

COUNCIL ASSESSMENT REPORT

Panel Reference	2016SWT004
DA Number	DA16/1278
LGA	Penrith City Council
Proposed Development	Occupation of an Existing Waste Management Facility for a Community Recycling Centre
Street Address	42-46 Charles Street ST MARYS
Applicant	Worth Recycling
Owner	Dunworth 2 Property Nominee 2 Pty Ltd
Date of DA lodgement	28 November 2016
Number of Submissions	One
Recommendation	Approval
Regional Development Criteria (Schedule 4A of the EP&A Act)	Designated Development
List of all relevant s79C(1)(a) matters	<ul style="list-style-type: none"> • Section 79C of the Environmental Planning and Assessment Act 1979 • Section 23G of the Environmental Planning and Assessment Act 1979 • Section 91 of the Environmental Planning and Assessment Act 1979 • Local Environmental Plan 2010 (Stage 1 LEP) • Development Control Plan 2014 • State Environmental Planning Policy (Infrastructure) 2007 • 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 • Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River
List all documents submitted with this report for the Panel's consideration	Attachment 1 – Location Map Attachment 2 – External Plans Attachment 3 - General Terms of Approval from EPA Attachment 4 - Roads and Maritime Services comments
Report prepared by	Donna Clarke
Report date	9 February 2017

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not Applicable

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

No

Conditions

Have draft conditions been provided to the applicant for comment?

No

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

SWPP Ref. No.:	2016SWT004
DA No.:	DA16/1278
PROPOSED DEVELOPMENT:	Occupation of an Existing Waste Management Facility for a Community Recycling Centre - Lot 300 DP 1143213,42 - 46 Charles Street, ST MARYS NSW 2760
APPLICANT:	Worth Recycling
REPORT BY:	Donna Clarke, Consultant Planner, Penrith City Council

Assessment Report

Executive Summary

Council is in receipt of a Development Application from Worth Recycling to expand an existing Waste Management Facility at 42-46 Charles Street, St Marys to include a Community Recycling Centre. The centre will be operated by Penrith City Council.

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

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

The application is Integrated Development (under Section 91 of the Environmental Planning & Assessment Act 1979). Accordingly, the application was referred to the NSW Environmental Protection Authority and General Terms of Approval have been provided, which require an Environmental Protection License (EPL) to be issued for the use of the site, under the Protection of Environmental Operations Act 1997.

In accordance with the Penrith Development Control Plan (DCP) 2010 the development application was notified to the surrounding neighbours and publicly exhibited (advertised) between 9 December 2016 and 31 January 2017. One submission was received which relates to the existing operations on the site, not the proposed Community Recycling Centre.

The application was referred to the NSW Roads and Maritime Service for consideration, and comments have been received dated 9 February 2017 raising no objection to the proposal.

An assessment under Section 23G, Section 79C and Section 91 of the EP&A Act 1979 (as amended) has been undertaken and the application is recommended for approval.

Site & Surrounds

The site area is approximately 1.528Ha and is situated on the southern end of Charles Street, with the southern portion adjoining Dunheved Circuit thus having two frontages and providing dual ingress and egress for vehicular traffic. The site is located within a central location of the industrial precinct of St Marys and is serviced by Link Road to the north. The site is completely occupied by hardstand area except for some formal landscaping around the main reception/office area. The subject application only proposes the use of a portion of the site totalling 0.29 Ha or 2951m².

The site is currently being operated as an approved Waste Facility under development consent DA13/0471. The EIS under which the current approval relates to was granted includes consideration of a package waste capability on a larger scale than required for this development.

Background

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

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

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

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

Subsequent consents have been issued for use of the site (DA12/0780 and DA13/0471) as a Waste Recycling Facility.

A steel awning structure was approved for construction under DA16/0882 on the southern wing of the property. It is this structure in which the proposed recycling centre seeks to operate from.

Proposal

Tox Free P/L (incorporating Worth Recycling) is proposing to operate a Community Recycling Centre (CRC) on behalf of Penrith City Council (PCC) from the site. Currently, a waste treatment facility operates on the site.

Tox Free P/L has a contract from the NSW Government to process waste from 60 sites in NSW, including this site. PCC has entered into a contractual arrangement with Tox Free P/L for them to operate this site and to accept and process waste from the Penrith Community.

This application requests the addition of public drop-off capability to the existing approved site facilities. No additional construction is required to facilitate this.

The facility will operate from a steel awning structure (approved for construction under DA16/0882) constructed on the southern wing of the property with a dedicated vehicle entry/exit from Dunheved Circuit.

The proposed development will not alter the approved hours of operation, numbers of staff or the capacity of the Waste Facility, being:

Monday – Friday:	9am-3pm,
Saturday:	9am-12 noon.

The proposed development will not affect the number of car parking spaces which will remain compliant with Council's requirements.

The CRC is expected to generate approximately 25 tonnes pa of Dangerous Goods (DG) wastes from approximately 100 tonnes pa of packaged waste. The facility will act as a drop-off point only, all waste will be transferred to a nearby licenced Toxfree packaged waste facility, which also receives wastes from existing CRC for processing and recovery. The Waste will be delivered by members of the general public and received into labelled and segregated storage containers, suitable for forklifting and transport by truck. The waste is common household items and are readily identifiable by sight. Any suspect or non-complying waste will be stored separately in designated DG cabinets for identification by chemists. No waste will be disposed will be disposed on site. The CRC program is an EPA initiative specifically targeted at waste avoidance and resource recovery.

The site will operate as a permanent drop-off centre for gas bottles, fire extinguishers, paint, fluoro globes and tubes, car batteries, household batteries, motor oils and smoke detectors. The centre will accept household quantities with 20 litre limits on paint and motor oils. Council accepts electronic waste at Jamieson Park twice per year and the proposed CRC will also accept these items. Council also has a chemical clean-up day once per year with EPA that accepts larger quantities and a much greater range of chemicals such as poisons, ammonia, pool chemicals, acid etc.

One sign is proposed at the at the intersection of Links Road and Dunheved Circuit as directional signage for the CRC. Other signage is required within the site to clearly identify bays and areas for goods, as well as safety and internal directional. No advertising signage is proposed.

Plans that apply

- Local Environmental Plan 2010 (Stage 1 LEP)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- 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
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

- **Section 23G - Sydney West Planning Panel (SWPP)**

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

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

As a result the Development Application has been referred to the Sydney West Planning Panel for determination.

- **Section 79C - Evaluation**

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

- **Section 91- Integrated development**

The proposed development has been lodged as Integrated Development under the EP&A Act as it requires an Environmental Protection License (EPL) under the Protection of Environmental Operations Act 1997, based on the types and volumes of materials being processed on the site. As such, General Terms of Approval have been sought and issued by the Environmental Protection Authority.

Council's Environmental Management Officer has also reviewed the proposal and advised that the EPA is both the assessment and regulatory body for environmental impacts associated with the operation of the proposed development as it is considered a scheduled activity. Where Council has previously placed conditions on the development consent relating to environmental matters, the EPA has deferred their regulatory responsibility to Council in relation to these matters in some instances. In turn, it is not considered appropriate for Council to apply environmental conditions when the EPA is the '*appropriate regulatory authority*' under the *Protection of the Environment Operations Act*. In this instance, it is considered that the environmental impacts would be satisfactorily managed should the recommended mitigation measures be put in place, and this can be worked into the EPL from the EPA. Further, in this instance, the GTAs are very comprehensive, and the conditions usually applied would only duplicate those already included. As such, a more general condition requiring compliance with the licence has been included, and this includes a mechanism for Council involvement should the licence be suspended or revoked.

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

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy (Infrastructure) 2007

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

The proposed development can be suitably defined as a *Waste or Resource Management Facility* which under the instrument, means a waste or resource transfer station, a resource recovery facility or a waste disposal facility. Division 23 sets out prescribed zones for Waste or Resource Management Facilities which includes IN1 – General Industrial. Accordingly, having regard to the definition as discussed above, Council can be satisfied that the proposed development is a permissible land use in the zone.

Schedule 3 – Traffic Generating Development

Schedule 3 of the SEPP identifies circumstances where development applications should be referred to the Roads and Maritime for consideration. Development for the purpose of landfill, recycling facilities or waste transfer stations of any size or capacity is listed in Schedule 3 and therefore the application was referred to the Roads and Maritime Service for consideration. The application was referred to the NSW Roads and Maritime Service for consideration, and comments have been received dated 9 February 2017 raising no objection to the proposal.

State Environmental Planning Policy (State and Regional Development) 2011

The aim of this policy is to identify development that is state significant and confer functions on the Regional Planning Panel to determine certain development applications. Clause 23 of Schedule 1 of the SEPP identifies circumstances where Waste or Resource Management Facilities are considered to be classified as state significant based on its processing thresholds, that being facilities which handle more than 100,000 tonnes per year of waste or more than 1,000 Tonne per year of classified Dangerous Goods.

The proposal does not seek to alter the quantities or capacities of the approved facility, with the Community Recycling Centre to operate within the approved total quantities for the centre. The CRC is expected to generate approximately 25 tonnes pa of DG wastes from approximately 100Tpa of packaged waste, all within the existing approved quantities for the site.

This will ensure the previously approved capacity is covered as part of the subject development and relevant Environmental Protection Licenses (EPL's).

The development will include the use of potentially classified Dangerous Goods however based on the SEPP 33 review, however unlikely and the thresholds are significantly below the limitations under this SEPP.

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

State Environmental Planning Policy No 33—Hazardous and Offensive Development

In accordance with State Environmental Planning Policy No.33 (SEPP 33) - Hazardous and Offensive Development, the proposal may be defined as a 'potentially hazardous / offensive industry', 'hazardous / offensive industry' and/or 'hazardous / offensive storage establishment'. The applicant has considered SEPP 33 to determine whether it is necessary to undertake a Preliminary Hazard Analysis (PHA) for the development. The types and quantities of materials do not exceed the threshold under the SEPP 33 Guidelines. Moreover, the SEPP 33 Guidelines stipulate that if the EPA is willing to issue a license under its pollution control legislation (Protection of Environmental Operations Act 1997), it is considered the level of offence would not be significant.

The 'Environmental Assessment Requirements' nominates that 50 tonnes of the waste material per annum "*would be substances classified in the Australian Dangerous Goods Code*", though the 'bridging document' states that about 25 tonnes will be received, and the site plan clearly marks the storage location for these items. However, the additional correspondence from the applicant has identified that materials would be received in "*relatively small vessel sizes - typically <2L but rarely >25L*".

As no processing of these materials is occurring on site, and given that they will be regularly transported offsite, it is considered that the risk associated with these materials will be minimal and able to be managed appropriately. Further, as per 'Applying SEPP 33' Guidelines, where a site can comply with the EPA's licensing requirements, it is generally not considered an offensive industry, and the EPA, in providing GTAs, has confirmed that the site can achieve their requirements.

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

State Environmental Planning Policy No 55—Remediation of Land

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

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

The site has operated for a number of years for industrial purposes. The proposed development is not for residential purposes and will continue to be for industrial use, and therefore no remediation or further investigation is required for this application. Future change of use of the site may trigger the requirement for remediation. Therefore, the information submitted with the application in regard to the suitability of the site for the proposed use remains satisfactory and considered to be suitable for the continued use as a waste management facility having regard to the provisions of the SEPP.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

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

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

Local Environmental Plan 2010 (Stage 1 LEP)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Zone objectives	Complies - See discussion
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.5 Additional permitted uses for particular land	N/A
Clause 2.6 Subdivision - consent requirements	N/A
Clause 2.7 Demolition requires development consent	N/A
Clause 2.8 Are the temporary use of land requirements achieved?	N/A
Clause 4.1 - the minimum lot size	N/A
Clause 4.1AA Minimum subdivision lot size for community title schemes	N/A
Clause 4.2 Rural Subdivision	N/A
Clause 4.3 Height of buildings	Complies - See discussion
Clause 4.4 Floor Space Ratio	N/A
Clause 4.5 Calculation of floor space ratio and site area	N/A
Clause 4.6 Exceptions to development standards	N/A
Clause 5.1 Relevant acquisition authority	N/A
Clause 5.10 Heritage conservation	N/A
Clause 5.11 Bush fire hazard reduction	N/A
Clause 5.12 Infrastructure development and use of existing buildings of the Crown	N/A
Clause 5.13 Eco-tourist facilities	N/A
Clause 5.2 Classification and reclassification of public land	N/A

Clause 5.3 Development near zone boundaries	N/A
Clause 5.4 Controls relating to miscellaneous permissible uses	N/A
Clause 5.5 Development within the coastal zone	N/A
Clause 5.6 Architectural roof features	N/A
Clause 5.7 Development below mean high water mark	N/A
Clause 5.8 Conversion of fire alarms	N/A
Clause 5.9 Preservation of trees or vegetation	N/A
Clause 5.9AA Trees or vegetation not prescribed by development control plan	N/A
Clause 6.1 Earthworks	N/A
Clause 6.10 Villages of Mulgoa and Wallacia	N/A
Clause 6.11 Orchard Hills	N/A
Clause 6.12 Twin Creeks	N/A
Clause 6.13 Waterside Corporate	N/A
Clause 6.14 Development of land in the flight paths of the site reserved for the proposed Second Sydney Airport	N/A
Clause 6.15 Location of sex services premises and restricted premises	N/A
Clause 6.2 Salinity	N/A
Clause 6.3 Flood Planning	
Clause 6.4 Development on natural resources sensitive land	N/A
Clause 6.5 Protection of scenic character and landscape values	N/A
Clause 6.6 Servicing	Complies - See discussion
Clause 6.7 Dwelling houses on certain land in Llandilo and Mulgoa	N/A
Clause 6.8 Dual occupancies and secondary dwellings in certain rural and environmental zones	N/A
Clause 6.9 Mulgoa Valley	N/A
Schedule 1 Additional permitted uses	N/A

Permissibility

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

LEP and Zones Objectives

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

- The promotion of sustainable development that is consistent with the Council's vision for St Marys,
- The encouragement of development to be designed in a way that assists in reducing and adapting to the likely impacts of climate change,
- The encouragement of employment opportunities,
- The minimisation of adverse effect of industry on other land uses,
- Supporting and protecting industrial land for industrial uses and the promotion of development that makes efficient use of industrial land, and
- The CRC program is an EPA initiative targeted at waste avoidance and resource recovery.

Height of Buildings

The subject site is affected by a building height limitation of 12 metres. The proposed structures on the site are all within the 12 metre height limitation and no new building works are proposed as part of this application.

Servicing

The proposed development is connected to reticulated water supply and could be adequately serviced by existing infrastructure on the site.

Section 79C(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	Complies
C9 Advertising and Signage	Complies
C10 Transport, Access and Parking	Complies
C11 Subdivision	N/A
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies
D4.1. Key Precincts	Complies - see Appendix - Development Control Plan Compliance
D4.2. Building Height	Complies - see Appendix - Development Control Plan Compliance
D4.3. Building Setbacks and Landscape	Complies
D4.4. Building Design	Complies
D4.5. Storage of Materials and Chemicals	Complies
D4.6. Accessing and Servicing the Site	Complies
D4.7. Fencing	N/A
D4.8 Lighting	Complies

Section 79C(1)(a)(iv) The provisions of the regulations

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

The proposed development falls within the category of *waste management facilities or works* under Schedule 3 of the Regulation due to activities which include '*sort, consolidate or temporarily store waste at transfer station or material recycling facilitates to transfer to another site for final disposal, permanent storage, processing, recycling, use or reuse and handle substances classified in the Dangerous Goods Code.*' As a result the proposal is deemed to be 'Designated Development', and an EIS has been prepared in accordance with the Secretary's Environmental Assessment Requirements (SEARs).

The Department of Planning was advised of the lodgment of the application. Subject to Council's satisfaction that the EIS suitably responds to their requirements and no submissions being received during the exhibition period relating to the proposal, no further consultation was required.

Section 79C(1)(b) The likely impacts of the development

Likely impacts of the proposed development as identified throughout the assessment process include:

Natural resources and systems eg. Air, water, soil

The development is not subject to flooding, subsidence or slip.

Water Management

The proposal will utilise the existing stormwater system and pollution controls in place on the site, which is considered satisfactory.

Air Pollution/Odour

No impacts are envisaged from the proposed operations of the CRC in regard to air quality or odour impacts. No building works are required to facilitate the CRC.

Noise Impact

The proposed CRC operations are unlikely to generate excessive noise and subject to a restriction on hours of operation will be easily in accordance with applicable criteria.

Operational Management

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

Further, the GTA's issued by the EPA require operational conditions and monitoring regarding dust, waste, water, noise and the like.

The public domain and the public/private interface

The development is compatible with the existing surrounding industrial landuses and no change is

proposed to the existing landscaping or streetscape.

The character of the place and its local and regional context

The proposal is consistent with the other development on the site and in the locality.

Access, traffic and transportation impacts

The development is unlikely to significantly impact on the local road system, with no objections to the proposal in terms of traffic. Prior to the lodgment of the application, the RMS provided comments as part of the SEARs. As part of the assessment, the application was referred to RMS, with no response received.

Health, safety and compatibility issues

The proposed development is sensitive to environmental conditions and site attributes and the proposed development safeguards the health and safety of the occupants.

Social and Economic

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

Section 79C(1)(c) The suitability of the site for the development

The site is suitable for the following reasons:

- The site is zoned appropriately under SEPP (Infrastructure) to permit the proposed use;
- The use is compatible with surrounding/adjoining industrial land uses;
- The proposal will not have any unreasonable amenity impacts to adjoining properties as demonstrated with the documentation contained within the development application;
- The proposed use complements the existing use of the site; and
- The CRC is an EPA initiative to reduce waste.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with the Act and Regulations, consideration has been given to any necessary referrals and any submissions made.

Community Consultation

In accordance with the Regulations, the application was notified between 9 December 2016 and 31 January 2017.

One community objection has been raised during the assessment process, with the issues relating to the existing operations and are being investigated by the EPA and Council's Compliance Section separately to the proposed application.

The following issues were raised in the submission received and have formed part of the assessment.

Issue Raised	Comment
Dust and odour issues from existing operations, impacting on adjoining properties.	<p>The current environment protection licence for this premises has specific conditions requiring the licensee to prevent generating dust or offensive odour at the premises. These conditions will be maintained when the licence is varied, after approval of this application.</p> <p>The matter of dust and odour from existing operations is being investigated by Council's Compliance Section in consultation with the EPA and the terms of the existing licence.</p>

Referral Bodies

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

Referral Body	Comments Received
Environment Protection Authority	General Terms of Approval issued.
Roads and Maritime Services	Comments remain outstanding however the NSW RMS have advised that comments will be received prior to the determination panel meeting.
Department of Planning	No formal response received.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections
Environmental - Environmental management	No objections - subject to conditions
Traffic Engineer	No objection

Section 79C(1)(e)The public interest

The proposed development demonstrates consistency with the aims and objectives of Penrith LEP 2010, the zone itself and Penrith Development Control Plan 2014. The proposed development is consistent with the zone of the land which applies.

One community objection has been raised during the assessment process, with the issues being investigated by the EPA and Council's Compliance Section separately to the proposed application.

The development acclaims the following attributes which contribute positively to the St Marys community and Western Sydney Region.

- The generation of additional employment opportunities;
- Immobilises contaminated materials prior to being disposed to landfill thus conforming to principles of Ecological Sustainable Development (ESD);

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

Conclusion

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

The proposed development has been assessed against the relevant heads of consideration contained in Section 23G, Section 79C and Section 91 of the *Environmental Planning and Assessment Act 1979 and Regulations 2000* and has been found to be satisfactory. The likely impacts have been considered and found to be satisfactory and the site is suitable for the proposed development and the proposal is in the public interest. The proposal is therefore worthy of support.

Recommendation

1. The Development Application 16/1278 for Waste Facility at Lot 300 DP 1143213, No.42-46 Charles Street, ST MARYS NSW 2760 be approved subject to the conditions contained in Appendix A and the General Terms of Approval issued by the Environmental Protection Authority.

CONDITIONS

Standard Conditions

1 **A001**

The development must be implemented substantially in accordance with the plans listed below and stamped approved by Council, the application form and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Plan	Prepared by	Dated
A000 Cover Sheet	CK Architects	Issue Date
A100 Location Sheet	CK Architects	Issue Date
A101 Site Plan	CK Architects	Issue Date
A102 Ground Floor Plan	CK Architects	Issue Date
A103 Roof Plan	CK Architects	Issue Date
A104 Elevations	CK Architects	Issue Date
A105 Detail Sections	CK Architects	Issue Date

2 **A005 - APPROVED BODYS CONSENT (FOR INTEGRATED DAS)**

The development is to be in accordance with the General Terms of Approval No.1547853, dated 13 January 2017, issued by the Environment Protection Authority under the Protection of the Environment Operations Act 1997.

3 **A029 - HOURS OF OPERATION AND DELIVERY TIMES**

The operating hours of the proposed Community Recycling Centre is to be in keeping with the approved hours of operation of the existing Waste Facility, being:

Monday – Friday: 9am-3pm,
Saturday: 9am-12 noon.

4 **A038 - LIGHTING LOCATIONS**

Lighting is to be directed in such a manner so as not to create a nuisance to surrounding landuses. The lighting shall be in accordance with AS 4282 “Control of the obtrusive effects of outdoor lighting” (1997).

Special Conditions

5 **A special BLANK**

Activities on the premises must be carried out in accordance with an Environment Protection Licence issued by the Environment Protection Authority. Should this licence be revoked, suspended or surrendered, an application is to be submitted to Council for consideration of matters contained in the licence.

A copy of the Environment Protection Licence issued by the NSW Environment Protection Authority under the *Protection of the Environment Operations Act 1997* shall be submitted to the Principal Certifying Authority before the commencement of the development. A copy of this document shall also be submitted to Penrith City Council before the commencement of the development if Council is not the Principal Certifying Authority.

6 **A Special (BLANK)**

Appropriate signage is to be erected at the exit to the site warning motorists to exit the site with care due to existing traffic flows on Dunheved Circuit.

7 **A Special (BLANK)**

Coloured arrow markings are to be indicated on the pavement within the site to indicate the direction of movement of vehicles within the site.

8 **A Special (BLANK)**

The installation of signage associated with the Community Recycling Facility within Dunheved Business Park is limited to one sign at the intersection of Links Road and Dunheved Circuit.

A separate development application for the erection of any other sign or advertising structure, unless directional or safety signage within the site, or an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan-Advertising Signs.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

D4 Industrial Development

DCP Objectives

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

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

Section 4.1 Key Precincts

Penrith City Councils Industrial Lands DCP features general development controls for industrial uses as well as additional controls for sites located in specific precincts. The subject site is located within the St Marys/Dunheved Industrial area. The only special consideration for this precinct under the DCP is the provisions to consider a variation to front setback requirements for developments located in the precinct based on the merits of parking, lot width, landscaped area and the like. The development proposed will not vary the existing built form located within the front setback, nor any of the approved structures.

Advertising Signage

No advertising signage is proposed, however directional signage will be required at the front of the site and throughout the site to provide clear way finding to the CRC. The signage is considered necessary to ensure people arrive at the correct part of the site and unload waste into the appropriate areas.