

**The City of Newcastle**

<b>JRPP No.</b>	2015HCC014
<b>DA No.</b>	DA 2015/0291
<b>Proposal</b>	RECYCLING FACILITY AND ASSOCIATED SITE WORKS.
<b>Property</b>	80 TOURLE STREET MAYFIELD WEST LOT 1 DP 874109
<b>Recommendation</b>	APPROVAL
<b>Applicant</b>	BENEDICT INDUSTRIES PTY LIMITED
<b>Report By</b>	DEVELOPMENT AND BUILDING SERVICES

**Assessment Report and Recommendation**

**Executive Summary**

**Proposed Development**

The site has been previously been used for industrial purposes as an Electrolytic Manganese Dioxide facility (i.e. EMD plant) which ceased operation in the early 2000's.

The current proposal intends to utilise the existing buildings on the site and open areas for the purpose a recycling facility accepting up to 90,000 tonnes per annum of inert wastes.

**Referral to Joint Regional Planning Panel**

The proposal is referred to the Joint Regional Planning Panel for determination pursuant to Clause 8(c) of Schedule 4a of the Environmental Planning and Assessment Act 1979 (EPAA) being a '*particular designated development*' inclusive of *waste management facilities or works*).

The proposal involves a 'waste management facility' under Clause 32(b) of Schedule 3 of the *Environmental Planning & Assessment Regulation, 2000* (EPAA Reg.) proposing to accept 90,000 tonnes per year (ie Cl 32(b)(iii) is triggered at 30,000 tonnes per year).

**Permissibility**

**Newcastle Local Environmental Plan 2012 (NLEP2012) & State Environmental Planning Policy (Infrastructure) 2007 (iSEPP)**

The subject site is zoned IN1 General Industrial under the NLEP2012 and a *waste or resource management facility* is a prohibited use within this zone.

Notwithstanding this, the provisions of Clause 121 of the iSEPP apply which allows the proposed *waste or resource management facility* as a permissible use with consent within the IN1 General Industrial zone.

**State Environmental Planning Policy No 33—Hazardous and Offensive Development (SEPP33)**

The proposal has been assessed having regard to the provisions of SEPP33 and specifically the Department of Planning's publication *Applying SEPP 33 Guideline* and is considered to be acceptable (i.e. see Section 6 for further details).

State Environmental Planning Policy No 55—Remediation of Land

The site is known to be contaminated land. The proposal has been assessed by Council's Senior Environment Protection Officer and is considered to be satisfactory subject to conditions of consent (i.e. Officer's assessment is detailed in full within Appendix D). These conditions have been included within those recommended within Appendix A.

It is considered that the proposal is acceptable having regard to the provisions of State Environmental Planning Policy No 55.

State Environmental Planning Policy No 71—Coastal Protection

The subject site is within land affected by SEPP 71 (i.e. within the *coastal zone* and partially within the *sensitive coastal location*) but is considered to be acceptable (i.e. see Section 6 for further details).

State Environmental Planning Policy (Infrastructure) 2007 (iSEPP)

Clause 121 of the iSEPP allows the development to be permissible as discussed above. Furthermore, the development is considered to be traffic generating development under Clause 104 of the iSEPP.

The proposal has been assessed having regard to the provisions of the iSEPP is considered to be acceptable (ie see Section 6 for further details).

State Environmental Planning Policy (Three Ports) 2013

The subject site is in close proximity to land contained within the SEPP (Three Ports) but the proposal is not affected by the instrument.

State Environmental Planning Policy (State & Regional Development) 2011

The SEPP (State & Regional Development) 2011 (SRD) indicates that the proposal is to be determined by the JRPP due to Clause 8(c) of Schedule 4a of the EPAA (i.e. '*particular designated development*' inclusive of *waste management facilities or works*').

The proposal does not constitute State significant development under Schedule 1 of the SRD SEPP as the proposal is for less than 100,000 tonnes per year of waste.

Consultation

The proposal was advertised in accordance with the provisions for *designated development* and *nominated integrated development* under the *EPAA Reg.* and the Newcastle Development Control Plan 2012 between 20 April to 21 May 2015. Nine (9) public submissions have been received in relation to the proposal.

Key Issues

The main issues identified in the assessment are as follows:

- Whether the proposed development is acceptable in relation land contamination;
- Whether the proposed development is acceptable in relation to water quality; and
- Whether the proposed development has an acceptable impact in terms of amenity having regard to traffic, air, noise, dust and odour.

#### Recommendation

Grant approval to application reference 2015HCC014 (DA2015/0291) subject to conditions recommended in Appendix A.

## **1. Background**

The site has been previously used for industrial purposes as an Electrolytic Manganese Dioxide facility (EMD plant). The site has been remediated and a site audit statement under the *Contaminated Land Management Act 1997* has been issued. The site is currently unused and has largely been underutilised since the EMD plant ceased operations in the early 2000's

## **2. Site and Locality Description**

The proposal is located on Lot 1 DP 874109. The total site has an approximate area of 8.943 hectares with a 'frontage' of 279.03m to Tourle Street. Notwithstanding that the site's 'frontage' is to Tourle Street, it has no access at this point due to the topography and relative level of roadway compared to the subject site. The effective access for the site is via a 10 metre wide easement across No. 1 McIntosh Drive, Mayfield West.

The site is irregular in shape, but is generally square with the eastern boundary being largely parallel to Tourle Street.

The site is relatively flat with existing swale drainage around the western boundary and part of the southern and northern boundaries.

The existing site has been largely disturbed through its previous use for industrial purposes as an Electrolytic Manganese Dioxide facility. As a result, large portions of the site comprise either expanses of impervious asphalt or built structures.

Currently, the subject site contains eight main buildings and several smaller sheds. The buildings are spread across the site, although the northern portion is more open. There is an existing historic car park located in the south-eastern corner of the site.

The majority of the vegetation exists as a landscape screening along the northern, western and southern boundaries, with some further landscaping elements interspersed near the southern entry gates. There are also pockets of vegetation outside the eastern side of the site, along the embankment between Tourle Street and the subject site.

The existing vegetation along the southern boundary appears healthy. The vegetation along the western boundary and northern boundary are degraded.

**Figure 1 - Site Location**



### **3. Project Description**

The site has been previously been used for industrial purposes as an Electrolytic Manganese Dioxide facility (EMD plant) which ceased operation in the early 2000's.

The current proposal intends to utilise the existing buildings on the site and open areas for the purpose a recycling facility accepting up to 90,000 tonnes per annum of inert wastes.

The applicant's Environmental Impact Statement (EIS) outlines the proposal as follows:

*'It is proposed to accept up to 90,000 tonnes per annum of waste at the recycling facility. The proportions of each waste type are unknown and will be variable. Therefore, a number of conservative assumptions have been adopted for determining the potential impacts of the recycling facility.'*

The waste will be received from both businesses and the general public in a variety of vehicles from utilities and box trailers through to heavy vehicles. The EIS also advises:

*'The recycling facility will import inert "pre-classified general solid waste (non-putrescible)", such as construction and demolition wastes, and selected commercial and industrial wastes, for processing (eg crushing, shredding and sorting) to produce saleable recycled materials. No special, liquid, hazardous, restricted solid waste or general solid waste (putrescible) will be accepted at the facility.'*

*'Benedict Recycling proposes to develop a recycling facility on the site and undertake a range of ancillary activities.'*

- *'the main recycling facility on the west of the site that will accept and process segregated and co-mingled inert waste; and*
- *ancillary activities on the east of the site that will include:*
  - *temporary storage of plant, equipment, machinery, commercial vehicles, bins and containers;*
  - *some waste storage and processing (eg recyclable glass crushing within an existing building); and*
  - *RDF and/or biochar production within a building if a market for these products develops.'*

The recycling facility will only accept *'....Pre-classified general solid waste (non-putrescible)' as defined by EPA (2014b)'* (refer extract in Appendix E). Typically this includes:

- a) *'co-mingled and segregated building and demolition waste — soils, bricks, concrete, paper/cardboard, cloth, plastics, rubber, plasterboard, ceramics, glass, metal and wood, and the like;*
- b) *vegetation and uncontaminated soils;*
- c) *tiles, asphalt, suitable slags and concrete batching waste;*
- d) *excavated natural materials (ENMs) including virgin natural excavated material (VNEM) such as sand and sandstone which are generated during bulk earthworks and road and infrastructure repair; and*
- e) *rail ballast and spoils.'*

*The EIS further advises that 'No special, hazardous restricted solid waste (including asbestos) or will be accepted at the site.'* and *'The site will include the following components:*

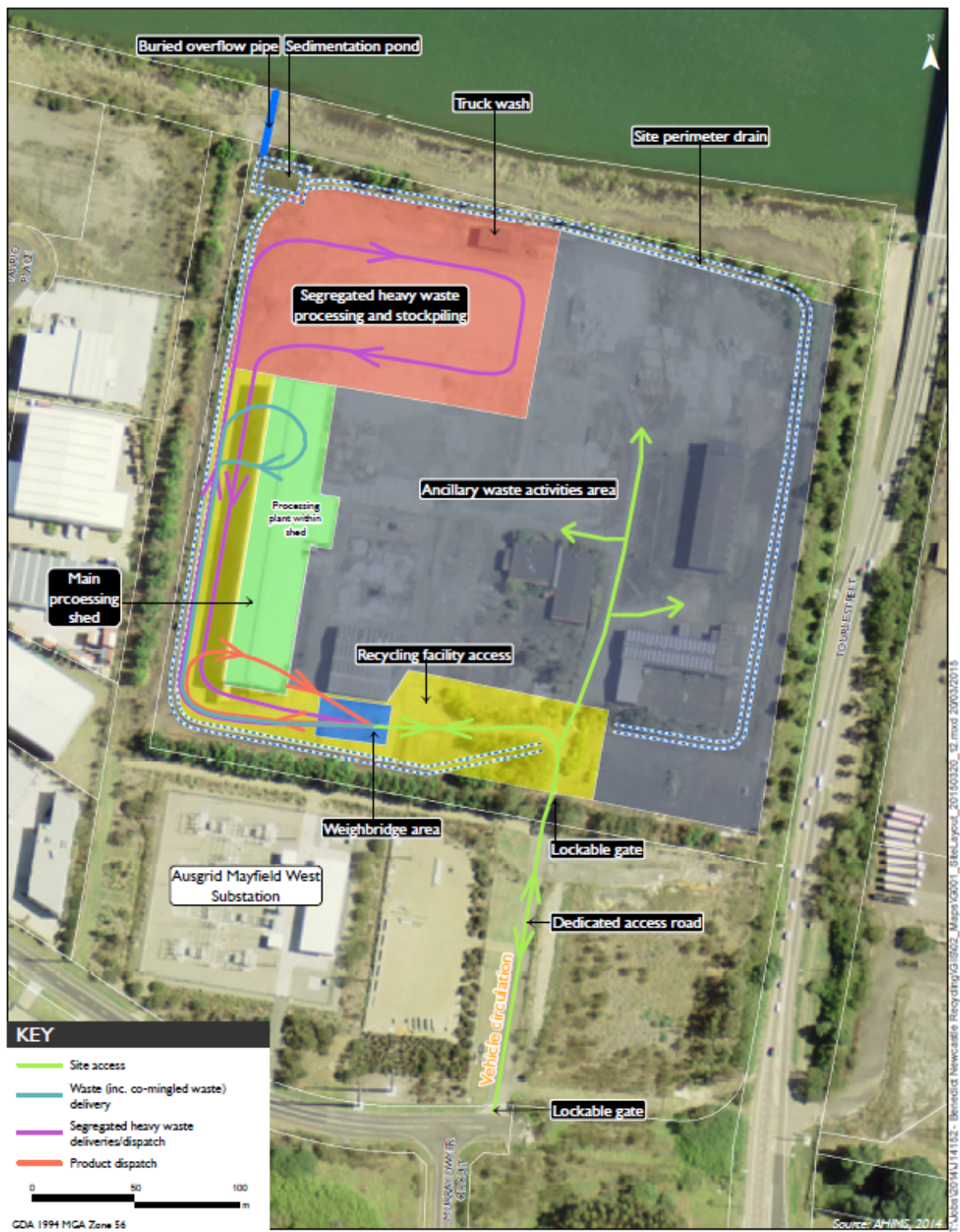
- f) *a weighbridge area with two weighbridges, a wheel wash for outbound vehicles, demountable offices and amenities;*
- g) *the main processing shed (previously the EMD Delta Electrolysis Building) which will contain the majority of waste processing activities;*
- h) *a segregated heavy waste processing and stockpiling area north of the main processing shed;*
- i) *vehicle repair and maintenance facilities in an existing shed;*
- j) *a truck wash in an existing shed;*
- k) *access and internal roads; and*
- l) *an ancillary waste activity area for storage, parking and other ancillary uses.'*

The proposal will involve the construction of the weigh bridges, demountable offices, improving water quality measures and repair of gates and fencing.

Figure 2 below shows the general intended layout of the facility:



**Figure 2 - Proposed Site Layout**



The majority of the activities associated with the proposed waste processing will occur within the main processing shed (the building marked in 'green' in Figure 2. This shed is approximately 150m X 25m having an area of 3800m<sup>2</sup> with a concrete floor and existing 250mm bund. The existing bund, combined with the processing area being fully covered, will limit any rainfall causing water quality issues arising from precipitation leaching through the waste stockpiles and processing areas.

The heavy waste processing and stockpiling area are located towards the north-western corner of the site and will be used for *'...the storage of segregated concrete (including tiles, bricks, etc) and segregated wood waste and for recycled products derived from these materials.'*

The majority waste will be sorted and processed within the main processing shed on a regular basis. The heavy waste will be sorted (ie segregation) and processed separately (eg concrete, bricks, tiles and timber). *'Segregated heavy waste requiring crushing or shredding (eg concrete, bricks or timber) will be processed outside in a series of two to three campaigns during the year, each lasting about two weeks. Additional mobile equipment will be brought to site during these campaigns.'*

The need to store heavy waste material for campaigns will result in the need create stockpiles. The extracted table below shows the indicative stockpile volumes, height and type:

**Table 1 - Indicative Stockpiles**

Type <sup>1</sup>	Waste classification <sup>2</sup>	Stockpile location	Comments
Concrete	Pre-classified general solid waste (non-putresible)	External	Maximum individual stockpile size <sup>3</sup> : 5,000 tonnes, up to 7 m tall
Concrete, bricks and tiles			
Rail ballast and spoils			
Slags and concrete batching waste			Feed will be processed in campaigns
Recycled construction materials			
Wood	Pre-classified general solid waste (non-putresible)	External	Maximum individual stockpile size <sup>3</sup> : 4,000 tonnes, up to 7 m tall  Feed will be processed in campaigns
Co-mingled waste	Pre-classified general solid waste (non-putresible)	Internal	

Notes: 1. Actual stockpile types will vary depending on the waste received.

2. EPA (2014b).

3. Multiple stockpiles may be required.

Various equipment and vehicles will be used onsite including trucks, front end loaders, generators, excavators, heavy waste sorters, and crusher and wood shredders.

A proportion of the waste stream entering the facility (less than 20% by mass) will not be able to be recycled ('non-recyclable residues') and these will be separately stockpiled undercover and disposed of at an EPA licensed facility (Summerhill Waste Management Facility). Alternatively, the 'non-recyclable residues' material may be further processed and *'..sold to a licensed facility for use as RDF or biochar'* (as RDF - Refuse derived fuel).

Power plants which use RDFs in the generation of electricity (replacing fossil fuels with RDF's) are expected to be licensed within NSW. *'Biochar is a charcoal product with a range of uses, particularly as a soil ameliorant (as an additive to improve the fertility of soils).'* The

diversion of these 'non-recyclable residues' from landfill to these alternative purposes will not occur until there is a viable market for the RDF and biochar products.

A detailed discussion of the waste processing stream provided within the applicant's EIS is included within an extract in Appendix F.

The proposal is for 24 hour of operation but this is largely limited to need to service waste generation from major infrastructure works (road and/or rail works). It is expected that this would be infrequent. The 24hr operation would only be for the acceptance of waste and not the processing of wastes. The EIS advises:

*'The recycling facility will normally accept waste deliveries (from businesses and the public) and dispatch materials between 6 am and 6 pm Monday to Friday and between 6 am and 5 pm on Saturday. It will also normally accept deliveries from 7 am to 3 pm on Sunday, providing an additional day on which the public could deliver recyclable waste to the facility if there is sufficient demand.'*

*'Waste processing will only occur at the site from 7 am to 6 pm Monday to Saturday. There will be no processing on Sundays or public holidays.'*

The proposal will typically involve 12 employees although this number will increase during campaign processing of the stockpiled heavy wastes. If RDF and biochar processing commences staffing numbers would also increase.

Refer to Appendix B for a copy of the floor plans and elevations of the proposal.

Refer to Appendix C for the chronology of the application.

#### **4. Consultation**

The proposal was advertised in accordance with the provisions for *designated development* and *nominated integrated development* under the EPAA Reg. and the Newcastle Development Control Plan 2012 between 20 April to 21 May 2015. Nine (9) public submissions have been received in relation to the proposal. The matters raised in the submissions are detailed below:

- a) Traffic - Concern that the development will result in unreasonable traffic impacts. That the proposal will result in the '*..destruction of road surfaces through heavy truck wear and tear.*'

Comment:

The proposal has been assessed by the RMS and Council's Senior Development Engineer (Traffic) and is considered to be acceptable. The roads within the Steel River Estate have been designed for heavy vehicle traffic'.

- b) Land Use Compatibility - '*We consider the proposed Recycling Facility land use is not compatible with the other land uses in the immediate area, and therefore is an inappropriate development for the precinct.*'

*'Siting a waste and recycling facility on what is basically a water front site would be a retrograde decision at odds with NCC's current efforts to improve the visual amenity and liveability of the city.'*



*'There is a need for this type of facility and confirming heavy waste processing to an industrial area where heavy industries co-exist would lessen environmental, visual and health impacts on surrounding areas.'*

Comment:

The proposal is permissible under Clause 121 of the iSEPP and is considered to be an appropriate use of the site. The air, dust, noise, visual and water quality aspects of the proposal have been assessed and are considered to be acceptable.

- c) Air Pollution - Concern that the development will result in air pollution impacts including dust, airbourne rubbish and odour.

Comment:

The proposal has been assessed by both the EPA and Council's Senior Environment Protection officer and is considered to be acceptable.

- d) Noise & Vibration - Concern that the development will result in unreasonable acoustic impacts (noise & vibration from heavy machinery and the like).

Comment:

The proposal has been assessed by both the EPA and Council's Senior Environment Protection officer and is considered to be acceptable.

- e) Toxics - Concern that the development will involve toxic and/or heavy wastes.

Comment:

The proposal is limited to '....*Pre-classified general solid waste (non-putrescible)*' as defined by EPA (2014b) and does not involve hazardous or toxic wastes. The recycling of heavy wastes such as concrete, bricks, tiles and timber has been assessed and is considered to be permissible and an appropriate use of the site.

- f) Vermin - Concern that the development will result in increase in vermin.

Comment:

The proposal involves predominately the recycling and processing of inert wastes and, as such, it is not considered that the development poses any significant issue in terms of vermin.

- g) General Waste - Concern that the proposal will result in an increase in debris, litter and visual unsightliness. Furthermore, that there is danger of spillage.

Comment:

The development has an existing landscape screen to each boundary which will be supplemented and improved via the addition of new tree plantings and the inclusion of shade cloth to the northern fence. It is not considered that the low danger of spillage is sufficient to prevent support of the proposal. Furthermore, spillage from vehicles is a separately prosecutable offence.

- h) Fire Source - Concern regarding potential fire sources risks.

Comment:

It is not accepted that the recycling and processing of predominately inert materials poses an unreasonable fire source risk.

- i) Corrosion Effects - Concern that the development will have '*corrosion effects*'.

Comment:

The air, dust and water quality aspects of the proposal have been assessed by the EPA and Council's engineers and are considered to be acceptable. It is not considered that the proposal results in any real corrosion risks considering the materials involved.

- j) Health Risks - Concern that the development will have '*health risks*'.

Comments:

Having regard to the overall assessment of the proposal it is considered that the development does not pose a health risk to the surrounding population.

- k) Hunter River - Concern regarding the developments proximity to the Hunter River and potential for pollutants to enter the river system.

Comments:

The water quality aspects of the proposal have been assessed by Council's Senior Development Engineer (Stormwater & Flooding) and are considered to be acceptable.

- l) Property Values – Concern that the proposal will have a negative impact on our property values.'

Comments:

Impact on property values are not a relevant planning concern.

## **5. Referrals**

### **5.1 Statutory Referrals**

- a) Roads & Maritime Services

The proposal was referred to the RMS in accordance with the iSEPP. The RMS has no objections to the proposal subject to inclusion of conditions of consent ensuring the construction and operational traffic is appropriately controlled.

- b) Environment Protection Authority

The development was referred to the EPA as the proposal is *nominated integrated development* under the provisions of Section 91 of the EPAA. The proposed development requires an *environment protection licence* (EPL) under the *Protection of the Environment Operations Act, 1997*. The EPA has assessed the proposal and it is considered to be acceptable subject to the inclusions of the conditions contained within the General Terms of Approval (GTA).

- c) Office of Water

The proposal was referred to the NSW Office of Water as an integrated development under the provisions of Section 91 of the *Environmental Planning & Assessment Act, 1979*. It was considered that the development may require a *controlled activity approval* under the provisions of the *Water Management Act, 2000*. The NSW Office of Water has confirmed that no *controlled activity approval* is required for this proposal and that the development '*..will result in no more than minimal harm to the waterfront land*'.

d) Ausgrid

The proposal was referred to Ausgrid who did not raise any objections to the proposal.

These relevant conditions have been included within the recommended conditions within Appendix A.

## 5.2 Internal Referrals

Internal referrals were made to the following:

- a) Senior Development Engineers concerning flooding, stormwater, parking provision, traffic generation and vehicle access.
- b) Environmental Protection Officer concerning State Environmental Planning Policy 55 - Remediation of Land and environmental issues generally.
- c) Senior Development Officer (Building) concerning building aspects of the proposal.

Refer to Appendix D for details of the referrals.

## 6. **Section 79C Considerations**

*(a)(i) the provisions of any environmental planning instrument*

### 6.1 State Environmental Planning Policy No 33—Hazardous and Offensive Development

The proposal has been assessed having regard to the provisions of SEPP 33 and specifically Department of Planning's *Applying SEPP 33 Guideline*. The Guideline contains the screening tests that trigger requirements for a *Preliminary Hazard Assessment* and outline whether a proposal is a *potentially hazardous or offensive development*.

An assessment of the proposal in terms of these provisions confirms that the submitted development does not trigger the requirement for a *Preliminary Hazard Assessment* and is not considered to constitute a *potentially hazardous or offensive development*.

The various dangerous goods that are proposed to be stored within the site are mostly in very limited quantities except for two pressurised LPG tanks (total 15,000 litres), diesel tank (40,000 litres) and flocculent (1000 litre container). All the quantities proposed are below the screening volumes and or volumes/distance criteria's that trigger a *Preliminary Hazard Assessment* and the proposal is acceptable.

Similarly, the proposal is also below the thresholds set by *Applying SEPP 33* in terms of the transportation of hazardous materials.

The proposed recovery facility will not accept any special, liquid, hazardous, restricted solid waste or general solid waste (putrescible) at the facility.

It is considered that the proposal is acceptable having regard to the provisions of SEPP 33.

#### 6.2 State Environmental Planning Policy No. 55 - Remediation of Land & Contaminated Land Management Act, 1997

The site is known to be contaminated land. The proposal has been assessed by Council's Senior Environment Protection officer who advises that the proposal is considered to be satisfactory subject to conditions of consent (officer's complete assessment comments are detailed in full within Appendix D). These conditions have been included within those recommended in Appendix A.

It is further confirmed that the subject site has had a site audit statement under the Contaminated Land Management Act 1997 was issued (10 November 2009). This confirms that the site is suitable for commercial and industrial uses'

It is considered that the proposal is acceptable having regard to the provisions of State Environmental Planning Policy No 55 and Land & Contaminated Land Management Act, 1997

#### 6.3 State Environmental Planning Policy No 71—Coastal Protection

The subject site is within land affected by SEPP 71 (within the *coastal zone* and partially within the *sensitive coastal location*).

The existing site is predominately disturbed having been previously been used for industrial purposes as an Electrolytic Manganese Dioxide facility. The majority of the site is finished in large areas of an asphalt surface or occupied by several existing buildings. The only exceptions being the landscaping along the northern, western and southern boundaries, plus near the southern entry gates.

The proposal involves introducing a new waste processing use that will predominately handle inert wastes and to adequate management practices controlled by the *environment protection licence* and conditions of consent it is considered that the proposal would not have a detrimental impact on coastal environment or elements having regard to the provisions of Clauses 7 and 8 of SEPP 71.

#### 6.4 State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)

The provisions of Clause 121 of the iSEPP apply which allows the proposed *waste or resource management facility* as a permissible use with consent within the IN1 General Industrial zone (as defined below).

The proposal specifically constitutes a *resource recovery facility* which is a subset of a *waste or resource management facility* use, as defined below.

**'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.'



***'waste or resource management facility means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.'***

The proposal is categorised as being a traffic generating development having regard to the provisions of Clause 104 and Schedule 3 of the iSEPP and requires Council to consult with the RMS. Furthermore, the proposal has the potential to impact on the functioning of the existing traffic signals at the intersection of Industrial Drive (a classified State Road) and Steel River Boulevard which are under the control of the RMS.

The RMS has assessed the application and it is considered that its impact on the operation of intersection of Industrial Drive/Steel River Boulevard is acceptable. The RMS raises no objections to the proposal subject to conditions of consent. These conditions have been included within those recommended within Appendix A.

#### 6.5 State Environmental Planning Policy (Three Ports) 2013

The subject site is in close proximity to land contained within the SEPP (Three Ports) but the proposal is not affected by the instrument.

#### 6.6 State Environmental Planning Policy (State & Regional Development) 2011

The State Environmental Planning Policy (State & Regional Development) 2011 (SRD) indicates that the proposal is to be determined by the JRPP due to Clause 8(c) of Schedule 4a of the Environmental Planning and Assessment Act 1979 (ie '*particular designated development*' inclusive of *waste management facilities or works*').

The proposal does not constitute State significant development under Schedule 1 of the SRD SEPP as the proposal is for less than 100,000 tonnes per year of waste.

#### 6.7 Newcastle Local Environmental Plan (NLEP) 2012

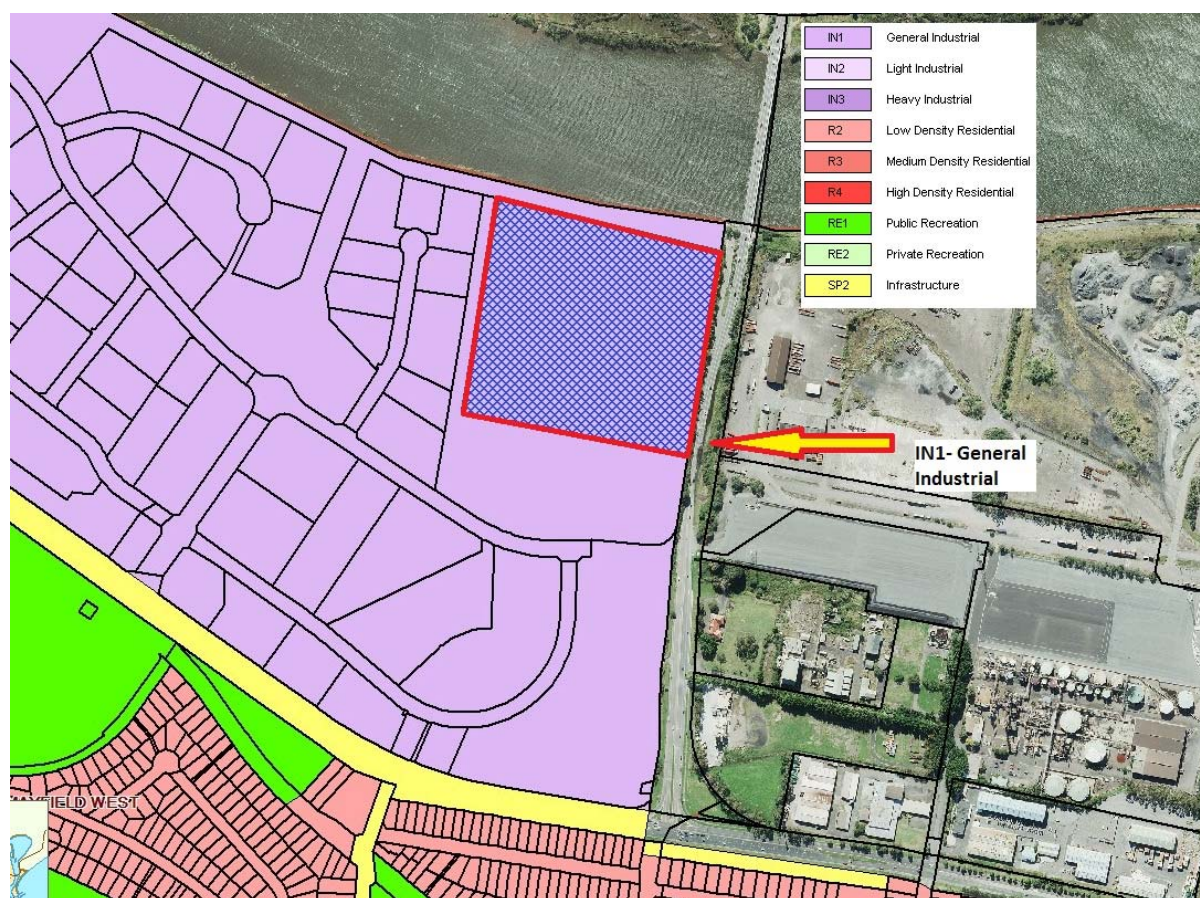
##### a) *Part 2 - Zoning*

The subject site is zoned 'IN1 General Industrial' under the provisions of NLEP 2012 and a *waste or resource management facility* is a prohibited use within this zone.

Notwithstanding this, the provisions of Clause 121 of the iSEPP applies which allows the proposed *waste or resource management facility* as a permissible use with consent within the IN1 General Industrial zone (see permissibility discussion within iSEPP section above).

It is considered that the proposal is acceptable having regard to the objectives of the NLEP 2012 and the IN1 - General Industrial zone.

**Figure 3 - Site Zoning**



**b) Clause 4.3 Height of Buildings and 4.4 Floor Space Ratio**

The site is not mapped as having a defined maximum Height of Buildings or Floor Space Ratio allowing for a merit assessment of the proposal. It is advised that the proposed development largely utilises the existing buildings varying in height between 6-14 metres approximately and only new buildings would be demountable used as offices.

The visual impact of the development due to the stockpiling of materials to a maximum height of 7 metres has been discussed under the Newcastle DCP 2012 Section 7.02 below.

The proposed building meets the objectives of these clauses and would be suitable in height and density in this location.

**c) Clause 5.9 Preservation of trees or vegetation**

The majority of the vegetation exists as a landscape screen along the northern, western and southern boundaries and some further landscaping interspersed near the southern entry gates. There is also vegetation outside eastern side of the site along the embankment between Tourle Street and the subject site. The existing vegetation along the southern boundary appears healthy. The vegetation along the western boundary and northern boundary is less healthy (particularly along the northern boundary as it is not a continuous landscape screen).

A large proportion of the trees on site consist of casuarina, fig's (ie likely *Ficus hillii*) and melaleuca's. The proposal will involve minimal removal of existing vegetation limited removal of weeds and replacement of dead or unhealthy trees to improve the landscape screening around the boundaries of the site (esp. the northern boundary).

It is considered that the proposal is acceptable in regard to this clause of the NLEP 2012.

d) *Clause 5.10 Heritage Conservation*

A local heritage item (Remnant Garden) is located at 3 Murray Dwyer Circuit (Lot 51, DP 270249). There are no other heritage items or conservation areas in the vicinity of the proposal.

The combination of the separation distance (ie over 165m), the topography and the existing dense landscape screen along the southern side of the subject site are such that it is considered that the submitted proposal will have no real impact on the heritage item.

The EIS has reviewed the previous studies of the area including the two heritage studies undertaken for the Steel River site (Bonhomme 1996; Bonhomme Craib and Associates and Sue Rosen 1997 - Strategic Impact Assessment Statement).

While there had been considerable Aboriginal activity in the vicinity historically, based on '*...the available historical evidence, the survey results and the assessment of the landscape modification which had taken place across the site the potential for the area to contain extant Aboriginal sites was rated as low but not nil.*'

Adequate conditions of consent will be imposed to ensure that the applicant is made aware of their responsibilities under the *National Parks and Wildlife Act, 1974*.

e) *Clause 6.1 - Acid Sulfate Soils*

The site is affected by Class 2 Acid Sulfate Soils (*Works below the natural ground surface. Works by which the watertable is likely to be lowered*) under the NLEP2012. The proposal will have minimal impacts in this respect and is considered to be acceptable.

f) *Clause 6.2 - Earthworks*

The proposed earthworks are relatively minor in nature proposing general site levelling and preparation works on a largely flat site and are considered to be acceptable in respect of this Clause.

g) *Section 94A Contribution Plan*

The proposal is required to 94A contributions under Council's adopted S94A Contribution Plan (ie 1% of the construction costs). An appropriate condition has been recommended in Appendix A in this regard.

(a)(ii) *the provisions of any draft environmental planning instrument*

There are no draft EPI's which are relevant to the proposal.

(a)(iii) any development control plans

## 6.8 Newcastle Development Control Plan (NDCP) 2012

There are a number of development controls relating to the proposed development contained in NDCP 2012. Following is a discussion of the relevant sections of NDCP 2012.

### (a) Section 3.13 Industrial Development

#### *Site Coverage:*

The proposal is considered to have a reasonable site coverage having regard to the size of the site, its layout, the proposed landscaping, car parking, vehicle access, waste processing and stockpile areas. It is further noted that the previous industrial use (ie EMD plant) occupied majority of the site with a large number of buildings and plant many of which have been demolished.

#### *Character & Amenity:*

The proposal is adequate in terms of character and amenity. There will be minimal change to the existing site and the development proposes improvements to the existing landscape screening along the boundaries of the site.

#### *Open Storage:*

The development proposes to have temporary stockpiles up to 7 metres in height. It is considered that these are acceptable subject to the conditions relating to the improvements to the existing landscape screen. It is further noted that the larger buildings on site are already taller than the 7m stockpiles proposed with the existing building to be used as the main processing shed being approximately 14m in height.

#### *Building Setbacks:*

The proposed development meets the required 5.0m front setback. The overall layout of site does not effectively alter the setbacks already existing on site.

#### *Loading, unloading and servicing areas:*

All loading/unloading, storage and operational areas are located behind the existing landscape screening along each boundary. The proposal will also plant replacement vegetation to improve this screening where the existing trees are dead or in poor health.

#### *Parking & Vehicle Access:*

These aspects are addressed under Section 7.03 below.

#### *Steel River:*

It has been subsequently confirmed that the subject site is not part of the Steel River estate and the *environmental envelope* under Strategic Impact Assessment Study (SIAS). The subject site has no environmental controls applicable under the SIAS (eg air and noise entitlements and was not remediated under the Steel River estate works).

It is considered that the existing site, which is already developed, is adequate having regard to the design controls under the SIAS, notwithstanding that these controls are not meant to apply to the site. It is understood that amendments to the DCP are being prepared to remove references to the subject site being affected by the Steel River section of the Newcastle DCP 2012.



(b) Section 4.01 Flood Management

The site is not affected by flooding.

(c) Section 4.04 Safety and Security

It is considered that the proposal is acceptable in terms of safety and security. The site is currently surrounded by 1.8 metre high cyclone fence. The existing fences will be replaced / repaired where necessary due to historic lack of maintenance and vandalism.

It is also proposed to repair the gates at the northern and southern ends of the main access road within the easement, to prevent unauthorised access.

(d) Section 4.05 – Social Impact

The development will result in additional employment opportunities in regard to the construction phase and operation of the use. There are likely to be positive social and economic impacts.

(e) Section 5.01 – Soil Management

The application is considered to be satisfactory in this regard. There will be limited disturbance of the soil as there is minimal construction works. The water quality aspects have been assessed by Council's Senior Development Engineer as being acceptable. The air and odour emissions of the site have been assessed by both the EPA and Council's Senior Environment Protection Officer and are considered to be acceptable.

(f) Section 5.02 – Land Contamination

Refer to above discussion in Section 6 of this report, State Environmental Planning Policy 55.

(g) Section 5.03 Tree Management

This is discussed in Section 6 clause 5.9 – preservation of trees.

(h) Section 5.04 - Aboriginal Heritage

It is unlikely that Aboriginal artefacts remain on site. This is discussed further in Section 6 clause 5.10 – Heritage Conservation

(i) Section 5.05 - Heritage Items

Refer to above discussion in Section 6 of this report, Clause 5.10 - Heritage Conservation.

(j) Section 7.01 - Building Design Criteria

- Height:

There are no defined height standards for development on this site. The proposal involves predominately the re-use of existing buildings. The use of demountables as offices is considered to be acceptable.

- Density:

There are no defined density standards for development on this site. The layout and density of the site is existing and is considered to be acceptable.

- Streetscape & Setbacks:

The proposals streetscape and setbacks has been considered under Section 6, Section 3.13 Industrial Development.

#### (k) Section 7.02 - Landscaping Open Space and Visual Amenity

The majority of the vegetation exists as a landscape screen along the northern, western and southern boundaries and some further landscaping interspersed near the southern entry gates. There is also vegetation outside eastern side of the site along the embankment between Tourle Street and the subject site. The existing vegetation along the southern boundary appears healthy. The vegetation along the western boundary and northern boundary is less healthy (particularly along the northern boundary as it is not a continuous landscape screen).

A large proportion of the trees on site consist of casuarina, fig's (ie likely *Ficus hillii*) and melaleuca's. The proposal will involve minimal removal of existing vegetation being limited to the removal of weeds and replacement of dead or unhealthy trees to improve the landscape screening around the boundaries of the site (esp. the northern boundary). Additionally, a 30% green shade cloth will be added to the boundary fence of the northern zone (and the western zone if necessary) to further assist the visual screening.

The applicants further proposed to supplement the landscape screen (esp. along the northern boundary) to ensure a solid landscape screen (ie via planting of *Casuarina*'s). The applicants have provided additional landscape architect details to clarify the proposed landscape works. Additionally, the applicants have confirmed with the RMS that the existing landscaping located on the embankment east of the subject site is not required within any future road works plans (ie duplication of Tourle Street bridge) and, as such would remain to contribute to landscape screening.

Overall is it considered that the proposal is acceptable in regard to this section of the NDCP.

#### (l) Section 7.03 – Traffic, Parking and Access

The application has been assessed by Council's Senior Development Engineer (Traffic) and is considered to be acceptable in terms of traffic, access and car parking.

The proposed development will involve approximately 474 daily traffic movements including 214 heavy vehicle and 260 light vehicle movements. All of these movements will be via the intersection of Industrial Drive and Steel River Boulevard.

The proposed staffing levels for the development are relatively low and sufficient area will be available for staff to park.

The RMS and Council's Senior Development Engineer (Traffic) have assessed the traffic impacts and the proposal is considered to have acceptable impacts (see Appendix C for further details).

(m) Section 7.06 / 7.07 – Stormwater and Water Management

The application has been assessed by Council's Senior Development Engineer and is considered to be acceptable in terms of stormwater and the water quality aspects (see Appendix D for further details).

(n) Section 7.08 – Waste Management

The proposal is considered to be acceptable in regard to this Section and the development will be a positive contribution to overall waste minimisation within the local government area.

(l) Section 8.0 - Public Participation

The proposal was advertised in accordance with the provisions for *designated development* and *nominated integrated development* under the *Environment Planning & Assessment Regulations, 2000* and the Newcastle Development Control Plan 2012 between 20 April to 21 May 2015. Nine public submissions have been received in relation to the proposal. The matters raised and response to these issues is addressed within section 4 of the report.

*(a)(iia) any planning agreement that has been entered into or any draft planning agreement that the developer has offered to enter into*

There are no planning agreements which apply to this development.

*(a)(iv) any matters prescribed by the regulations*

Not applicable.

*(a)(v) the provisions of any coastal management plan*

Not applicable.

*(b) the likely impacts of the development*

I. Impact on the Natural Environment:

The proposal will have minimal negative impacts in terms of the existing vegetation. The development proposed to supplement the existing landscape screen by additional trees plantings (eg casuarinas) and replacement of dead or unhealthy trees.

The water quality aspects of the proposal have been assessed by Council's Senior Development Engineer (Stormwater & Flooding) and are considered to be acceptable.

The noise, vibration, odour, dust and air impacts of the proposal have been assessed by the EPA and Council's Senior Protection Officer and are considered to be acceptable.

## II. Odour

It is advised that the majority of the materials proposed to be processed by the development are inert materials (ie concrete, tiles, bricks and timber) which would have little odour emissions. Proposed materials which may have potential odours include green wastes and glass materials (ie residues from the content of bottles). It is noted that no composting is proposed to be undertaken. Modelling of the odour impacts showed that the proposal's odour concentrations and depositions were very low in terms of the '*...existing background and the applicable assessment criterion at surrounding receptors.*'

## III. Air & Dust

The modelling the air and dust emissions (24-hour average concentrations of PM10 and PM2.5) relative to local ambient background are low and very unlikely to have any cumulative effects.

The modelling of the proposal's likely annual air quality impacts indicates that the development will be able to meet the required annual average TSP, PM10 and PM2.5 concentrations at all surrounding receptors.

It is further advised that the proposal will be subject to annual licencing under an *environment protection licence* and which will involve on-going monitoring of the air emissions/air quality.

## IV. Noise & Vibration

The acoustic assessment of the proposal demonstrates that the proposal complies with appropriate guidelines and standards of reporting and that the potential for unreasonable noise impacts upon nearby premises is low. The development will include a number of measures which will help reduce potential noise impacts such as locating noisy plant on the northern part of the site where possible and such measures are to be included in the proposed site specific Environmental Management Plan.

Overall the proposed development is considered suitable having regard to its impacts in context of the location.

## V. Impact on the Built Environment

Impact on the built environment would be limited to visual impact, air, dust, odour and noise emissions, traffic, parking and vehicle access.

Visually, the proposed development is considered to be acceptable having regard to the location of the site, the proposed size of the storage stockpiles, the existing landscape screening and additional landscape screening works proposed having regard to the development and the character of the neighbourhood.

Heritage has been addressed above within Section 6, Clause 5.10 Heritage Conservation.



Air, dust, odour and noise aspects of the proposal have been considered by the EPA and the Council's Senior Environment Protection Officer and are considered to be acceptable subject to conditions of consent.

Traffic, parking and vehicle access has been addressed above within Section 6, Section 7.03 – Traffic, Parking and Access.

## VI. Social and Economic

The development will result in additional employment opportunities through the construction phase and during operation.

The development will also effectively assist in the reduction of overall waste stream entering landfill (Summerhill) which meets the aims of the Newcastle Environmental Management Strategy 2013 and the Hunter and Central Coast Regional Environmental Management Strategy (HCCREMS) (this is inclusive of the Hunter Regional Waste Avoidance & Resource Recovery Strategy). This will likely result in long term economic public interest benefits delaying the future increasing costs of landfill alternatives. Additionally, the reuse/partial reuse of waste materials in various forms recaptures the inherent economic value in these materials as opposed to being lost to landfill.

### *(c) the suitability of the site for development*

The subject site is zoned 'IN1 - General Industrial' and the use is not permissible under the provisions of the NLEP 2012. Notwithstanding, the use is permissible via Clause 121 of the iSEPP (see the iSEPP discussion above within Section 6)

The land is affected by land contamination which has been addressed above within Section 6 of this report, SEPP 55 and Appendix D.

The impact of the proposal on the intersection of Industrial Drive and Steel River Boulevard has been assessed by the RMS and Council's Senior Development Engineer (Traffic) and is considered to be acceptable.

The site is considered to be suitable for this purpose.

### *(d) any submissions made in accordance with this Act or the Regulations*

The issues raised within the submissions have been addressed within Section 4 of this report.

### *(e) the public interest*

The proposed development does not raise any significant general public interest issues beyond matters already addressed in this report.

## **7. Conclusion**

The proposed development has been assessed having regard to the relevant heads of consideration under Section 79C(1) of the *Environmental Planning and Assessment Act*

1979 (*as amended*) and is considered to be acceptable subject to compliance with the recommended conditions within Appendix A.

## **8. Recommendation**

**That the Hunter and Central Coast Joint Regional Planning Panel grant consent to Development Application 2015/0291 for a Recycling Facility and Associated Site Works at 80 Tourle Street Mayfield West, being Lot 1 DP 874109 subject to the imposition of the conditions recommended within appendix A.**