Statement and a Flora and Fauna Report have been submitted with the Environmental Impact Statement.



### Hours of operation and Staffing

The facility will operate from 7am to 5pm, Monday to Friday and from 7am to 4pm on Saturdays.

All construction works associated with the building of the new shed and associated facilities will be from 7am to 6pm, Monday to Friday and 7am to 4pm, Saturdays.

Eight (8) employees will be required to cater for all operations of the development existing and proposed. There will be no retailing of products directly from the site.

### Stormwater Management

The site is defined by four catchment areas as described as follows:

- Catchment 1: the largest and western most catchment. This area has been cleared and used as part of the existing composting operations.
- Catchment 2: located centrally onsite and there are no defined channels located within this area. This area is cleared and used as part of the composting operations.
- Catchment 3: located on the eastern side of the site and on a terrace above the Nepean River. This area drains to the north and there is a small swale drain that runs to the toe of the batter. The swale has no defined banks. This area is used for rural purposes.
- Catchment 4: is the smallest area of the site and drains directly into the Nepean River. This area has generally not been cleared and there are stands of native vegetation. This area is not used for any purpose.

The site has a Maximum Harvestable Right of 0.8376 Megalitres (calculations have been undertaken using the NSW Department of Primary Industries - Office of Water calculator).

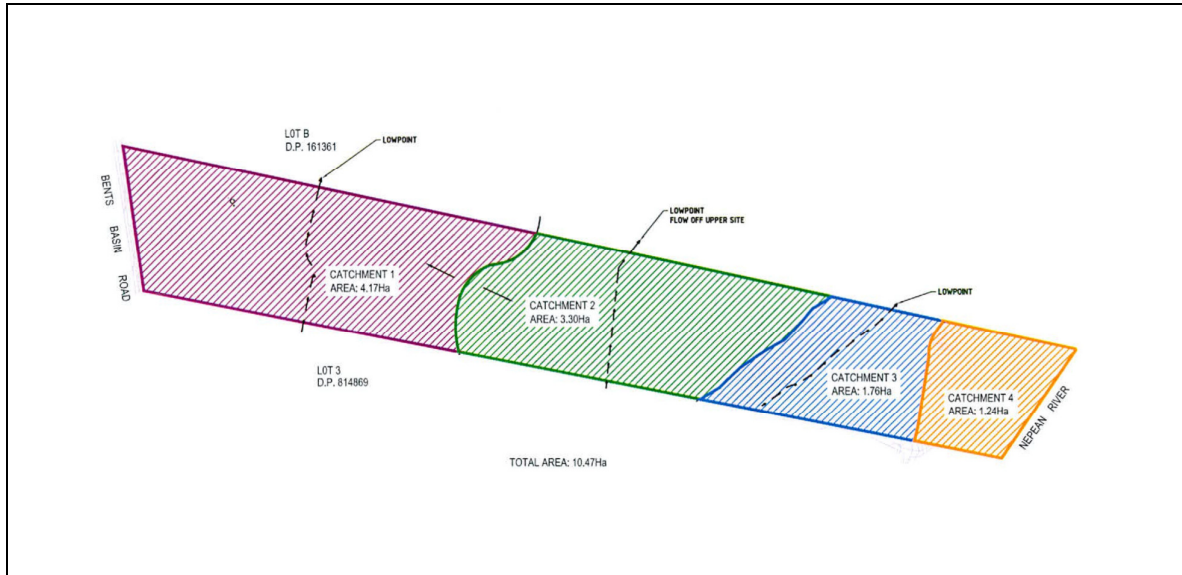
There is one dam located on the site and located at the head of the riparian corridor in Catchment 1. It is estimated that the dam was constructed in 1985. A watercourse commences rearward of the dam and runs northwards to Lot B DP 161361/No. 645 Bents Basin Road. The riparian corridor plan shows drainage from the dam will be directed towards the watercourse. At each side of the subject site are outlet pipes that direct excess water from the watercourse or drainage swale to the neighbouring properties.

The Watercycle Impact Report details the following:

- cut off drains will be constructed to prevent clean water from upstream of the site flowing onto and eroding disturbed areas
- diversion of site discharge points to erosion control measures such as silt fences and sedimentation basins in order to control dirty water areas
- the stabilisation of exposed areas as soon as practical following construction works
- locate all refuelling of plant and equipment within bunded areas in appropriate locations
- minimisation of existing disturbed areas
- establishment and maintenance of stabilised construction compounds to reduce onsite disturbance
- temporary sediment basins will be constructed to capture water and sediment before it leaves the site or enter the receiving water bodies. Detailed designs to be submitted with the Construction Certificate documents.
- a surface water quality monitoring program for the construction period will be developed to monitor water quality upstream and downstream of the construction area. Monitoring will be carried out periodically and after rainfall events or dewatering events as part of the assessment of the operation of water quality mitigation measures.

- runoff captured in the sediment basin will be treated with an approved flocculating agent before discharging water from the site. This process should ensure that discharges contain no more than 50mg/L of suspended solids or 30NTU before being discharged. Dewatering should preferably occur over existing stable, grassed area and not directly into riparian corridors.

The applicant advised that a SWMP will be prepared and submitted prior to the issue of a Construction Certificate.



*Catchment Plan from the Watercycle Impact Report prepared by Brown Smart Consulting.*

The following plan prepared by BioDesign shows how surface water will be captured and conveyed to existing and proposed stormwater systems:



### Air Quality

The applicant states the expansion of the facility will require stringent odour and dust control. This is proposed to be achieved by the construction of a purpose designed building containing dust and odour controls to store the raw materials to undertake the composting activities.

The majority of the materials stockpiled are of a damp nature and not likely to release high quantities of dust during windy conditions. The roof of the new building will be fitted with a misting system to suppress any dust generated from the activities.

Dust suppression from the internal road ways is already addressed by wetting down of the roads during hot and/or dry conditions using an onsite watering truck. Landscaping will be implemented around the site and along the boundaries to reduce wind effects.

Activities that release fugitive emissions and are potentially odorous will be adequately mitigated by air emission controls that have been proposed during the design stage of the development. These include the use of an enclosed building to house the operations that release fugitive emissions and potential odour, and the use of the misting system.

An Air impact Assessment Report prepared by Benbow Environmental has been submitted with the Environmental Impact Statement and have determined that the development can operate within the criteria set by the NSW Environmental Protection Agency. The applicant has concluded that the development will not have any health impacts on those residing in the nearest receptors as a result of the increase and the expansion of onsite activities.

### Soil and Water

The applicant states the location of the stockpiles and the open air blending, missing, screening and composting operations readily enables sediment controls to be designed into the site in convenient and effective locations.

The raw materials brought to the site do not have excess water and the runoff is due to contact with rain rather than leachate emitted from stockpiles. The establishment of a purpose built shed to enclose composting operations which will house the higher risk materials such as manure, compost and food waste will eliminate the risk of leachate contamination from composting operations. Groundwater is unlikely to encounter leachate.

A specialist Hydro-geomorphologist, a Soil and Water Management Plan (SWMP) and Food Impact Report has been prepared and submitted with the Environmental Impact Statement in this regard.

A SWMP will be prepared and submitted with the Construction Certificate.

### Noise Impacts

The main source of noise will be from the screening process, onsite vehicles and truck movements.

Undertaking operations within the new building will eliminate the noise from equipment that is currently being used for the onsite activities. Trucks unloading raw materials for compost mixes will unload within the building thus minimising noise generation.

Noise from machinery is minimal. Three loaders will operate around 40 hours/week in total and the excavator up to 10 hours/week. Use of machinery will be during normal work hours.

Bagging operations will continue to occur in the shed located at the front of the property.

The trommel screen is located behind the rear building of the site.

A Noise Impact Assessment Report has been submitted with the Environmental Impact Statement showing that the criteria of the INP are readily satisfied. There have been no noise complaints received by Council regarding the existing onsite operations.

### Water Supply

The site has access to the reticulated water system. A dam is also located onsite.

### Electrical Supply

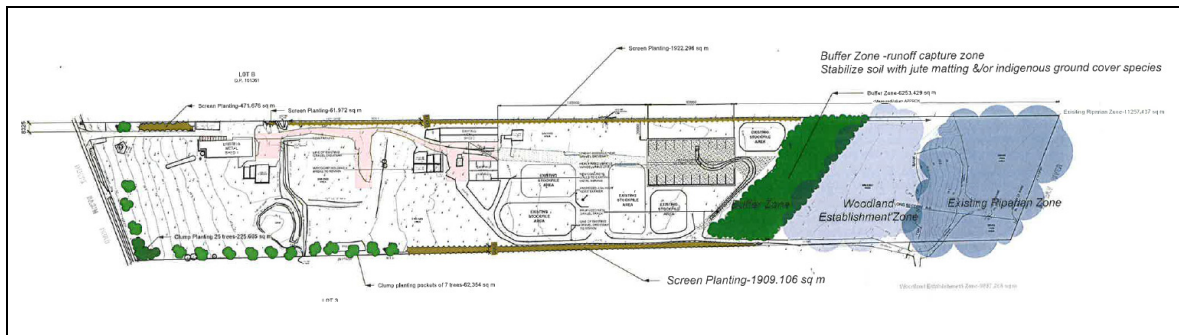
The site has access to the reticulated network.

### Landscaping

A landscaping plan has been submitted with the application. The plan proposes extensive landscaping and encourages the establishment of native flora of the area to be planted along the boundaries of the site and on the river flat – lower eastern portion of the site.

Indigenous trees are to be located near the western boundary and partly along the southern boundary. Screen plantings are to be located along the northern and southern boundaries which will also act to reduce dust blown off-site and to act as a visual shield to improve site aesthetics.

A woodland zone will be established on the river flat to improve the ecology of this area and to reduce the erosion risk and flooding impacts. A buffer is to be established on the steep embankment separating the river flat from the upper side where the activities will be undertaken.



*Plan showing the proposed landscaping throughout the site*

### Waste Management (solid and liquid)

A waste management plan for the construction phase of the development was submitted and the applicant states it is considered satisfactory for the proposal.

Regarding onsite operations, the applicant states the main waste streams will include general solid waste (putrescible and non-putrescible). There will be minor quantities of recyclable waste oil and liquid wastes. The waste streams generated by the development will be contained within a designated area and covered in containers awaiting transport off-site by contractors.

### Signage

No signage is proposed with this application. The applicant has advised that separate development consent will be sought in the future.

### Schedule of Construction

The applicant details the construction of the new shed and awning will take approximately sixty (60) weeks to complete.

## **ASSESSMENT OF PROPOSAL**

### **2.1 Section 79C Assessment – Matters for Consideration**

- Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth).
- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulations 2000
- Water Management Act 2000
- Protection of the Environment Operations Act 1997
- Roads Act 1993
- Threatened Species Conservation Act 1995

- Protection of the Environment Operations (General) Regulation 2007
- Protection of the Environment Operations (Noise Control) Regulation 2008
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy No 33 – Hazardous and Offensive Development;
- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy (Infrastructure) 2007
- Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (No 2—1997)
- Wollondilly Local Environmental Plan 2011
- Wollondilly Development Control Plan 2011 Volume 1 – General
- Wollondilly Development Control Plan 2011 Volume 5 – Industrial and Infrastructure Uses
- Department of Environment and Conservation NSW Handbook for Design and Operation of Rural and Regional Transfer Stations
- NSW Department of Urban Affairs and Planning Environmental Impact Statement Guidelines for Composting and Related Facilities
- The NSW Industrial Noise Policy
- Wollondilly Developer Contributions Plan 2011
- Draft South West Subregional Strategy
- The Wollondilly Onsite Sewage Management System and Greywater Reuse Policy (PLA0033)
- The Wollondilly Onsite Sewage Management Strategy, June 2004

## **2.2.1 Provisions or Relevant Commonwealth Legislation**

### **Environment Protection and Biodiversity Conservation Act 1999**

An Endangered Ecological Community is located on the subject land, being the Sydney Coastal River Flat Forest. This Endangered Ecological Community is only listed as being endangered in accordance with the Threatened Species Conservation Act 1995 and not at a Federal level. As such, no further assessment is required in regards to the above Act.

## **2.2.2 Provisions of Relevant State Legislation**

### **Water Management Act 2000**

The proposal will undertake works and activities within forty (40) metres from the top of bank of mapped watercourses that are located on adjoining land and/or traverse the site.

The application has been forwarded to the NSW Department of Primary Industries - Office of Water who have issued General Terms of Approval.

### **Protection of the Environment Operations Act 1997**

The application was referred to the NSW Environmental Protection Agency as Integrated Development in accordance with the provisions of Section 91 of the Environmental Planning and Assessment Act 1979. In accordance with this Act, an environmental protection license is required by subsections 43(a), 47 and 55.

Based on the information provided, the Environmental Protection Agency has refused to issue General Terms of Approval.

As such, Section 91A(4) provides the following:

*“(4) If the approval body informs the consent authority that it will not grant an approval that is required in order for the development to be lawfully carried out, the consent authority must refuse consent to the application.”*

Nonetheless, an assessment against the relevant provisions from the Act follows:

Relevant Provisions	Comments
<p><b>3 Objects of Act</b></p> <p>The objects of this Act are as follows:</p> <p>(a) to protect, restore and enhance the quality of the environment in New South Wales, having regard to the need to maintain ecologically sustainable development,</p> <p>(b) to provide increased opportunities for public involvement and participation in environment protection,</p> <p>(c) to ensure that the community has access to relevant and meaningful information about pollution,</p> <p>(d) to reduce risks to human health and prevent the degradation of the environment by the use of mechanisms that promote the following:</p> <p>(i) pollution prevention and cleaner production,</p> <p>(ii) the reduction to harmless levels of the discharge of substances likely to cause harm to the environment,</p> <p>(iia) the elimination of harmful wastes,</p> <p>(iii) the reduction in the use of materials and the re-use, recovery or recycling of materials,</p> <p>(iv) the making of progressive environmental improvements, including the reduction of pollution at source,</p>	<p>a) Insufficient information has been provided to demonstrate the development will not have any adverse impacts in this regard.</p> <p>The NSW Environmental Protection Agency (EPA) has refused to issue General Terms of Approval, specifically with regard to water and air quality concerns. The development is unsatisfactory in this regard.</p> <p>b) Noted</p> <p>c) Information has been publicly exhibited twice at Council's Administration building</p> <p>d) Insufficient information has been provided to demonstrate the development will reduce risk to human health and environmental impacts.</p> <p>The EPA has refused to issue General Terms of Approval due to concerns for air quality and water impacts. The additional information provided by the applicant as requested by the EPA did not adequately address the concerns. The development is unsatisfactory in this regard.</p>

<p>(v) the monitoring and reporting of environmental quality on a regular basis,</p> <p>(e) to rationalise, simplify and strengthen the regulatory framework for environment protection,</p> <p>(f) to improve the efficiency of administration of the environment protection legislation,</p> <p>(g) to assist in the achievement of the objectives of the Waste Avoidance and Resource Recovery Act 2001.</p>	<p>e) Noted</p> <p>f) Noted</p> <p>g) Noted</p>
Schedule 1 Scheduled activities	
<p>12 Composting</p> <p>(1) This clause applies to composting, meaning the aerobic or anaerobic biological conversion of organics into humus-like products:</p> <p>(a) by methods such as bioconversion, biodigestion or vermiculture, or</p> <p>(b) by size reduction of organics by shredding, chipping, mulching or grinding.</p> <p>(2) The activity to which this clause applies is declared to be a scheduled activity if:</p> <p>(a) where it takes place inside the regulated area, or takes place outside the regulated area but receives organics from inside the regulated area (whether or not it also receives organics from outside the regulated area):</p> <p>(i) it has on site at any time more than 200 tonnes of organics received from off site, or</p>	<p>1) The development involves the breakdown of materials by aerobic and anaerobic conversion and as such, is a Scheduled activity and a licence from the EPA is required.</p> <p>However, General Terms of Approval have not been issued.</p> <p>a) and b) Noted</p> <p>2)</p> <p>a)</p> <p>i) the development will exceed this threshold and requires a license from the EPA</p>



<p>(ii) it receives from offsite more than 5,000 tonnes per year of non-putrescible organics or more than 200 tonnes per year of putrescible organics, or</p> <p>(b) where it takes place outside the regulated area and does not receive organics from inside the regulated area:</p> <p>(i) it has on site at any time more than 2,000 tonnes of organics received from off site, or</p> <p>(ii) it receives from offsite more than 5,000 tonnes per year of non-putrescible organics or more than 200 tonnes per year of putrescible organics.</p> <p>(3) For the purposes of this clause, 1 cubic metre of organics is taken to weigh 0.5 tonnes.</p>	<p>ii) the development will exceed this threshold and requires a license from the EPA</p> <p>b) (i) and (ii) The site is located within the regulated area in accordance with the definition of what constitutes the regulated area from Section 50 of this Act. The development is a Scheduled activity and a licence from the EPA is required.</p> <p>However, General Terms of Approval have not been issued.</p> <p>3) Noted</p>
<p>34 Resource recovery</p> <p>(1) This clause applies to the following activities:</p> <p>recovery of general waste, meaning the receiving of waste (other than hazardous waste, restricted solid waste, liquid waste or special waste) from off site and its processing, otherwise than for the recovery of energy.</p> <p>recovery of hazardous and other waste, meaning the receiving of hazardous waste, restricted solid waste or special waste (other than asbestos waste or waste tyres) from off site and its processing, otherwise than for the recovery of energy.</p> <p>recovery of waste oil, meaning the receiving of waste oil from off site and its processing, otherwise than for the recovery of energy.</p> <p>recovery of waste tyres, meaning the receiving of waste tyres from off site and their processing, otherwise than for the recovery of energy.</p>	<p>1) The development is a Scheduled activity in this regard</p>

<p>(2) However, this clause does not apply to the recovery of stormwater or the processing of any of the following:</p> <ul style="list-style-type: none"> <li>(a) contaminated soil,</li> <li>(b) contaminated groundwater,</li> <li>(c) sewage within a sewage treatment system (whether or not that system is licensed).</li> </ul> <p>(3) Each activity referred to in Column 1 of the Table to this clause is declared to be a scheduled activity if:</p> <ul style="list-style-type: none"> <li>(a) it meets the criteria set out in Column 2 of that Table, and</li> <li>(b) either: <ul style="list-style-type: none"> <li>(i) less than 50% by weight of the waste received in any year requires disposal after processing, or</li> <li>(ii) the regulations under section 286 exempt the person carrying out the activity from the requirements of section 48 (2) as they apply to waste disposal (application to land), waste disposal (thermal treatment), waste processing (non-thermal treatment) and waste storage</li> </ul> </li> </ul>		<p>2) Not applicable.</p> <p>3) See below</p>
Column 1 Activity	Column 2 Criteria	Comments
recovery of general waste	<p>involves having on site at any time more than 2,500 tonnes or 2,500 cubic metres, whichever is the lesser, of waste or</p> <p>involves processing more than 120 tonnes of waste per day or 30,000 tonnes of waste per year</p>	The development is a Scheduled activity in this regard
recovery of hazardous and other waste	involves having on site at any time more than 200 kilograms of waste	Not applicable.
<p>42 Waste storage</p> <p>(1) This clause applies to waste storage, meaning the receiving from off site and storing (including storage for transfer) of waste.</p>		<p>1) The development is a Scheduled activity in this regard</p>

<p>(2) However, this clause does not apply to any of the following:</p> <p>(a) the storage of stormwater,</p> <p>(b) the storage of up to 60 tonnes at any time of grease trap waste, waste lead acid batteries or waste oil collected for recovery (but not when accompanied by any other kind of waste)</p> <p>(c) the storage of sewage within a sewage treatment system</p> <p>(d) the storage and transfer of liquid waste that is generated and treated on site prior to sewer discharge, or lawful discharge to waters.</p> <p>(3) The activity to which this clause applies is declared to be a scheduled activity if:</p> <p>(a) more than 5 tonnes of hazardous waste, restricted solid waste, liquid waste, clinical or related waste or asbestos waste is stored on the premises at any time, or</p> <p>(b) more than 50 tonnes of waste tyres or 5,000 waste tyres is stored on the premises at any time, or</p> <p>(c) more than 2,500 tonnes or 2,500 cubic metres, whichever is the lesser, of waste (other than waste referred to in paragraph (a) or (b)) is stored on the premises at any time, or</p> <p>(d) more than 30,000 tonnes of waste (other than waste referred to in paragraph (a) or (b)) is received per year from off site.</p> <p>(4) For the purposes of this clause, 1 litre of waste is taken to weigh 1 kilogram.</p>	<p>2) Not applicable. The development will store other types of wastes onsite</p> <p>c) Not applicable.</p> <p>d) Not applicable.</p> <p>3)</p> <p>a) Not applicable.</p> <p>b) No tyres are proposed to be stored onsite</p> <p>c) The development will store waste products well above the threshold and as such, the development is a Scheduled activity in this regard</p> <p>d) The development will store waste types that are well above the threshold and as such, the development is a Scheduled activity in this regard</p> <p>4) Noted</p>
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In accordance with the provisions of this Act, the development is a Scheduled activity and a license from the NSW Environmental Protection Agency is required. However, the issue of General Terms of Approval has been refused and in accordance with Section 91A(4), development consent cannot be granted.

## Roads Act 1993

Council's Development Engineering Section have recommended that, if the development were to proceed, conditions will require the persons having the benefit of the consent to undertake works to and within the Bents Basin Road reserve to accommodate the development. Bents Basin Road and Council is the road authority.

## Threatened Species Conservation Act 1995

An assessment against the relevant provisions follows:

Relevant Provisions	Comments
<p>3 Objects of Act The objects of this Act are as follows:</p> <p>(a) to conserve biological diversity and promote ecologically sustainable development, and</p> <p>(b) to prevent the extinction and promote the recovery of threatened species, populations and ecological communities, and</p> <p>(c) to protect the critical habitat of those threatened species, populations and ecological communities that are endangered, and</p>	<p>a) Insufficient information has been provided to ensure the development will not have any adverse impact upon biological diversity or promote ecologically sustainable development.</p> <p>The EPA has refused to issue General Terms of Approval for a number of reasons, one being in relation to insufficient information for a proper assessment of surface and groundwater impacts. The applicant proposes to direct surface water from the development area through the vegetation buffer and use it as a filter before such water enters the Nepean River.</p> <p>While a conservation area can be established around the Endangered Ecological Community, being the Sydney Coastal River Flat Forest located at the rear of the site, there is no surety the expansion of the site's use will not have any adverse impact upon the riparian vegetation. The development is unsatisfactory in this regard.</p> <p>b) Insufficient information has been provided to demonstrate the expansion of the development will not have any adverse impacts upon the Endangered Ecological Community and whether the development will not be conducive to the recovery of the impacted vegetation. For those reasons provided against subclause (a), the development is unsatisfactory in this regard.</p> <p>c) There are no critical habitats and/or area known onsite</p>

(d) to eliminate or manage certain processes that threaten the survival or evolutionary development of threatened species, populations and ecological communities, and	d) Insufficient information was provided with the development application to ensure the proposal will not have any adverse impacts, particularly in regards to groundwater impacts and its follow effects on the riparian vegetation. As such, the development is unsatisfactory in this regard.
(e) to ensure that the impact of any action affecting threatened species, populations and ecological communities is properly assessed, and	e) Insufficient information was provided with the development application to ensure the proposal will not have any adverse impacts, particularly in regards to groundwater impacts and its follow effects on the riparian vegetation. As such, the development is unsatisfactory in this regard.
(f) to encourage the conservation of threatened species, populations and ecological communities by the adoption of measures involving co-operative management.	f) While a conservation area can be established and restriction preventing any use of the land for any purpose, insufficient information was provided with the development application to ensure the proposal will not have any adverse impacts, particularly in regards to groundwater impacts and its follow effects on the riparian vegetation. As such, the development is unsatisfactory in this regard.

### 2.2.3 – Provisions of any relevant Regulations

#### Environmental Planning and Assessment Regulations 2000

Due to the location of dwelling houses not associated with the proposed development and proximity to mapped watercourses, the proposal is Designated Development under the provisions of Schedule 3 from the plan.

An assessment is provided below in regards to how the proposal triggers the need for an Environmental Impact Statement:

13 Composting facilities or works Composting facilities or works (being works involving the controlled aerobic or anaerobic biological conversion of organic material into stable cured humus-like products, including bioconversion, biodigestion and vermiculture):	
(a) that process more than 5,000 tonnes per year of organic materials, or	The development will process more than the threshold and as such, triggers Designated Development status
(b) that are located:	
(i) in or within 100 metres of a natural waterbody, wetland, coastal dune field or environmentally sensitive area, or	i) A watercourse traverses the subject land and works are proposed within 100 metre of the watercourse and as such, triggers Designated Development status
(ii) in an area of high watertable, highly permeable soils, acid sulphate, sodic or saline soils, or	ii) Not applicable.

<p>(iii) within a drinking water catchment, or</p> <p>(iv) within a catchment of an estuary where the entrance to the sea is intermittently open, or</p> <p>(v) on a floodplain, or</p> <p>(vi) within 500 metres of a residential zone or 250 metres of a dwelling not associated with the development and, in the opinion of the consent authority, having regard to topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood by reason of noise, visual impacts, air pollution (including odour, smoke, fumes or dust), vermin or traffic.</p>	<p>iii) Not applicable.</p> <p>iv) Not applicable.</p> <p>v) The site is located within the 1 in 100 year flood plain of the Nepean River. The applicant has provided a survey/contour plan has been submitted to Council demonstrating that the vast majority of the site is located above the floodplain, and the majority of the activities will be above the flood affected land. Water from the development area will be directed towards the vegetation buffer to be filtered before being entering the Nepean River.</p> <p>The information has been cross referenced with the 1 in 25,000 Warragamba 9030-3S Topographic Map. Designated Development status is triggered in this regard.</p> <p>vi) The development is not located within 500 metres of residential zoned land. However, the development is located within 250 metres of dwelling houses not associated with the development and as such, triggers Designated Development status</p>
<b>32 Waste management facilities or works</b>	
<p>(1) Waste management facilities or works that store, treat, purify or dispose of waste or sort, process, recycle, recover, use or reuse material from waste and:</p> <p>(a) that dispose (by landfilling, incinerating, storing, placing or other means) of solid or liquid waste:</p> <p>(i) that includes any substance classified in the Australian Dangerous Goods Code or medical, cytotoxic or quarantine waste, or</p>	<p>a) Not applicable.</p> <p>i) Not applicable.</p>

<p>(ii) that comprises more than 100,000 tonnes of “clean fill” (such as soil, sand, gravel, bricks or other excavated or hard material) in a manner that, in the opinion of the consent authority, is likely to cause significant impacts on drainage or flooding, or</p>	<p>ii) Not applicable.</p>
<p>(iii) that comprises more than 1,000 tonnes per year of sludge or effluent, or</p>	<p>iii) Not applicable.</p>
<p>iv) that comprises more than 200 tonnes per year of other waste material, or</p>	<p>iv) The development will comprise waste products more than 2,000 tonnes a year and as such, triggers Designated Development status</p>
<p>(d) that are located:</p> <p>(i) in or within 100 metres of a natural waterbody, wetland, coastal dune field or environmentally sensitive area, or</p> <p>(ii) in an area of high watertable, highly permeable soils, acid sulphate, sodic or saline soils, or</p> <p>(iii) within a drinking water catchment, or</p> <p>(iv) within a catchment of an estuary where the entrance to the sea is intermittently open, or</p> <p>(v) on a floodplain, or</p>	<p>i) A watercourse traverses the subject land and works are proposed within 100 metre of the watercourse and as such, triggers Designated Development status</p> <p>ii) Not applicable.</p> <p>iii) Not applicable.</p> <p>iv) Not applicable.</p> <p>v) The site is located within the 1 in 100 year flood plain of the Nepean River. The applicant has provided a survey/contour plan has been submitted to Council demonstrating that the vast majority of the site is located above the floodplain, and the majority of the activities will be above the flood affected land. Water from the development area will be directed towards the vegetation buffer to be filtered before being entering the Nepean River.</p> <p>The information has been cross referenced with the 1 in 25,000 Warragamba 9030-3S Topographic Map. Designated Development status is triggered in this regard.</p>

(vi) within 500 metres of a residential zone or 250 metres of a dwelling not associated with the development and, in the opinion of the consent authority, having regard to topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood by reason of noise, visual impacts, air pollution (including odour, smoke, fumes or dust), vermin or traffic.	vi) The development is not located within 500 metres of residential zoned land. however, the development is located within 250 metres of dwelling houses not associated with the development and as such, triggers Designated Development status
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## 2.2.5 Provisions of Relevant Environmental Planning Instruments

### State Environmental Planning Policy (Infrastructure) 2007

The proposed development is a Resource Recovery Facility under the provisions of the Wollondilly Local Environmental Plan 2011 and as such, is subject to an assessment against the provisions of this plan.

An assessment against the relevant sections follows:

Relevant Provisions	Comments
<p>2 Aim of Policy</p> <p>The aim of this Policy is to facilitate the effective delivery of infrastructure across the State by:</p> <p>(a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and</p> <p>(b) providing greater flexibility in the location of infrastructure and service facilities, and</p> <p>(c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and</p> <p>(d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and</p>	<p>a) Noted</p> <p>b) Noted</p> <p>c) Not applicable.</p> <p>d) Noted</p>



<p>(e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and</p> <p>(f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing.</p>	<p>e) Noted</p> <p>f) Noted</p>
Division 23 Waste or resource management facilities	
<p>120 Definitions In this Division:</p> <p>prescribed zone means any of the following land use zones or a land use zone that is equivalent to any of those zones:</p> <ul style="list-style-type: none"> <li>(a) RU1 Primary Production,</li> <li>(b) RU2 Rural Landscape,</li> <li>(c) IN1 General Industrial,</li> <li>(d) IN3 Heavy Industrial,</li> <li>(e) SP1 Special Activities,</li> <li>(f) SP2 Infrastructure.</li> </ul> <p>resource recovery facility means a facility for the recovery of resources from waste, including such works or activities as separating and sorting, processing or treating the waste, composting, temporary storage, transfer or sale of recovered resources, energy generation from waste gases and water treatment, but not including re-manufacture of material or goods or disposal of the material by landfill or incineration.</p> <p>waste disposal facility means a facility for the disposal of waste by landfill, incineration or other means, including associated works or activities such as recycling, resource recovery and other resource management activities, energy generation from waste gases, leachate management, odour control and the winning of extractive material to generate a void for disposal of waste or to cover waste after its disposal.</p> <p>waste or resource management facility means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.</p>	<p>The development's land use characterisation is defined as being a resource recovery facility and as such, is subject to the provisions of this division.</p>

<p>waste or resource transfer station means a facility for the collection and transfer of waste material or resources, including the receipt, sorting, compacting, temporary storage and distribution of waste or resources and the loading or unloading of waste or resources onto or from road or rail transport.</p>	
<p>121 Development permitted with consent</p> <p>(1) Development for the purpose of waste or resource management facilities, other than development referred to in subclause (2), may be carried out by any person with consent on land in a prescribed zone.</p> <p>(2) Development for the purposes of a waste or resource transfer station may be carried out by any person with consent on:</p> <p>(a) land in a prescribed zone, or  (b) land in any of the following land use zones or equivalent land use zones:  (i) B5 Business Development,  (ii) B6 Enterprise Corridor,  (iii) IN2 Light Industrial,  (iv) IN4 Working Waterfront, or  (c) land on which development for any of the following purposes is permitted with consent under any environmental planning instrument:  (i) industry,  (ii) business premises or retail premises,  (iii) freight transport facilities.</p> <p>(3) Development for the purpose of the recycling of construction and demolition material, or the disposal of virgin excavated natural material (as defined by the <u>Protection of the Environment Operations Act 1997</u>) or clean fill, may be carried out by any person with consent on land on which development for the purpose of industries, extractive industries or mining may be carried out with consent under any environmental planning instrument.</p>	<p>1) Consent is sought for the development</p> <p>2) The subject land is zoned RU1 in accordance with the WLEP 2011, which is a prescribed zone in accordance with Section 120 of this plan.</p> <p>3) Not applicable.</p>
<p>123 Determination of development applications</p> <p>(1) In determining a development application for development for the purpose of the construction, operation or maintenance of a landfill for the disposal of waste, including putrescible waste, the consent authority must take the following matters into consideration:</p>	

(a) whether there is a suitable level of recovery of waste, such as by using alternative waste treatment or the composting of food and garden waste, so that the amount of waste is minimised before it is placed in the landfill, .	a) The purpose of the development is for storage and processing of up to 45,000 tonnes per year of composting and other horticultural materials to be received and up to 20,000 tonnes per year to be stockpiled onsite at any one time. The application is not seeking consent to use any onsite material for landfill and as such, the development is not subject to this Clause.
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### State Environmental Planning Policy No 33 - Hazardous and Offensive Development

Relevant Provisions	Comments
<p>2 Aims, objectives etc This Policy aims:</p> <p>(a) to amend the definitions of hazardous and offensive industries where used in environmental planning instruments, and</p> <p>(b) to render ineffective a provision of any environmental planning instrument that prohibits development for the purpose of a storage facility on the ground that the facility is hazardous or offensive if it is not a hazardous or offensive storage establishment as defined in this Policy, and</p> <p>(c) to require development consent for hazardous or offensive development proposed to be carried out in the Western Division, and</p> <p>(d) to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and</p> <p>(e) to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact, and</p>	<p>a) Noted</p> <p>b) Noted</p> <p>c) Noted</p> <p>d) The application proposed a number of mitigation measures to control dust, odour and noise impacts in regards to adjoining landowners. Council has not objected and/or raised any issues with the relevant impact assessment reports provided. As such, it is not considered the development is a potentially hazardous or a potentially offensive industry in this regard. No further assessment against the provisions of the plan is required.</p> <p>e) The information submitted with the application is considered sufficient for Council to assess the application against the provisions of the plan</p>

(f) to require the advertising of applications to carry out any such development.	f) The application was advertised in accordance with the requirements of the Environmental Planning and Assessment Regulations 2000
<p>3 Definitions of “potentially hazardous industry” and “potentially offensive industry”</p> <p>In this Policy:</p> <p>potentially hazardous industry means a development for the purposes of any industry which, if the development were to operate without employing any measures (including, for example, isolation from existing or likely future development on other land) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would pose a significant risk in relation to the locality:</p> <p>(a) to human health, life or property, or</p> <p>(b) to the biophysical environment,</p> <p>and includes a hazardous industry and a hazardous storage establishment.</p> <p>potentially offensive industry means a development for the purposes of an industry which, if the development were to operate without employing any measures (including, for example, isolation from existing or likely future development on other land) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would emit a polluting discharge (including for example, noise) in a manner which would have a significant adverse impact in the locality or on the existing or likely future development on other land, and includes an offensive industry and an offensive storage establishment.</p>	<p>The application proposed a number of mitigation measures to control dust, odour and noise impacts in regards to adjoining landowners. Council has not objected and/or raised any issues with the relevant impact assessment reports provided. As such, it is not considered the development is a potentially hazardous or a potentially offensive industry in this regard. No further assessment against the provisions of the plan is required.</p>

### State Environmental Planning Policy No 44 - Koala Habitat Protection

The proposed development does not require the removal of any tree species that are listed in the plan.

The likely species listed in Schedule 2 Feed Tree Species may be located within the riparian areas associated with the Nepean River. As mentioned previously in this assessment, The Flora and Fauna Report provided the following recommendations:

- The riparian zone along the river frontage should be established as an exclusion zone where no activities associated with the site’s rural use are permitted
- The river flat should be established as a support zone for the aforementioned riparian zone

As such, the vegetation will be protected. It is recommended that a conservation zone be established to ensure protection of the vegetation and further conditions are recommended to restrict and use of the river flat land (from the watercourse to the embankment located rearward of the new shed subject of this application) and the land restored.

### State Environmental Planning Policy No. 55 – Remediation of Land

Section 7 Contamination and remediation to be considered in determining development application

Question	YES	NO
1. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)?	x Proceed to Question 3	Proceed to Question 2
2. Does the proposal result in a change of use (that is the establishment of a new use)?	x Proceed to Question 3	Assessment under SEPP 55 and DCP not required.
3. Does the application proposed a new: <ul style="list-style-type: none"> <li>▪ Child care facility</li> <li>▪ Educational use</li> <li>▪ Recreational use</li> <li>▪ Health care use</li> <li>▪ Place of public worship</li> <li>▪ Residential use in a commercial or industrial zone</li> </ul>	Proceed to Question 5	x Proceed to Question 4
4. Review the property file and conduct a site inspection of the site and surrounding lands. Is there any evidence that the land has been used for a listed purpose?	x Proceed to Question 5	Proposal satisfactory under SEPP 55 and DCP.
5. Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater?	Request contaminated site assessment	x Proposal satisfactory under SEPP 55 and DCP.

Comments: the operation has been occurring for a number of years, albeit without development consent.

Insufficient information has been provided to demonstrate the development will not have any adverse impacts. The NSW Environmental Protection Agency have refused to issue General Terms of Approval as there are concerns with the operation of the development in regard to surface and groundwater discharges, predicted pollutant loadings and their impacts on the existing environment and conformation of how stormwater and leachate will be managed.

Council has been unable to reach the requisite opinion required prior to the granting of development consent under Clause 7(1) of *State Environmental Planning Policy 55 – Remediation of Land* (SEPP 55) (Section 79C(1)(a)(i) *Environmental Planning and Assessment Act, 1979*). Council's records indicate materials from an unknown source were deposited on the subject land without development consent and the land was also used for rural purposes.

Information provided in the application details that part of the site is being used as a junk yard (storing of old cars, trucks, tyres, miscellaneous parts and machinery across the site). No detailed assessment has been provided in respect of these potentially contaminating use (as identified in Table 1 of the Managing Land Contamination, Planning Guidelines SEPP 55 – Remediation of Land) as required under Clause 7(3) of SEPP 55

Based on the concerns raised by the EPA, it is considered the development is contrary to the provisions of the plan.

### **Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River**

<b>Relevant Provisions</b>	<b>Comment</b>
3. Aims of the Plan	<p>Insufficient information has been submitted to demonstrate the development will not have any adverse impacts upon the river systems. The information provided in response to the EPA's request has not assessed the potential impacts of the development on surface and groundwater.</p> <p>As such, the EPA have refused to issue General Terms of Approval and in accordance with Section 91A(4) from the Environmental Planning and Assessment Act 1979, consent cannot be granted.</p>
<b>6. Planning Policies and Recommended Strategies</b>	
(3) Water quality	<p>Insufficient information has been submitted to demonstrate the development will not have any adverse impacts upon the river systems. The information provided in response to the EPA's request has not assessed the potential effects and the impacts of the development on surface and groundwater, predicted pollutant loadings and their impacts on the existing environment have not been adequately assessed and insufficient information on how stormwater and leachate will be managed. The development is unsatisfactory in this regard.</p> <p>The EPA have refused to issue General Terms of Approval and in accordance with Section 91A(4) from Environmental Planning and Assessment Act 1979, consent cannot be granted</p>
(4) Water quantity	The development will significantly increase the total area of hardstand surfaces. Insufficient information has been provided for an assessment of the development's potential impacts, being discharges to site and groundwater, pollutant loadings and their impacts, and leachate generation. As such, the development is unsatisfactory in this regard.
(5) Cultural heritage	There are no items of heritage significance in close proximity to the site.
(6) Flora and fauna	Insufficient information has been provided to ensure the development will not have any adverse impact upon biological diversity or promote ecologically sustainable development.

Relevant Provisions	Comment
	<p>The EPA has refused to issue General Terms of Approval for a number of reasons, one being in relation to insufficient information for a proper assessment of surface and groundwater impacts.</p> <p>While a conservation area can be established around the Endangered Ecological Community, being the Sydney Coastal River Flat Forest located at the rear of the site, there is no surety to Council the expansion of the site's use will not have any adverse impact upon the riparian vegetation. Water from the development areas (surface waters) is proposed to be directed into the vegetated areas (existing and area to be restored). As such, the development is unsatisfactory in this regard.</p>
<p>(7) Riverine scenic quality Policy: The scenic quality of the riverine corridor must be protected.</p> <p>Strategies:</p> <p>(a) Maintain areas of extensive, prominent or significant vegetation to protect the character of the river.</p> <p>(b) Ensure proposed development is consistent with the landscape character as described in the Scenic Quality Study.</p> <p>(c) Consider the siting, setback, orientation, size, bulk and scale of and the use of unobtrusive, non-reflective material on any proposed building or work, the need to retain existing vegetation, especially along river banks, slopes visible from the river and its banks and along the skyline, and the need to carry out new planting of trees, and shrubs, particularly locally indigenous plants.</p>	<p>a) While the development does not propose to removal any of the Endangered Ecological Community, insufficient information has been provided to demonstrate the development will not have any effect on groundwater systems. Any impacts may directly affect the health and wellbeing of the riparian vegetation and such impacts will have devastating consequences to the riparian areas. As such, the development is unsatisfactory in this regard.</p> <p>b) and c) The construction of a new 3,360m<sup>2</sup> building to allow for the expansion of the development is considered not to be consistent with the landscape character of the area. While there are a number of sheds that have been constructed ancillary to primary produce and associated with domestic purposes within the immediate area, the proposed shed, measuring 42m wide x 80m x 12m in height, will have bulk and scale impacts upon the natural and rural landscape character.</p> <p>The size of the building, along with the construction of the new awning and its connection to the steel framed structure, is of such size that it will form a dominant feature upon the landscape.</p> <p>While vegetation can be used to reduce the visual impacts, the shed is 12.5m in height and any landscaping will take a number of years to reach maturity and it is considered that it is unlikely to reduce the bulk, scale and dominance of the development upon the rural landscape.</p> <p>As such, the development is unsatisfactory in this regard.</p>

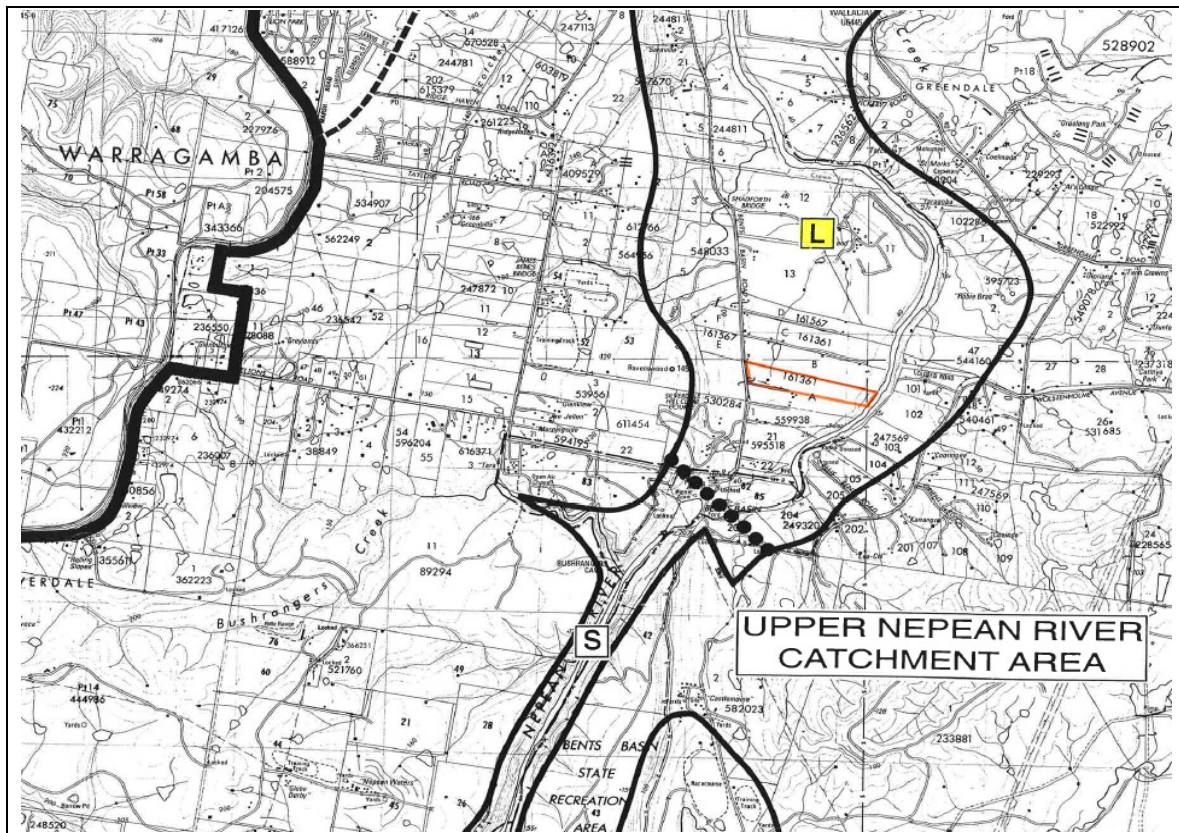
Relevant Provisions	Comment
(d) Consider the need for a buffer between new development and scenic areas of the riverine corridor shown on the map as being of significance beyond the region (which are also scenic areas of significance for the region) or so shown as being of regional significance only.	d) A buffer greater than 200m is proposed and within this area, rehabilitation and revegetation is proposed. However, insufficient information has been provided to demonstrate the operation of the development will not have any adverse upon the vegetation buffer's long term ability to sustain itself in regard to the concerns of surface and groundwater impacts.  As such, the development is inconsistent with this subclause.
(e) Consider the need for controls or conditions to protect those scenic areas.	e) Insufficient information has been provided to ensure the long term health and wellbeing of the vegetation buffer. If the application were recommended for approval, conditions can be recommended but there is no way to determine if these will ensure the long term sustainability and address the potential surface and groundwater impacts. As such, the development is unsatisfactory in this regard.
(f) Consider opportunities to improve riverine scenic quality.	f) If the application were recommended for approval, conditions will require a vegetation restoration plan, the establishment of a conservation zone and restrictions on title preventing the use of this area. Unfortunately, without addressing the concerns with surface and groundwater discharges, potential pollution generation and leachate control, there is no surety these measures alone will be sufficient to improve riverine scenic quality opportunities. As such, the development is inconsistent with this subclause.
<b>11. Development controls</b>	
(2) Composting facilities or works  Consent required. Additional matters for consideration by the consent authority: (a) Any potential for groundwater contamination.  (b) The adequacy of the proposed leachate management system and surface water controls.	Consent sought          a) Insufficient information has been provided that would ensure that the development will not result in any groundwater contamination. As such, the development is unsatisfactory in this regard.  b) Concerns have been raised by the EPA regarding the proposal in this regard. Insufficient information has been supplied to enable a full assessment of the proposed development regarding leachate and surface water controls.  As such, the development is unsatisfactory in this regard.
(7) Filling	Cut and fill will be undertaken to accommodate the new shed and other site works. If approval of the application were recommended, conditions of consent could be imposed to ensure that only VENM and/or ENM is used with certification being required prior to the issue of any Building Certificate and/or Occupation Certificate.



Relevant Provisions	Comment
<p>(15) Land uses in or near the river</p> <p>All uses in the river or a tributary of the river, or within 40 metres of the high water mark of the river or a tributary of the river where it is tidal or within 40 metres of the bank where it is non-tidal. This includes clearing and the construction and use of piers, wharves, boat sheds or other structures which have direct structural connection to the bank or bed of the river or a tributary of the river.</p> <p>Consent required.</p> <p>Additional matters for consideration by the consent authority:</p> <p>(a) The need to locate access points where riverbanks are stable, away from river shallows and major beds of attached aquatic plants, away from fishing grounds and fish breeding areas, where the proposed activities do not conflict with surrounding recreational activities, and where significant fauna and wetland habitats will not be adversely affected.</p> <p>(b) The need to require remedial works, such as the re-establishment of flora and fauna habitats.</p>	<p>Consent sought</p> <p>a) No activity is proposed to be located within 220m of the river. However, insufficient information has been provided to demonstrate that surface and groundwater systems will not have any impacts in this regard. Water from the development is proposed to be directed towards the vegetated area before entering the Nepean River. The NSW EPA have refused to issue General Terms of Approval in regards to water quality impact concerns</p> <p>As such, the development is unsatisfactory in this regard.</p> <p>b) If the application were recommended for approval, conditions will require a vegetation restoration plan, the establishment of a conservation zone and restrictions on title preventing the use of this area. Unfortunately, without addressing the concerns with surface and groundwater discharges, potential pollution generation and leachate control, there is no surety these measures alone will be sufficient to improve riverine scenic quality opportunities. As such, the development is unsatisfactory in this regard.</p>

Relevant Provisions	Comment
<p>(c) The potential for use of the land as a buffer to filter water entering the river.</p> <p>(d) The need for an Erosion and Sediment Control Plan.</p> <p>(e) The need for a Vegetation Management Plan.</p>	<p>c) If the application were recommended for approval, conditions will require a vegetation restoration plan, the establishment of a conservation zone and restrictions on title preventing the use of this area. Unfortunately, without addressing the concerns with surface and groundwater discharges, potential pollution generation and leachate control, there is no surety these measures alone will be sufficient to improve riverine scenic quality opportunities. As such, the development is unsatisfactory in this regard.</p> <p>d) The EPA has detailed concerns with the lack of information in regards to mitigation controls for surface water. As such, the development is unsatisfactory in this regard.</p> <p>e) If the application were recommended for approval, conditions will require a vegetation restoration plan, the establishment of a conservation zone and restrictions on title preventing the use of this area. Unfortunately, without addressing the concerns with surface and groundwater discharges, potential pollution generation and leachate control, there is no surety these measures alone will be sufficient to improve riverine scenic quality opportunities. As such, the development is unsatisfactory in this regard.</p>
<p>(16) Land uses in riverine scenic areas</p> <p>The following in scenic areas of the riverine corridor shown on the map as being of significance beyond the region (which are also scenic areas of significance for the region) or so shown as being of regional significance only:</p> <p>(a) subdivision,  (b) clearing,  (c) erection of a structure greater than 50 sq. m in area or over 1 storey in height,  (d) carrying out of works for the purpose of stabilising the riverbank.</p> <p>Consent required.  Additional matters for consideration by the consent authority:</p>	<p>Map 35 of 42 from the plan shows that the land is located within the Local Significant catchment – map extract provided below.</p> <p>Consent is required as the new shed will have a floor area greater than 50m<sup>2</sup> and will be higher than 1 storey.</p>

Relevant Provisions	Comment
(a) The need to prevent large scale, high density or visually intrusive development on waterfront land or on slopes and ridgetops which are visible from the river or the surrounding visual catchment. (This requires consideration of the proposed form and siting of buildings, of the colours and building materials used, and of landscaping.)	<p>a) It is considered the new shed and other associated structures are a large scale and visually dominant development. While located 200m from the Nepean River, it is likely to appear as a large and dominant feature on the landscape when viewed north and/or south of the site along the river. Further, given that it will be located on land significantly higher in elevation than the river and the vegetation buffer zone, it will still be apparent on the landscape and as such, considered to be contrary to this clause.</p> <p>It is considered the development is unsatisfactory in this regard.</p>
(b) Whether the materials used in stabilising the banks are consistent with the scenic character of the area as described in the Scenic Quality Study.	b) No stabilisation works are proposed in this application. However, revegetation and rehabilitation of the degraded land between the foreshore and the storage area is proposed.
(c) Whether the development will damage the banks of the river or creeks.	c) If the application were being approved, conditions of consent can be recommended to ensure no adverse impacts
(d) Whether the development is adequately set back from the river.	d) The development is satisfactory in this regard
(e) Whether it is necessary and appropriate to increase public recreational and visual access to the river.	e) Not applicable.
(f) The need for conditions of consent to protect the scenic character, such as conditions requiring tree planting.	f) If the application was able to be recommended for approval, substantial mitigation measures would need to be established in this regard. However, given the size of the shed, an extensive area of landscaping and other controls will need to be created to protect the scenic character of the landscape.
(g) Whether any proposed works will improve scenic quality by repairing degradation.	g) If the application was able to be recommended for approval, conditions could be recommended in this regard.



Map 35 of 42 from Sydney Regional Environmental Plan No 20 - Hawkesbury-Nepean River (No 2—1997) showing the extent of the Local [L] and State [S] Significance Catchments in relation to the subject site highlighted in orange outline

(18) Waste management facilities or works

Definition:

Development for the purpose of waste management facilities or works described in Schedule 3 (Designated Development) to the Environmental Planning and Assessment Regulation 1994.

Consent required.

Additional matters for consideration by the consent authority:

(a) Any potential for groundwater contamination.

Consent sought.

a) Insufficient information has been provided to demonstrate the proposal will not cause any groundwater contamination. The development is unsatisfactory in this regard.

(b) The adequacy of the proposed leachate management system and surface water controls.

(c) The long-term stability of the final landform and the adequacy of the site management plan.

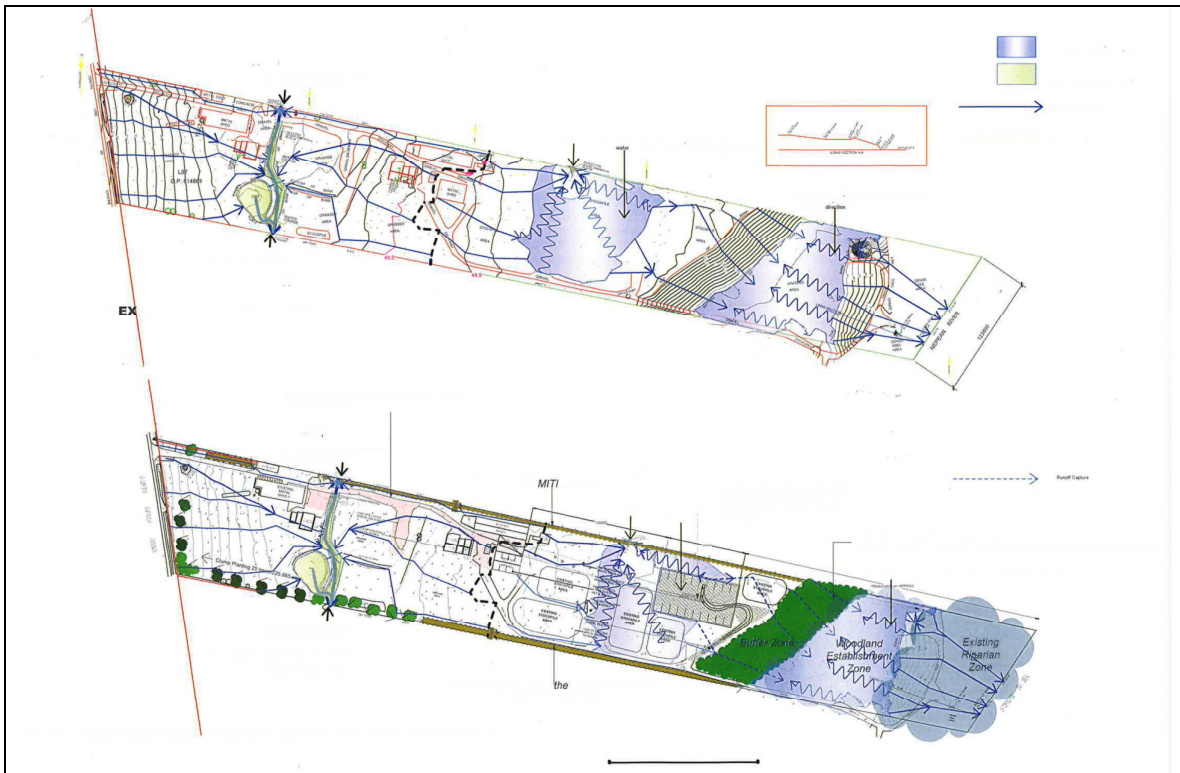
(d) If extraction of material is involved in the creation or other development of the waste management site, whether the extractive operation will have an adverse impact on the river system.

b) Insufficient information has been provided to demonstrate the proposal will have adequate leachate controls and effective surface water management. The development is unsatisfactory in this regard.

c) Insufficient information has been provided to demonstrate the long term effectiveness of site works in this regard. A management plan was not submitted. The development is unsatisfactory in this regard.

d) No extraction is proposed. During the site inspection, it revealed the area of land within the proposed woodland establishment zone has been used for this purpose sometime in the past. If consent was recommended, than conditions of consent will be suggested for this part of the site to be restored to ensure the development will have no adverse impacts on the river system.

The following plan prepared by BioDesign shows how surface water will be captured and conveyed to existing and proposed stormwater systems and also through the vegetation buffer towards the Nepean River.



## Wollondilly Local Environmental Plan, 2011

<u>Characterisation:</u>	Rural Industry Composting Facility Resource Recovery Facility
<u>Zone of land:</u>	RU1 Primary Production
<u>Permissibility:</u>	Yes

### Clause 1.2 Aims of Plan

Objective	Comment
(a) to provide for the management of natural resources and the protection of the natural landscape character,	<p>It is considered the development, as a whole, is contrary to this zone objective. The new large shed, measuring 42m x 80m x 12.5m and have a 12.5° pitched roof, is considered to be out of character with the area due to bulk and scale issues. Further, the existing development footprint, containing existing sheds and large stock piles of materials, also is out of character with the rural landscape activities. Adjoining lots are used for field based market garden agriculture and will be dwarfed by the number of sheds that will comprise this development.</p> <p>The site is also located approximately 810 metres by road from the Bents Basin State Recreation Area. A large industrial type activity with a number of sheds located throughout the site will have an impact upon the views and vistas leading towards this recreation and highly valuable landscape feature.</p> <p>It is considered this development is contrary to the natural landscape character.</p>
(b) to protect, conserve and enhance the built, landscape and Aboriginal cultural heritage,	The development is considered to have a visual impact due to the bulk and scale of the proposed new sheds on the rural landscape character.
(c) to protect water quality in land that is situated within water supply catchments,	Not applicable.
(d) to encourage development that provides for an integrated transport and infrastructure system and adequate facilities and service provision for future growth,	Not applicable.
(e) to recognise, manage and protect rural resource lands for sustainable agriculture and extractive industry practices,	The land is mapped as Class 2 according to the NSE Agricultural Land Classification Atlas. Class 2 lands are defined as being <i>“arable land suitable for regular cultivation of crops but not suited to continuous cultivation. It has moderate to high suitability for agriculture but edaphic (soil factors) or environmental constraints reduce the overall level of production and may limit the cropping phases to a rotation with sown pastures.”</i>

Objective	Comment
	A substantial number of lots either side of the Nepean River (along Bents Basin Road and within the Penrith and Liverpool Local Government Areas) are used for primary production purposes, typically field based market garden developments. Approval of the application will reduce prime agricultural land available for primary production purposes.
(f) to maintain the separation between towns and villages to retain their unique character and rural and natural settings.	The development is satisfactory in this regard

Zone objectives:

Objective	Comment
To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.	The development is satisfactory in this regard
To encourage diversity in primary industry enterprises and systems appropriate for the area.	Satisfactory
To minimise the fragmentation and alienation of resource lands.	It is considered the development is satisfactory in this regard
To minimise conflict between land uses within the zone and land uses within adjoining zones.	Insufficient information has been provided to demonstrate the development will not have any adverse impacts in this regard. In this case, the applicant not satisfactorily demonstrated mitigation of air quality impacts. The development is unsatisfactory in this regard.
To provide for a range of land uses (including tourism-related uses) that supports the agriculture industry.	The development is a type that will support primary production. The development is satisfactory in this regard
To provide areas within which the density of development is limited in order to maintain a separation between urban areas.	Not applicable.

Clause	Comment
Part 5 Miscellaneous provisions	
5.9 Preservation of trees or vegetation	<p>No trees within the development area or within the riparian zone.</p> <p>It appears that works have occurred in the riparian area but the application does not proposed to carry on any further activities associated with the development. Therefore the area of land from the toe of the batter to the watercourse is proposed to be restored.</p> <p>If the application were recommended for approval, conditions can be recommended.</p>

Objective	Comment
5.10 Bush fire hazard reduction	The rear portion of the site containing the riparian area is mapped as being bushfire prone land. The application does not require any assessment under Sections 79BA or 100B of Rural Fires Act 1997 and as such, the development is considered satisfactory in this regard.
Part 7 Additional local provisions	
7.1 Essential services	If the application were recommended for approval, conditions can be imposed
7.2 Biodiversity protection	Not applicable.
7.3 Water protection	<p>The land within 100m from the bank of the Nepean River and is mapped as being protected under the provisions of the plan.</p> <p>While no works are proposed within this area, insufficient information has been provided to demonstrate that surface and groundwater systems will not have any adverse impacts. The applicant has proposed the buffer area and the woodland establishment zone to act as filters for surface and runoff from the stockpile areas. However, the EPA has raised concerns regarding water discharges and in this regard has refused to issue General Terms of Approval.</p> <p>The development is unsatisfactory in this regard.</p>
7.4 Flood planning	<p>According to Council's mapping, the vast majority of the land is subject to inundation during the 1 in 100 year flood of the Nepean River. A Survey plan has been submitted to Council and has been reviewed by Council officers and no objections are raised.</p> <p>However, insufficient information has been provided to ensure water discharges from the development into the flood affected area will not have any adverse impacts, particularly in regard to leachate, potential pollution that may be introduced to the discharge points and effective mitigation controls. Insufficient information has been provided to demonstrate the development is satisfactory in regards to the provisions of this clause.</p>
7.5 Earthworks	If the application were being recommended for approval, conditions of consent will be recommended to ensure compliance and the submission of engineering design plans in this regard.

## 2.2.6 Provisions of Relevant Draft Environmental Planning Instruments

There are no draft environmental planning instruments that relate to the subject land.



## 2.2.7 Provisions of Relevant Development Control Plans

### Wollondilly Development Control Plan Volume 1 – General

Relevant Provisions	Comment
1.2 Aims of Plan	The development is consistent with this aims of the plan.
1.11 Request for Variation	A variation to the provision of parking is proposed. Details regarding the variation will be discussed in more detail later in this assessment report.
2.1 Advertising and Notification of Development Proposals	The exhibition of the application commenced on 9 April 2014 concluding on 12 May 2014. No submissions were received during this time.  The application was re-advertised commencing 16 September 2014 concluding on 16 October 2014. One (1) submission was received during this time highlighting some concerns with the development being odour, dust, traffic and flooding.
2.2 Heritage Conservation	Not applicable.
2.3 Tree and vegetation provisions	No trees within the development area of within the riparian zone.  It appears that works have occurred in the riparian area but the application does not proposed to carry on any further activities associated with the development. Therefore the area of land from the toe of the batter to the watercourse is proposed to be restored.  If the application were recommended for approval, conditions can be recommended.
2.4 Landscaping	If the application were recommended for approval, conditions of consent will require extensive site landscaping to assist in reducing the impacts of the development.
2.5 Biodiversity	Not applicable.
2.5 Water	The land within 100m from the bank of the Nepean River is mapped as being protected under the provisions of the plan.  While no works are proposed within this area, insufficient information has been provided to demonstrate that surface and groundwater systems will not have any adverse impacts. The applicant has proposed the buffer area and the woodland establishment zone to act as filters for surface and runoff from the stockpile areas. However, the EPA has raised concerns regarding water discharges and in this regard has refused to issue General Terms of Approval.  The development is unsatisfactory in this regard.
2.7 Flood affected land	While no physical works are proposed within the area of land that is prone to the 1 in 100 year flood plain of the Nepean River. While Council's mapping shows that the majority of the land is mapped as being flood prone, a survey plan has been submitted with the Environmental Impact Statement showing the extent of the possible flood height across the site.

Relevant Provisions	Comment
	Plans regarding site drainage show surface waters will be directed into the flood affected areas and proposed revegetated areas of the site before entering into the Nepean Rivers. Insufficient information has been provided to ensure water discharges from the development into the flood affected area will not have any adverse impacts, particularly in regard to leachate, potential pollution that may be introduced to the discharge points and effective mitigation controls. Insufficient information has been provided to demonstrate the development is satisfactory in regards to the provisions of this part of the plan.
2.8 Bushfire prone land	The land is mapped as being bushfire prone but is not a development that needs consideration under Section 79BA or Section 100B from the Rural Fires Act 1997.
2.9 Contaminated land and Land filling	This has already been addressed in the SEPP55 assessment.
2.10 Land slip and subsidence	The area is not within a proclaimed mining district and the land is not prone to any slip.
2.11 Development in Sydney's Drinking Water Catchments	Not applicable.
2.12 Site waste minimisation and management	If the application was able to be recommended for approval, conditions could be recommended in this regard.
2.13 Salinity	Not applicable. No residential development proposed.
2.14 Water Management	Insufficient information has been provided to demonstrate the proposal will not result in any adverse impacts. The development is unsatisfactory in this regard.
2.15 Transport and Movement	Council's Development Engineering Section raises no objection to the development. If the application were recommended for approval, conditions can be recommended in this regard.
2.16 Landscape and Scenic Quality	The development is satisfactory in this regard,

## Wollondilly Development Control Plan Volume 5 – Industrial and Infrastructure uses

Relevant Provisions	Comment
<p>2.2 General objectives</p> <p>Objectives</p> <p>(a) To provide for development that protects the scenic qualities of Wollondilly Shire.</p> <p>(b) To ensure that industrial development has a neutral or beneficial effect on the natural and built environments.</p> <p>(c) To provide employment opportunities that significantly contributes to economic activity within Wollondilly Shire.</p> <p>(d) To provide controls for industrial development that will encourage the use of land for sustainable and viable industrial activities.</p> <p>(e) To ensure the most efficient use of industrial land is consistent with the existing amenity of the area.</p> <p>(f) To ensure the orderly provision of services and infrastructure.</p> <p>(g) To ensure good vehicular access, circulation and loading facilities on industrial sites and these do not impact on the pedestrian and vehicular mobility in the locality.</p> <p>(h) To ensure adequate on-site car parking is provided.</p> <p>(i) To ensure access to adequate services are provided for the disposal of waste.</p>	<p>a) It is considered the development is not satisfactory in this regard due to the size and scale of the proposed shed and the associated footprint of the development.</p> <p>b) Insufficient information has been provided to demonstrate the development is satisfactory in this regard.</p> <p>c) The development will provide limited employment opportunities</p> <p>d) Insufficient information has been provided to demonstrate the development is satisfactory in this regard.</p> <p>e) The subject land is not located within an industrial area, but on land that is mapped as being of highly valuable agricultural capacity (being Class 2 in accordance with the NSW Agriculture Land Classification Atlas). This development is considered not to be the most efficient use of primary production land.</p> <p>f) If the application were recommended for approval, conditions can be imposed</p> <p>g) The engineers have not raised any objection in this regard</p> <p>h) There is sufficient area onsite to accommodate all parking requirements</p> <p>i) If the application were recommended for approval, conditions can be imposed in this regard</p>

Relevant Provisions	Comment
<p>(j) To promote high standards of architecture, landscaping and building design that is visually attractive in form, design, colour and scale.</p> <p>(k) To ensure that industrial developments are suitably designed and landscaped without restricting their viability through over regulation.</p> <p>(l) To ensure industrial development is undertaken in a manner that minimises land use conflicts.</p> <p>(m) To ensure buildings do not adversely affect views from adjoining zones, classified roads (Picton Road and Remembrance Driveway) or other public spaces.</p> <p>(n) To ensure soil conservation and sediment control measures are implemented during and post-construction.</p> <p>(o) To permit development which serves the daily convenience needs of persons working within industrial areas.</p> <p>(p) To encourage the integration of land use and transport, and provide for environments that are highly accessible and conducive to walking, cycling and the use of public transport</p>	<p>j) It is considered the development is not satisfactory in this regard. The proposed 3,360m<sup>2</sup> shed will form a dominant feature upon the landscape and appear similar to a large industrial building, which is not consistent with the other primary production or domestic purpose sheds in the locality.</p> <p>k) It is considered the development is not suitably design with regards to the landscape character of the locality. .</p> <p>l) Insufficient information has been provided to Council to demonstrate compliance in this regard, particularly regarding air quality impacts.</p> <p>m) Not applicable.</p> <p>n) If the application was able to be recommended for approval, conditions could be recommended in this regard.</p> <p>o) If the application was able to be recommended for approval, conditions could be recommended in this regard.</p> <p>p) The location of the development is not conducive to other modes of transport. Nonetheless, limited access is available</p>
2.3 General requirements	
<p>2.3.2 Building setbacks</p> <p>Objectives</p> <p>(a) To encourage attractive design that is both functional and considers the surrounding streetscape,</p> <p>(b) To ensure that industrial development does not have adverse impacts on the amenity of the area, and</p>	<p>a) It is considered the building is not satisfactory in this regard</p> <p>b) It is considered the development is not satisfactory in this regard. If this were a new development proposal and not a type seeking continued use, greater setback distances would have been required from adjoining land to assist in reducing the visual impact of the development.</p>

Relevant Provisions	Comment
(c) To encourage the provision of employee facilities such as canteens, lunch parks, child-minding centres and recreation facilities.	c) If the application were recommended for approval, conditions can be imposed in this regard
<p>General</p> <p>1. Buildings must not occupy more than 50% of the site area.</p> <p>2. Office floor space and associated rooms used for administrative purposes must occupy no greater than 30% of the gross floor area.</p> <p>3. Street facades and visually prominent elements of any structure must be articulated to minimise their impact on the streetscape.</p> <p>4. Loading areas, driveways, rubbish, storage and roof-top equipment must not be located adjacent to residential zones</p> <p>5. External and security lighting should be positioned to avoid light spillage to nearby non-industrial development</p>	<p>1. The development is satisfactory in this regard</p> <p>2. The development is satisfactory in this regard</p> <p>3. It is considered the building is not satisfactory in this regard</p> <p>4. The development is satisfactory in this regard</p> <p>5. If the application were recommended for approval, conditions can be imposed in this regard</p>
<p>2.3.3 Building design</p> <p>Objectives</p> <p>(a) To provide satisfactory separation between industrial buildings,</p> <p>(b) To mitigate land use conflict between industrial land uses and other land uses,</p> <p>(c) To provide sufficient setbacks along major roads for the planting of landscaping elements so as to visually screen industrial development, and</p> <p>(d) To provide safe and efficient ingress and egress in and around industrial properties.</p>	<p>a) The development is satisfactory in this regard</p> <p>b) Insufficient information has been provided to Council to demonstrate compliance in this regard, particularly regarding water and air quality impacts.</p> <p>c) The development is satisfactory in this regard</p> <p>d) The development is satisfactory in this regard</p>
<p>Controls</p> <p>1. Setbacks for buildings erected on industrial zoned land are:</p>	<p>1. The development is not located within an industrial zone, but rural land. Nonetheless, an assessment will be undertaken and comments provided below:</p>

Relevant Provisions	Comment
<p>Front setback</p> <ul style="list-style-type: none"> <li>30 metres from an arterial road</li> <li>10 metres all other roads</li> </ul> <p>Side and rear setback</p> <ul style="list-style-type: none"> <li>Nil setback required except as provided by this table and subject to bushfire and water course separations</li> </ul> <p>Setbacks from boundaries adjacent to zones other than industry zones IN2 and IN3.</p> <ul style="list-style-type: none"> <li>10 metres from adjoining residential, commercial or open space zones.</li> </ul>	<p><u>Front:</u> The development is satisfactory in this regard</p> <p><u>Side:</u> The closest existing building (carport) is located on zero from the northern boundary. If consent was able to be recommended, conditions would be recommended to relocate or demolish the shed so to increase the screen landscaping along the property boundary. Relocating the shed in accordance with the following control is not possible due to the location of Shed 1.</p> <p>Existing Shed 2 is located approximately 8m from the boundary and the new shed will be 20m from the same boundary.</p> <p>The development is satisfactory in this regard</p> <p>Not applicable.</p>
<p>2.3.4 Parking and access</p> <p>Objectives</p> <p>(a) To ensure that adequate provision is made for off street parking, appropriate to the volume and turnover of traffic generated by the development,</p> <p>(b) To ensure that adequate manoeuvring areas are available on-site to permit forward entry and exit of vehicles,</p> <p>(c) To enable the efficient functioning of parking areas, loading bays and access driveways,</p> <p>(d) To ensure that parking areas and access ways are constructed with a smooth trafficable surface and to avoid conflict between pedestrians and vehicles, and</p> <p>(e) To ensure parking areas are visually attractive and designed and constructed to encourage safe usage.</p>	<p>a) If the application was able to be recommended for approval, conditions could be imposed in this regard. Adequate area available onsite to ensure compliance</p> <p>b) The development is satisfactory in this regard</p> <p>c) The development is satisfactory in this regard</p> <p>d) If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>e) If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>

Relevant Provisions	Comment																																				
<p>Controls</p> <p>1. Car parking, manoeuvring areas, driveways, access, signposting and loading bays must be designed in accordance with Council's Design Specification.</p> <p>2. Vehicles are to enter and leave the subject site in a forward direction.</p> <p>3. Where through vehicle travel paths are not able to be provided (for example, where a zero setback is proposed) all lots must provide sufficient level space on-site for rigid and articulated vehicle turning areas. This space must be unobstructed and clear of drainage lines, power poles and parking spaces.</p> <p>4. The number of parking spaces required for industrial uses is detailed below in Table 1. The RTA publication 'Policies, Guidelines and Procedures for Traffic Generating Developments' will also be referred to when determining traffic requirements for certain uses.</p> <p>Industrial Development 1 space per 70m<sup>2</sup> of net floor area with a minimum of 3 spaces per industrial unit</p> <p>Ancillary office space 1 space per 35m<sup>2</sup> of net floor area</p> <p>All Industrial Developments Minimum 1 space per 100 spaces. If less than 100 spaces then at least 1 space 3m wide, clearly marked and close as practicable to building entrances</p>	<p>1. If the application were recommended for approval, conditions can be imposed in this regard</p> <p>2. If the application were recommended for approval, conditions can be imposed in this regard</p> <p>3. Sufficient area is available onsite to ensure that all vehicles can manoeuvre and enter and leave in a forward direction.</p> <p>4. An assessment against Council controls is provided below:</p> <table><tr><th>Building</th><th>Size (m<sup>2</sup>)</th><th>Rate/m<sup>2</sup></th><th>Spaces</th></tr><tr><td>Shed 1</td><td>440</td><td>1sp/70</td><td>6.28</td></tr><tr><td>Shed 2</td><td></td><td></td><td></td></tr><tr><td>Office</td><td>163.2</td><td>1sp/35</td><td>4.6</td></tr><tr><td>Industrial</td><td>591.3</td><td>1sp/70</td><td>8.44</td></tr><tr><td>New Shed</td><td>3,360</td><td>1sp/70</td><td>48</td></tr><tr><td>Horticultural Product Storage</td><td>486</td><td>1sp/70</td><td>6.94</td></tr><tr><td>Bag Product Storage</td><td>68.25</td><td>1sp/70</td><td>.098</td></tr><tr><td><b>TOTAL</b></td><td></td><td></td><td><b>75 (rounded up)</b></td></tr></table> <p>The applicant is seeking a variation and has provided the following justification:</p> <p><i>"The DCP car parking requirement is in respect of 'industrial activities' and, we submit, not numerically applicable to the subject application based upon the following pertinent matters.</i></p> <p><i>It is confirmed that only eight (8) employees will be required to undertake the proposed activities under normal operating conditions. In addition, there has never been a retail outlet in the past and none is</i></p>	Building	Size (m <sup>2</sup> )	Rate/m <sup>2</sup>	Spaces	Shed 1	440	1sp/70	6.28	Shed 2				Office	163.2	1sp/35	4.6	Industrial	591.3	1sp/70	8.44	New Shed	3,360	1sp/70	48	Horticultural Product Storage	486	1sp/70	6.94	Bag Product Storage	68.25	1sp/70	.098	<b>TOTAL</b>			<b>75 (rounded up)</b>
Building	Size (m <sup>2</sup> )	Rate/m <sup>2</sup>	Spaces																																		
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Relevant Provisions	Comment
<p><u>Loading Bays</u> Number and size required will be dependent on the type and scale of development and the range of trucks, heavy vehicles or special vehicles accessing the site</p>	<p><i>proposed. Furthermore, the only visitors to the site would be an occasional wholesaler representative and/or authorities employees.</i></p> <p><i>Current practices will remain the same in relation to the transportation of finished products which will be loaded on trucks and delivered to the wholesalers' places. There is no need for additional car parking spaces for the trucks as they will be standing for a short period of time near the loading areas.</i></p> <p><i>In summary, we believe that a total of 10 car spaces will be more than sufficient to service the proposed activities for the above reasons. Hence, 8 car spaces will be allocated to the 8 employees and 2 car spaces will be allocated to visitors. In addition, there are additional car spaces near the existing sheds that could be used as well. We respectfully request that council supports this variation to the DCP on a 'merit' basis."</i></p> <p><u>Comments:</u> the request to vary the above was presented before Council's Internal Variation Panel. Based on the merits of the case, it was agreed the parking requirements should be varied but not in the manner sought by the applicant. The Panel recommended the provision of 15 parking spaces.</p> <p>If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>Unloading will be undertaken within the purpose built shed however loading practices will occur in different areas using two different sized vehicles. The applicant has advised that trucks will not be parked onsite for long durations as they will only drop off and pick up products.</p> <p>If the application was able to be recommended for approval, conditions could be imposed to require all loading zones be established onsite in the locations required to ensure that other vehicles are not permitted prevent loading activities. Loading zones to be 19 metres in length. To be conditioned accordingly.</p>
2.3.5 Signage	<p>No signage is proposed.</p> <p>If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>



Relevant Provisions	Comment
<p>2.3.6 Open storage areas</p> <p>Objectives</p> <p>(a) To minimise the visual impact of open storage areas on the area, and</p> <p>(b) To assist in making vehicle and pedestrian entrances discernible from the street for anyone looking for a particular business.</p>	<p>a) It is considered the development is unsatisfactory in this regard. The vast open storage areas located throughout the land is considered to have a visual impact when compared to the field based market garden agricultural developments in the immediate area.</p> <p>b) If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>
<p>Controls</p> <p>1. Land between any road and the façade of any building or visible from a public road, must not be used for the storage, sale or display of goods.</p> <p>2. Areas used for storage must be suitably screened.</p> <p>3. Dedicated open storage areas must be appropriately drained and constructed in suitable materials to prevent soil disturbance.</p> <p>4. External storage of unregistered vehicles, vehicle parts, used building materials, scrap materials or other industrial waste is not permitted, except for emergency services or tow truck storage yards.</p>	<p>1. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>2. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>3. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>4. The site contains an extensive amount of scrap materials, car, trucks, trailers and the like. If the application were recommended for approval, conditions can be imposed in this regard.</p> <p>However, the application must be refused under Section 91A(4) from Environmental Planning and Assessment Act 1979 as the NSW EPA have not issued General Terms of Approval. Should compliance action be undertaken by Council, the removal of such items can be undertaken at that time.</p>
<p>2.3.7 Landscaping</p> <p>(a) To minimise the impact of any development on the amenity and streetscape though the use of landscaping, without compromising bushfire safety, and</p>	<p>a) The size of the shed will appear as a dominant feature upon the landscape. While landscaping can be used to assist in reducing its visual impact, the shed is 12.5m in height and likely to dwarf the landscaping. However, given the sizeable footprint of the development, it is considered that the development will have an unsatisfactory impact upon the amenity and streetscape of Bents Basin Road.</p>

Relevant Provisions	Comment
<p>(b) To encourage landscaping that enhances the industrial locality and provides a natural/functional/pleasant outdoor area for employees and visitors.</p>	<p>The proposed shed will appear as a dominant structure on the landscape. The use of landscaping will aid in reducing the impact but will take a number of years to mature to achieve the desired result.</p> <p>It is considered the development is not satisfactory in this regard.</p> <p>b) If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>
<p>Controls</p> <ol style="list-style-type: none"> <li>1. All new development must provide a minimum 2.5 m wide landscape strip which must be suitably landscaped and maintained, across the street frontage of any site (excluding access ways).</li> <li>2. Edging is to be provided to retain mulch, enable mowing if necessary and to protect the landscaping from damage by vehicles.</li> <li>3. All landscaping areas must be installed and with an appropriate management regime in place prior to use of the site.</li> <li>4. Additions to existing industrial buildings or new ancillary buildings and works are not permitted to encroach on landscaping.</li> <li>5. Provision must be made for shade trees in outdoor off-street parking areas and planted to a minimum of 1 shade tree per 10 car spaces. Landscaping areas for these trees must be a minimum of 2 metres wide and allow for deep soil planting.</li> <li>6. For rear and side setbacks, where a development directly adjoins a zone other than industrial (known as the interface zone) a 2.5 metre landscaped area must be provided.</li> </ol>	<ol style="list-style-type: none"> <li>1. The development is satisfactory in this regard</li> <li>2. If the application was able to be recommended for approval, conditions could be imposed in this regard.</li> <li>3. If the application was able to be recommended for approval, conditions could be imposed in this regard. An automatic irrigation system could be recommended to be installed to ensure landscaping is maintained for the life of the development.</li> <li>4. If the application were recommended for approval, conditions can be imposed in this regard</li> <li>5. If the application were recommended for approval, conditions can be imposed in this regard</li> <li>6. If the application were recommended for approval, conditions can be imposed in this regard</li> </ol>

Relevant Provisions	Comment
7. Where practical utilise species that are endemic to the local area. Refer to Council's Recommended Planting Species List in Volume 1 of this DCP (Clause 2.4, Table 1 - 7).	7. If the application were recommended for approval, conditions can be imposed in this regard
<p>2.3.8 Fencing</p> <p>(a) To ensure that the impact of fences on the streetscape and public places is minimised,</p> <p>(b) To allow reasonable enclosure of yard areas for privacy and security,</p> <p>(c) To ensure the safe movement of vehicles does not adversely impact on gateways and street intersections,</p> <p>(d) To protect drainage easements from the effects of fencing, and</p> <p>(e) To ensure that adjoining owners are not adversely affected by fencing on the front yard of the adjoining property.</p>	<p>a) The fence is currently a dilapidated timber post and wire fence. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>b) If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>c) The development is satisfactory in this regard</p> <p>d) If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>e) The site is generally bound by an open style rural fence which is complementary to the area.</p>
<p>Controls</p> <p>1. Fencing within industrial areas must be no greater than or equal to 1.8 m in height along property boundaries and within properties.</p> <p>2. Where provided, front fencing must be located behind the required landscaped area setback.</p>	<p>1. The land is not within any industrial area and as such, the rural fence is considered acceptable. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>2. The majority of the development is already constructed and landscaping rearward of boundary fencing is not achievable. The existing arrangements are considered satisfactory</p>
<p>2.3.9 Waste management</p> <p>Objectives</p> <p>(a) To ensure appropriate waste storage and collection facilities,</p> <p>(b) To maximise source separation and recovery of recyclables,</p> <p>(c) To ensure waste management facilities are as intuitive for occupants as possible and readily accessible to occupants and service providers,</p>	<p>a) If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>b) If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>c) If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>

Relevant Provisions	Comment
<p>(d) To ensure appropriate resourcing of waste management systems, including servicing,</p> <p>(e) To minimise risk to health and safety associated with handling and disposal of waste and recycled material and ensure optimum hygiene,</p> <p>(f) To minimise adverse environmental impacts associated with waste management, and</p> <p>(g) To discourage illegal dumping by providing on site storage and removal services.</p>	<p>d) If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>e) If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>f) If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>g) If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>
<p>Controls</p> <p>1. A completed Site Waste Minimisation and Management Plan (SWMMP) complying with the template in Appendix A of the Office of Environment and Heritage's Model Waste Not DCP must accompany an application for industrial buildings in accordance with Council's Guidelines for submitting a DA.</p> <p>2. There must be convenient access from each tenancy and/or larger waste producing area of the development to the waste/recycling storage room(s) or area(s). There must be step-free access between the point at which bins are collected/emptied and the waste/recycling storage room(s) or area(s).</p> <p>3. Every development must include a designated general waste/recycling storage area or room(s) constructed in accordance with the requirements of the Building Code of Australia (BCA) and designed in accordance with the requirements below), as well as designated storage areas for industrial waste streams (designed in accordance with specific waste laws/protocols).</p>	<p>1. The applicant details the main waste streams will include general solid waste (putrescible and non-putrescible). There will be minor quantities of recyclable waste oil and liquid wastes. The waste streams generated by the development will be contained within a designated area and covered in containers awaiting transport off-site by contractors. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>2. Access is satisfactory. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>3. The applicant has detailed products that cannot be returned to the supplier (pallets and other materials) and items that cannot be integrated into the compost mixtures, will be disposed to an appropriate facility.</p> <p>If the application was to be recommended for approval, conditions could be recommended for a purpose built storage area to be provided and ensure adequate access thereto for all waste vehicles.</p>

Relevant Provisions	Comment
<p>Location and appearance</p> <p>1. Waste/recycling storage areas must be integrated into the design of the overall development. Materials and finishes that are visible from outside should be similar in style and quality to the external materials used in the rest of the development.</p> <p>2. Waste/recycling storage areas must be located and designed in a manner that reduces adverse impacts upon neighbouring properties and the streetscape.</p> <p>The location and design of the areas should minimise adverse impacts associated with:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> the proximity of the area to dwellings</li> <li><input type="checkbox"/> the visibility of the area</li> <li><input type="checkbox"/> noise generated by any equipment located within the area</li> <li><input type="checkbox"/> noise generated by the movement of bins into and out of the area</li> <li><input type="checkbox"/> noise generated by collection vehicles accessing the site; and</li> <li><input type="checkbox"/> odours emanating from the area.</li> </ul>	<p>1. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>2. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>
<p>Size</p> <p>1. Waste/recycling storage areas must be of adequate size to comfortably accommodate all waste and recycling bins associated with the development.</p> <p>2. The waste/recycling storage room/areas must be able to accommodate bins that are of sufficient volume to contain the quantity of waste generated (at the rate described below) between collections.</p>	<p>1. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>2. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>
<p>Layout</p> <p>1. The gradient of waste/recycling storage area floors and the gradient of any associated access ramps must be sufficiently level so that access for the purpose of emptying containers can occur in accordance with WorkCover NSW Occupational Health and Safety requirements.</p>	<p>1. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>

Relevant Provisions	Comment
<p>2. Within waste/recycling storage areas, containers used for the storage of recyclable materials should be kept separate from (but close to) general waste containers — so that the potential for contamination of recyclable materials is minimised.</p>	<p>2. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>
<p>Access: waste/recycling collection</p> <p>1. The development must be designed to allow access by collection vehicles used by the nominated waste contractor. Wherever possible, the site must be configured to allow collection vehicles to enter and exit the site in a forward direction and so collection vehicles do not impede general access to, from and within the site. Access driveways to be used by collection vehicles must be of sufficient strength to support such vehicles.</p> <p>2. Servicing arrangements for the emptying of bins must be compatible with the operation of any other loading/unloading facilities on-site.</p> <p>3. Access for the purpose of emptying waste/recycling storage containers must be able to occur in accordance with WorkCover NSW Occupational Health and Safety requirements.</p> <p>Access: general</p> <p>1. Vermin must be prevented from entering the waste/recycling storage area.</p>	<p>1. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>2. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>3. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>1, If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>
<p>Surfaces</p> <p>1. Waste/recycling storage areas must have a smooth, durable floor and must be enclosed with durable walls/fences that extend to the height of any containers which are kept within.</p>	<p>1. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>

Relevant Provisions	Comment
<p>Doors/gates</p> <p>1. Doors/gates to waste/recycling storage areas must be durable. There must be a sign adjacent to the door/gate that indicates that the door/gate is to remain closed when not in use. All doors/gates are to be openable from both inside and outside the storage area and must be wide enough to allow for the easy passage of waste/recycling containers.</p>	<p>1. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>
<p>Services</p> <p>1. Waste/recycling storage areas must be serviced by hot and cold water provided through a centralised mixing valve. The hose cock must be protected from the waste containers and must be located in a position that is easily accessible when the area is filled with waste containers.</p> <p>2. The floor must be graded so that any water is directed to a sewer authority approved drainage connection located upon the site. In the SMA this is Sydney Water.</p>	<p>1. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>2. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>
<p>Signage</p> <p>1. Waste/recycling storage areas must include signage that clearly describes the types of materials that can be deposited into recycling bins and general garbage bins</p>	<p>1. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>
<p>Management</p> <p>1. Arrangements must be in place for the regular maintenance and cleaning of waste/recycling storage areas. Waste/recycling containers must only be washed in an area which drains to a sewer authority approved drainage connection.</p> <p>In the Sydney Metropolitan Area (SMA) this is Sydney Water. The Better Practice Guide for Waste Management in Multi-Unit Dwellings (Department of Environment and Climate Change, 2007) gives detailed information about waste recycling/storage rooms and facilities.</p>	<p>1. The site does not have access to reticulated sewer and as such, all water generated by this area of the development will need to be collected and disposed of in an appropriate manner.</p> <p>If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>

Relevant Provisions	Comment
<p>2. Depending upon the size and type of the development, it might need to include separate waste/recycling storage room/area for each tenancy and/or larger waste producing areas.</p>	<p>2. Not applicable.</p>
<p>3. Bins must be stored in the designated waste/recycling storage room(s) or area(s).</p>	<p>3. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>
<p>4. Arrangements must be in place in all parts of the development for the separation of recyclable materials from general waste. Arrangements must be in place in all parts of the development for the movement of recyclable materials and general waste to the main waste/recycling storage room/area.</p>	<p>4. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>
<p>5. The waste/recycling storage room/areas must be able to accommodate bins that are of sufficient volume to contain the quantity of waste generated between collections.</p>	<p>5. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>
<p>6. The type and volume of containers used to hold waste and recyclable materials must be compatible with the collection practices of the nominated waste contractor.</p>	<p>6. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>
<p>7. Waste management storage rooms/areas must be suitably enclosed, covered and maintained so as to prevent polluted wastewater runoff from entering the stormwater system.</p>	<p>7. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>
<p>8. A waste/recycling cupboard must be provided for each and every kitchen area in the development. Each waste/recycling cupboard must be of sufficient size to hold a minimum of a single day's waste and to hold separate containers for general waste and recyclable materials.</p>	<p>8. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>



Relevant Provisions	Comment
<p>9. Premises that discharge trade wastewater must do so only in accordance with a written agreement from the local sewer authority. In the SMA this is Sydney Water. Sydney Water defines trade wastewater as 'any liquid, and any substance contained in it, which may be produced at the premises in an industrial and commercial activity, but does not include domestic wastewater (e.g. from hand-basins, showers and toilets).'</p> <p>10. Arrangements must be in place regarding the regular maintenance and cleaning of waste management facilities. Tenants and cleaners must be aware of their obligations in regards to these matters.</p> <p>11. Production, storage and disposal of hazardous wastes (such as contaminated or toxic material or products) require particular attention. The appropriate laws and protocols should be observed.</p>	<p>9. Not applicable.</p> <p>10. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>11. Not applicable.</p>
<p>2.3.10 Stormwater management</p> <p>(a) To minimise the volume of stormwater flows and demand for water and sewer infrastructure by encouraging and facilitating opportunities for water reuse and recycling,</p> <p>(b) To ensure that industrial developments are designed to prevent pollutants entering the stormwater disposal system,</p>	<p>a) There is one dam and a number of small water tanks onsite collecting stormwater. Excess stormwater is currently disposed of to an intermittent watercourse that traverses the land, then conveyed to outlet pipes directing water to adjoining lands or down the embankment towards Catchment 3 (the terrace area westward of the Nepean River). If the application was to be recommended for approval, then conditions would also require all water being conveyed to those pipes would need to be disposed to a gross pollutant trap to filter out any sediment and meet pre development flows.</p> <p>If the application was to be recommended for approval, conditions could be imposed in this regard and compliance with the Office of Water's General Terms of Approval.</p> <p>b) The EPA has refused to issue General Terms of Approval as insufficient information has been provided to demonstrate the development will not have any adverse impacts in this regard. The development is not satisfactory in this regard.</p>

Relevant Provisions	Comment
<p>(c) To ensure that the quality of water discharged from a development is treated appropriately to avoid adverse impacts on receiving waters,</p> <p>(d) To ensure post-development peak stormwater runoff from frequent storm events does not exceed that which occurred prior to development taking place,</p> <p>(e) To ensure stormwater runoff is collected and disposed in an appropriate manner.</p>	<p>c) The EPA has refused to issue General Terms of Approval as insufficient information has been provided to demonstrate the development will not have any adverse impacts in this regard. The development is not satisfactory in this regard.</p> <p>d) The EPA has refused to issue General Terms of Approval as insufficient information has been provided to demonstrate the development will not have any adverse impacts in this regard. The development is not satisfactory in this regard.</p> <p>e) The EPA has refused to issue General Terms of Approval as insufficient information has been provided to demonstrate the development will not have any adverse impacts in this regard. The development is not satisfactory in this regard.</p>
<p><b>Controls</b></p> <p>1. For all development in existing or proposed urban areas consent must not be granted for development unless the assessing officer is satisfied that:</p> <p>(a) the stormwater management system includes all reasonable management actions to minimise impacts on and contribute to the achievement or protection of relevant environmental values,</p> <p>(b) Water sensitive urban design principles are incorporated into the design of the development, and</p> <p>(c) The stormwater management system complies with Council's requirements.</p> <p>* For the purposes of clause 1 (b) above, the principles of water sensitive urban design can be summarized as follows:</p> <p>(a) Protection and enhancement of natural water systems (creeks, rivers, wetlands, estuaries, lagoons, groundwater systems etc.),</p> <p>(b) Protection and enhancement of water quality, by improving the quality of stormwater runoff from urban catchments,</p>	<p>1. The development is not within an existing or future urban area. As such, the controls from this section are Not applicable.</p>

Relevant Provisions	Comment
<p>(c) Minimisation of harmful impacts of urban development upon water balance and surface and groundwater flow regimes,</p> <p>(d) Integration of stormwater management systems into the landscape in a manner that provides multiple benefits, including water quality protection, stormwater retention and detention, public open space and recreational and visual amenity, and</p> <p>(e) Reduction in potable water demand by using stormwater as a resource.</p>	
<p>2.3.11 Ecological sustainability and Energy conservation</p> <p>Objectives</p> <p>(a) To ensure built form, landscape and site planning embodies energy efficiency and ecologically sustainable development principles,</p> <p>(b) To encourage development that demonstrates appropriate use of energy efficient materials in construction wherever possible, and</p> <p>(c) To encourage development that demonstrates appropriate solar access, natural ventilation and use of landscape elements for micro-climate control, and</p> <p>(d) To reduce potable water mains demand of non-residential development by promoting water-efficient appliances, fit for purpose alternative water use.</p>	<p>a) If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>b) If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>Regarding the development activity, the conversion of a wide range of waste materials into a different and useful form (potting mixes and the like), it is considered the development is satisfactory in this regard</p> <p>c) the development is satisfactory in this regard</p> <p>d) If the application was to be recommended for approval, conditions could be imposed so the persons having the benefit of the consent to comply with the requirements of the plan, where possible. The site does have an existing dam and rainwater tanks to store water to reduce dependency on mains water</p>

Relevant Provisions	Comment
<p>Controls</p> <p>1. Any development application for industrial development on land affected by this DCP must be supported by documentation which identifies how the proposed land use will meet the objectives of cleaner production, conservation and minimisation of resources and waste production.</p> <p>2. A Sustainability Assessment is required to demonstrate where viable ecologically sustainable measures are proposed, which may incorporate some or all of the following in the building design:</p> <p>3. Where necessary demonstrate adequate site restoration, rehabilitation or remediation measures for the site.</p> <p>4. Connection to recycled water is required if serviced by a dual reticulation system for non-potable uses (i.e. toilet flushing, irrigation, car washing, fire fighting and certain industrial purposes where applicable).</p> <p>5. Installation of 3 star WELS rated water efficient showerheads, 6 star WELS rated water tap outlets, 5 star WELS rated urinals and 4 star WELS rated toilet cisterns are required for all amenities.</p>	<p>1. Insufficient information has been provided to enable a full assessment of the application in this regard. the EPA has refused to issue General Terms of Approval, particularly in regard to air quality impacts</p> <p>2. Insufficient information was provided with the application to demonstrate compliance with this control.</p> <p>3. Insufficient information has been provided to ensure the development will not have any adverse impact upon biological diversity or promote ecologically sustainable development.</p> <p>The EPA has refused to issue General Terms of Approval for a number of reasons, one being in relation to insufficient information for a proper assessment of surface and groundwater impacts. While a conservation area can be established around the Endangered Ecological Community, being the Sydney Coastal River Flat Forest located at the rear of the site, there is no surety the expansion of the site's use will not have any adverse impact upon the riparian vegetation. The development is unsatisfactory in this regard.</p> <p>4. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p> <p>5. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>

Relevant Provisions	Comment
<p>2.3.12 Noise</p> <p>Objectives</p> <p>(a) To ensure intensification, expansion and future industrial development does not adversely impact on surrounding rural and residential development, and</p> <p>(b) To ensure that appropriate traffic management measures are applied to direct industrial traffic onto the arterial network.</p>	<p>a) The development is satisfactory in this regard</p> <p>b) Council's engineers raise no objection in this regard. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>
<p>Controls</p> <p>1. Noise sources must be located away from residential areas and noise mitigation measures such as fencing, earth mounding and other acoustic measures will be considered within the development. These measures must not compromise any other provision in this Development Control Plan or on the achievement of minimum solar access requirements of neighbouring properties.</p> <p>2. Development may be required to comply with the NSW Industrial Noise Policy or require noise attenuation measures.</p>	<p>1. The development is satisfactory in this regard. If the application was able to be recommended for approval, conditions could be imposed in this regard. The EPA have not raised any objection to noise from the development.</p> <p>2. The development is satisfactory in this regard. If the application was able to be recommended for approval, conditions could be imposed in this regard.</p>
<p>2.2.19 Open Space</p> <p>Objectives</p> <p>(a) To promote accessible, functional and safe open space for employees within industrial developments.</p>	<p>a) The development is satisfactory in this regard. Sufficient area located onsite to accommodate employee needs</p>
<p>Controls</p> <p>1. Where an individual premises or an industrial complex (or equivalent) is employing 5 or more staff in total, an area of open space must be provided:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> which is readily accessible, and</li> <li><input type="checkbox"/> contains seating, solar access and shade.</li> </ul>	<p>1. The development is satisfactory in this regard. Facilities and level grades are provided immediately south of Shed 1.</p>

Relevant Provisions	Comment
2. The open space area provided in accordance with clause 1 can be included as part of any landscaped area of the site.	2. Noted
<b>3.2 Rural industry and Depots (including Transport depots and Truck depots)</b>	
<b>Objectives</b>  (a) To provide development guidelines for the sustainable development of rural industries, and  (b) To ensure colours used are complimentary to the surrounding landscape and blend into the rural character of the Shire.	a) Noted  b) If the application was able to be recommended for approval, conditions could be imposed in this regard.
<b>Controls</b> <u>Location and building setbacks</u> 1. Buildings used for rural industries must not to be located in visually prominent locations such as ridgelines and must not be erected on slopes in excess of 15 degrees.  2. Certain industries may require a more significant setback to be determined by the assessing officer.  3. Where industries are proposed in rural zones the minimum requirements are (as per igloos).  <u>Building colour</u> 1. The colour of a building used for the purpose of a rural industry must match or blend with the colour of existing structures and buildings on the property and must be in keeping with the natural features of the surrounding environment.	1. The new shed will be located where it will be prominent on the landscape. The development is not satisfactory in this regard, given the size of the proposed shed and the total footprint of the development.  2. The shed will be located 20m from the nearest property boundary. This is considered sufficient in this regard.  3. The development is unsatisfactory in this regard. That is, Shed 2, the carport at the front of the site and the access roads are already within 20 metres of a side (northern property) boundary  1. If the application was able to be recommended for approval, conditions could be imposed in this regard.

Relevant Provisions	Comment
<p><u>Parking and Access</u></p> <p>1. Site access roads in rural areas may need to be sealed depending on the nature of the proposal.</p>	<p>1. If the application was able to be recommended for approval, conditions could be imposed to require all roads to be constructed to an all-weather surface throughout the site to reduce dust generation. The EPA has refused to issue General Terms of Approval, particularly in regard to air quality impacts. Insufficient information was provided identifying all potential emission sources from the development and measures to be used to reduce them.</p>
<p><b>3.8 Waste or Resource management facilities</b></p>	
<p><b>Objectives</b></p> <p>(a) To minimise the overall environmental impacts of waste,</p> <p>(b) To maximise, through design, the opportunities to deal with industrial waste reduce the demand on waste disposal by providing detailed criteria for the consideration of design and management of recycling, composting and waste storage and collection,</p> <p>(c) To provide industrial waste management system that allow for ease of use by occupants and ease of service by collection contractors,</p> <p>(d) To encourage building designs and construction techniques that will minimise waste generation,</p>	<p>a) Insufficient information has been submitted to demonstrate the development will not have any adverse impacts upon the river systems.</p> <p>The information provided in response to the EPA's request has not assessed the potential impacts of the development on surface and groundwater as required by the EPA.</p> <p>As such, the EPA have refused to issue General Terms of Approval and in accordance with Section 91A(4) from the Environmental Planning and Assessment Act 1979, consent cannot be granted</p> <p>b) Insufficient information has been submitted to demonstrate the development will not have any adverse impacts upon the river systems.</p> <p>The information provided in response to the EPA's request has not assessed the potential impacts of the development on surface and groundwater.</p> <p>c) Insufficient information has been submitted to demonstrate the development will not have any adverse impacts upon the river systems.</p> <p>The information provided in response to the EPA's request has not assessed the potential impacts of the development on surface and groundwater.</p> <p>d) Insufficient information has been submitted to demonstrate the development will not have any adverse impacts upon the river systems.</p> <p>The information provided in response to the EPA's request has not assessed the potential impacts of the development on surface and groundwater.</p>

<p>(e) To assist in achieving Federal and State Government waste minimisation targets promote development design that is appropriate and provides convenient waste storage, recycling and collection facilities on site,</p> <p>(f) To encourage the orderly and economic development of waste management facilities in appropriate locations, and</p> <p>(g) To encourage the minimisation of human and environmental health impacts from the location and operation of waste management facilities.</p>	<p>e) if the application were recommended for approval, conditions can be imposed in this regard</p> <p>f) Insufficient information has been submitted to demonstrate the development will not have any adverse impacts upon the river systems.</p> <p>The information provided in response to the EPA's request has not assessed the potential impacts of the development on surface and groundwater.</p> <p>g) Insufficient information has been submitted to demonstrate the development will not have any adverse impacts upon the river systems.</p> <p>The information provided in response to the EPA's request has not assessed the potential impacts of the development on surface and groundwater.</p>
Controls	Comments
<p><u>Location</u></p> <p>1. The waste operations area of a landfill or organic waste processing facility must be sited:</p> <p>_ at least 500 metres from the boundaries of the allotment and</p> <p>_ at least 500 metres from the nearest dwelling, shop, office, public institution or other building designed primarily for human occupation</p> <p>_ at least 250 metres from a public open space reserve, forest reserve, national park, conservation zone or policy area</p> <p>_ at least 100 metres from the nearest surface water (whether permanent or intermittent and</p> <p>_ entirely outside of any 1 in 100 year average recurrence interval flood event area</p>	<p>The development does not comply with this control. However, the provisions of the Environmental Planning and Assessment Regulations 2000 (the Regulations) take primacy over this control. The application is Designated Development in this regard.</p> <p>The development does not comply with this control. However, the provisions of the Regulations take primacy over this control. The application is Designated Development in this regard.</p> <p>The development is satisfactory in this regard. The Bents Basin State Recreation Area is located approximately 810 metres by road and south of the development site.</p> <p>The development does not comply with this control. However, the Regulations take primacy over this control. The application is Designated Development in this regard.</p> <p>Council's Design Engineer has not raised any objection and has not recommended any conditions regarding flood inundation.</p>



<p>2. The waste operations area of a landfill must not be located on land that is subject to land slipping and/or with ground slopes greater than 10 per cent, except where the site incorporates a disused quarry.</p> <p>3. The waste operations area of an organic waste processing facility must not be located on land that is subject to land slipping and/or ground slopes greater than 6 per cent</p> <p>4. The waste operations area of an organic waste processing facility must not be located on land where the interface of engineered landfill liner and natural soils would be within any of the following:</p> <ul style="list-style-type: none"> <li>_ 15 metres of unconfined aquifers bearing groundwater with less than 3000 mg/L total dissolved salts</li> <li>_ 5 metres of groundwater with a water quality of 3000 to 120000 mg/L total dissolved salts</li> <li>_ 2 metres of groundwater with a water quality greater than 12 000mg/L total dissolved salts</li> </ul> <p>5. Applications for development are to be accompanied by a Waste Management Plan (WMP). The WMP accompanying the application must demonstrate appropriate design of facilities and on-going management techniques that minimise waste and the WMP will include the following details:</p> <ul style="list-style-type: none"> <li>_ type of future use for the development</li> <li>_ types of waste to be generated</li> <li>_ estimated volume of waste to be generated per week</li> <li>_ show on plans and describe on-site storage and/or treatment facilities for waste</li> <li>_ state the destination for waste produced to licensed facilities</li> <li>_ provide for ongoing monitoring and auditing of the site in accordance with licensing requirements under the Protection of the Environment Operations Act 1997</li> </ul> <p>A Trade Wastewater permit may be required from Sydney Water Corporation</p>	<p>2. The development is satisfactory in this regard</p> <p>3. The development is satisfactory in this regard</p> <p>4. Not applicable.</p> <p>5. Insufficient information has been provided to demonstrate compliance with this control. The EPA has refused to issue General Terms of Approval, particularly regarding water discharges from the development (considered to be a waste product for all intent and purpose).</p> <p>A trade waste agreement is not able to be obtained from Sydney Water as the development is not connected to sewer.</p>
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for the disposal of wastewater.	
<u>Storage</u> 1. Adequate storage for waste materials must be provided on site. Ideally waste storage containers must be kept inside a building or buildings.  2. All waste must be removed at regular intervals and not less frequently than once per week.  3. All waste storage areas must be screened from view from any other adjoining residential or rural zoned property or public place.	1. If the application was able to be recommended for approval, conditions could be imposed in this regard.  2. If the application was able to be recommended for approval, conditions could be imposed in this regard.  3. If the application was able to be recommended for approval, conditions could be imposed in this regard.
<u>Noise/Odour/Litter</u> 1. Waste management facilities must be located and designed to minimise adverse impacts on both the site and surrounding areas from the generation of surface water and groundwater pollution, traffic, noise, odours, dust, vermin, weeds, litter, gas and visual impact  2. Separation and/or noise attenuation must be used to ensure noise generation associated with the waste management operation does not unreasonably interfere with the amenity of sensitive land uses.  3. The development must comply with the NSW Industrial Noise Policy.  4. Litter control measures that manage wind blown litter must be provided to the satisfaction of Council.	1. Insufficient information has been provided to demonstrate compliance with this control. The EPA has refused to issue General Terms of Approval, particularly regarding water discharges and air quality concerns from the development.  2. Conditions can be recommended in this regard of the application was being reported for approval  3. If the application was able to be recommended for approval, conditions could be imposed in this regard. The collection can be limited between normal construction hours to reduce any impacts.  4. If the application was able to be recommended for approval, conditions could be imposed in this regard.
<u>Drainage</u> 1. Sufficient area must be provided within the waste operations area for the: _ maximum expected volume of material on the site at any one time _ containment of potential groundwater and surface water contaminants _ diversion of clean stormwater away from the waste and potentially contaminated areas	1. The applicant has detailed that the floor of the new shed will be exposed earth as the composting activity is not likely to cause any impacts as the release of leachate during this process is minimal. This is not considered satisfactory. The EPA has refused to issue General Terms of Approval as insufficient information has been provided to demonstrate the development will not have any adverse impacts upon ground and surface waters.

Where required, a leachate barrier must be provided between the operational areas and underlying soil and groundwater.	The development is not satisfactory in this regard.
<u>Access</u> 1. Waste management sites must be accessed by appropriately constructed and maintained roads.  2. Chain wire mesh must be erected on the perimeter of a waste management facility to prevent access other than at entry points.  3. Plant, equipment or activities that could cause a potential hazard to the public must be enclosed by a security fence.	1. If the application was able to be recommended for approval, conditions will required all internal roads to be all weather in construction rather than remain as exposed earth.  2. This has already been addressed in this report. The existing rural fence is acceptable as detailed previously.  3. If the application was able to be recommended for approval, conditions could be imposed in this regard to ensure compliance with the control.
<u>Sustainable gas emissions</u>  1. Landfill activities that have a total capacity exceeding 230 000 cubic metres must make sustainable use of landfill gas emissions. For smaller landfill activities, if the sustainable use of the landfill gas emissions is not practical or feasible, flaring must be used to avoid gases being vented directly into the air. Environmental guidelines for development and any licensing requirements are provided by the NSW Department of Environment and Climate Change and Water at <a href="http://www.environment.nsw.gov.au">www.environment.nsw.gov.au</a> and Sydney Water Corporation at <a href="http://www.sydneywater.nsw.gov.au">www.sydneywater.nsw.gov.au</a>	1. Not applicable. The site is not being used for any landfill purposes.

## 2.2.8 The suitability of the site for the development;

### The Likely Impacts of That Development

Head of Consideration	Comment
Natural Environment	<p>Insufficient information has been provided to enable a comprehensive assessment of the application in regard to Section 79C of the Environmental Planning and Assessment Act 1979.</p> <p>The EPA has refused to issue the required General Terms of Approval due to concerns regarding air and water quality impacts.</p>

Head of Consideration	Comment
Built Environment	It is considered that the proposed shed will have a negative impact. It is considered that, not only the bulk and scale issues with the proposed new shed, but the development as a whole is not sympathetic to the existing developments immediately surrounding the site.
Social Impacts	Approval of the application in its current form will result in negative social impacts. That is, as insufficient information has been provided to enable a full assessment against the provisions of Section 79C from the Environmental Planning and Assessment Act 1979, particularly in regards to air and water quality impacts. The potential health risks associated with the development given the proximity to receptors and the Nepean River.
Economic Impacts	It is considered the development will not have any negative economic impacts

### **The Suitability of the Site for the Development;**

Due to the concerns mentioned throughout this assessment report and based on the merits of the development, refusal of the application is recommended as it is considered the land is not suitable for the proposed development.

### **Any Submissions Made in Accordance With This Act or the Regulations;**

Form of Exhibition:                      Advertised  
Submissions Received:                One (1)

Consideration of submissions:

Submitter Comment	Assessor Comment
Council is requested to demonstrate the development will have no environmental impact impacts to the residents in the adjoining local government area	This has not been satisfactorily demonstrated by the applicant. The EPA has refused to issued General Terms of Approval specifically in this regard
It is requested that Council ensure odour and dust impacts will be effectively mitigated	This has not been satisfactorily demonstrated by the applicant. The EPA has refused to issued General Terms of Approval specifically in this regard
Consideration given to noise impacts associated with not only the facility but also traffic movements as it is likely that vehicles associated with the development may travel through Wallacia and onto other key collector/arterials roads within the adjoining local government area.	Council does not raise any objection to noise generation from the development. The number of vehicle movements associated with the development is low and it is considered there will be no adverse impacts on road infrastructure in Council's and the adjoining local government areas of Liverpool and Penrith
Hours of operation should be restricted to ensure sleep disturbance criteria is met	The facility is proposed to operate from 7am to 5pm, Monday to Friday and from 7am to 4pm on Saturdays. If the application was able to be recommended for approval, conditions could be imposed

Submitter Comment	Assessor Comment
It is noted the development is proposed in close proximity to the Nepean River. Significant amounts of material are to be stored on site so appropriate measures are required to ensure runoff is contained, particularly in heavy rain events. A review of aerial photography shows large pooling of water across the site. Without having specific access to flood data, all materials will need to be stored outside of floodwater areas.	<p>This has not been satisfactorily demonstrated by the applicant. The EPA has refused to issued General Terms of Approval specifically in this regard.</p> <p>No physical works associated with the development is proposed within the 1 in 100 year flood affected area, apart from the reestablishment of vegetation.</p> <p>Insufficient information has been provided to ensure water discharges from the development into the flood affected area will not have any adverse impacts, particularly in regard to leachate, potential pollution that may be introduced to the discharge points and effective mitigation controls. Insufficient information has been provided to demonstrate the development is satisfactory in this regard.</p>
Site operations should not have any adverse impacts on water quality of the Nepean River	This has not been satisfactorily demonstrated by the applicant. The EPA has refused to issue General Terms of Approval specifically in this regard.

### Section 94 and 94A Assessment

Date of Lodgement	24/01/2014
Relevant Contributions Plan	2011 Plan

### Section 94A Contributions

Cost of Development	\$250,000
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Description	Levy	Applicable	Condition Required
Non-residential development with proposed cost exceeding \$200,000.	1.0%	yes	yes

### The Public Interest

Based on the merits of the development, approval of the application in its current form is not warranted due to a number of concerns and issues regarding water quality impacts. The refusal to issue General Terms of Approval by the NSW Environmental Protection Agency indicates that insufficient information has been provided to effectively demonstrate the proposed development is satisfactory in regards to the receiving environment, particularly air and water quality impacts.

Further, given that General Terms of Approval have been refused by the NSW Environmental Protection Agency, the development application cannot be approved due to the operation of Section 91A(4) of the Environmental Planning and Assessment Act 1979.

**Consideration of access for people with a disability and the Disability Access to Premises – Buildings) Standards 2010 (applies to all applications lodged on or after 11 May 2011.)**

If the application were recommended for approval, conditions can be imposed in this regard.

**ATTACHMENTS**

1. Plans of development
2. Response from the NSW Environmental Protection Agency

**RECOMMENDATIONS**

That Development Application 010.2014.00000034.001 for continued use of a Rural Industry (Horticultural Products Facility) comprising a “Composting Facility” and a “Resource Recovery Facility” at Lot 2 DP 814869 / No. 665 Bents Basin Road, Wallacia is refused for the following reasons:

1. The NSW Environment Protection Authority, as an approval body, has advised Council that it will not issue General Terms of Approval in respect to the proposed development. Pursuant to Section 91A(4) of the *Environmental Planning and Assessment Act, 1979* Council must refuse consent to the proposed development.
2. The development is inconsistent with objectives (a) and (b) in Section 3 of Protection of the Environment Operations Act 1997 (Section 79C(1)(a)(i) *Environmental Planning and Assessment Act 1979*).
3. The development is inconsistent with objectives (a), (b), (d), (e) and (f) in Section 3 of Threatened Species Conservation Act 1995 (Section 79C(1)(a)(i) *Environmental Planning and Assessment Act 1979*).
4. The development is inconsistent with objective (e) in Section 3 of State Environmental Planning Policy Hazardous and Offensive Development (Section 79C(1)(a)(i) *Environmental Planning and Assessment Act 1979*).
5. The requisite opinion required prior to the granting of development consent under Clause 7(1) of *State Environmental Planning Policy 55 – Remediation of Land* (SEPP 55) is not able to be reached (Section 79C(1)(a)(i) *Environmental Planning and Assessment Act, 1979*).

Council's records indicate materials from an unknown source were deposited on the subject land without development consent and the land was also used for rural purposes. Information provided in the applicant details part of the site is being used as a junk yard (storing of old cars, trucks, tyres, miscellaneous parts and machinery across the site). No detailed assessment has been provided in respect of this potentially contaminating use (as identified in Table 1 of the Managing Land Contamination, Planning Guidelines SEPP 55 – Remediation of Land) as required under Clause 7(3) of SEPP 55.

6. The proposed development does not satisfy the requirements of *Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River* (a deemed State Environmental Planning Policy) in regard to Clause 6 Specific planning policies and recommended strategies, sub-clauses (3) Water Quality, (4) Water Quantity (6) Flora and Fauna and (7) Riverine Scenic Quality and Clause 11 Development Controls, sub-clauses (2) Composting facilities or works, (15) Land uses in or near the river, (16) Land uses in riverine scenic areas and (18) Waste management facilities or works (Section 79C(1)(a)(i) *Environmental Planning and Assessment Act, 1979*).
7. The proposed development is not consistent with Objectives (a), (b) and (e) in Clause 1.2 Aims of Plan under Wollondilly Local Environmental Plan 2011 (Section 79C(1)(c) *Environmental Planning and Assessment Act, 1979*).
8. The proposed development is incompatible with the rural character of the surrounding area and is likely to result in rural land use conflict, which is contrary to the objective in the fourth dot point of the RU1 – Primary Production zone under *Wollondilly Local Environmental Plan 2011* (Section 79C(1)(c) *Environmental Planning and Assessment Act, 1979*).
9. The proposed development is not consistent with Objective (c) and subsection (3)(a), (b), (c) and (d) from Clause 7.4 Flood Planning of Wollondilly Local Environmental Plan 2011 , specifically in regards to storm and surface water disposal in the 1 in 100 year flood plain of the Nepean River.
10. The proposed development fails to satisfy the objectives of Wollondilly Development Control Plan 2011 (Section 79C(1)(a)(iii) *Environmental Planning and Assessment Act, 1979*) in regard to:
  - a) Section 2.5 Biodiversity Water Management from Wollondilly Development Control Plan (WDCP) 2011 – Volume 1,
  - b) Section 2.7 Flood Affected Land from WDCP 2011 Volume 1,
  - c) Section 2.9 Contaminated Land and Land Filling WDCP 2011 – Volume 1,
  - d) Objectives (a), (b), (c) and (d) in Section 2.14 Water Management from WDCP 2011 – Volume 1,
  - e) Objectives (a), (b), (d), (e), (j), (k) and (l) of Section 2.2 from WDCP 2011 Volume 5,
  - f) Objectives (a), (b), (c) and Control 3 of Section 2.3.2 from WDCP 2011 Volume 5,
  - g) Objective (b) from Section 2.3.3 from WDCP 2011 Volume 5,
  - h) Objectives (b) to (e) inclusive and Controls (a) to (e) inclusive from Section 2.3.10 from WDCP 2011 Volume 5,
  - i) Controls (1) and (3) from Section 2.3.11, objectives (a) to (d) inclusive, (f) and (g) from WDCP 2011 Volume 5,
  - j) Location Control (5) and Drainage Control (1) from WDCP 2011 Volume 5.

11. The proposed development will have an unacceptable odour impact on residents of Wallacia. (Section 79C(1)(b) *Environmental Planning and Assessment Act, 1979*).
12. Insufficient information has been provided to demonstrate the development will not have an adverse impact on the Endangered Ecological Community, in this case Sydney Coastal River Flat Forest, located in the rear portion and along the Nepean River (Section 79C(1)(b) *Environmental Planning and Assessment Act, 1979*).
13. Insufficient information has been submitted to demonstrate the development will not have an adverse impact upon the receiving waters for the Nepean River. The application has not assessed the potential effects and the impacts of the development on surface and groundwater, predicted pollutant loadings and their impacts on the existing environment have not been adequately assessed and insufficient information on how stormwater and leachate will be managed (Section 79C(1)(b) *Environmental Planning and Assessment Act, 1979*).
14. Insufficient information has been submitted to demonstrate the subject land is suitable for the proposed development (Section 79C(1)(c) *Environmental Planning and Assessment Act, 1979*).
15. The subject land is not suitable for the proposed development as insufficient information has been submitted to demonstrate the proposal will not have an adverse impact on the biophysical environment (Section 79C(1)(c) *Environmental Planning and Assessment Act, 1979*).
16. The application is not in the public interest. (Section 79C(1)(e) *Environmental Planning and Assessment Act, 1979*).