

**Sydney West Planning Panel Meeting  
15 November 2018**

<b>Panel Reference</b>	2016SYW205
<b>DA Number</b>	DA0618/16
<b>LGA</b>	Hawkesbury City Council
<b>Proposed Development</b>	General Industry and Resource Recovery Facility – Construction and operation of an asphalt batching plant and recycling facility
<b>Street Address</b>	60 Argyle Street SOUTH WINDSOR NSW 2756 (Lot 2 DP 1123169)
<b>Applicant</b>	Hawkesbury Eco Asphalt
<b>Owner</b>	J & R Vella Properties Pty Ltd
<b>Date of DA Lodgement</b>	30 August 2016
<b>Number of Submissions</b>	Three
<b>Regional Development Criteria (Schedule 7 of the State and Regional Development SEPP)</b>	Waste management facility which meets the requirements for Designated Development under Clause 32 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000
<b>List of all relevant Section 4.15 matters</b>	<ul style="list-style-type: none"> <li>• List of the relevant environmental planning instruments under Section 4.15(1)(a)(i): <ul style="list-style-type: none"> <li>– State Environmental Planning Policy (Infrastructure) 2007;</li> <li>– State Environmental Planning Policy (State and Regional Development) 2011</li> <li>– State Environmental Planning Policy No. 33 – Hazardous and Offensive Development;</li> <li>– State Environmental Planning Policy No. 55 – Remediation of Land;</li> <li>– State Regional Environmental Plan No. 20 – Hawkesbury-Nepean River; and</li> <li>– Hawkesbury Local Environmental Plan 2012.</li> </ul> </li> <li>• List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority under Section 4.15(1)(a)(ii): <ul style="list-style-type: none"> <li>– Not applicable.</li> </ul> </li> <li>• List any relevant development control plan under Section 4.15(1)(a)(iii): <ul style="list-style-type: none"> <li>– Hawkesbury Development Control Plan 2002.</li> </ul> </li> <li>• List any relevant planning agreement that has been entered into or any draft planning agreement that a developer has offered to enter into under Section 7.4 (Section 4.15(1)(a)(iv)): <ul style="list-style-type: none"> <li>– Not Applicable</li> </ul> </li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Attachment 1 – Plans of the Proposal</li> <li>• Attachment 2 – Environment Protection Authority – General Terms of Approval</li> <li>• Attachment 3 – Submissions</li> </ul>
<b>Report prepared by</b>	Andrew Johnston – Senior Town Planner
<b>Report date</b>	5 November 2018

<b>Legislative clauses requiring consent authority satisfaction</b>	<b>Yes</b>
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? <i>e.g. Clause 7 of SEPP 55 – Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	
<b>Clause 4.6 Exceptions to Development Standards</b>	<b>Not Applicable</b>
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?	
<b>Special Infrastructure Contributions</b>	<b>Not Applicable</b>
Does the DA require Special Infrastructure Contributions conditions (Section 7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	

## Report

### Executive Summary

Pursuant to Section 4.15(1) of the Environmental Planning and Assessment (EP&A) Act 1979 (as amended) this application seeks approval for the construction and operation of an asphalt batching plant and recycling facility at 60 Argyle Street, South Windsor. It is intended that the batching plant will have the capacity to produce up to 200,000 tonnes of new asphalt material per year. The development also seeks to receive, sort, screen, crush and recycle up to 100,000 tonnes of roadbase material per year for reuse within the asphalt batching plant operation.

Based on the nature and processing capacities of the facility, the proposal is defined as both 'designated development' and 'integrated development'. On account of these categorisations, the Department of Planning and Environment issued the Secretary's Environmental Assessment Requirements (SEARs) for the development prior to the lodgement of the application with Council and the application was also referred to the Environment Protection Authority (EPA) as a 'scheduled activity'.

The application meets the criteria for determination by the Sydney West Planning Panel as the proposal is categorised as designated development and is for the purpose of a waste management facility under Clause 32 of Schedule 3 to the EP&A Regulation 2000.

The SEARs issued by the Department of Planning and Environment identified the following matters that needed to be addressed in the Environmental Impact Statement (EIS) prepared in support of the development:

- Air quality and odour impacts;
- Noise and vibration impacts;
- Visual impacts;
- Suitability of the site for the development;
- Traffic impacts;
- Soil and water impacts; and
- Hazards and risks.

Having undertaken an assessment of the application, and given due regard to the submissions received in response to the notification of the application, it is considered that the prepared EIS and supporting documentation adequately address potential noise, air quality, odour, visual and traffic impacts associated with the development.

The operation of the facility 24 hours a day was originally sought on the basis that the re-surfacing and construction of roads is generally undertaken at night, in particular on roads controlled by the Roads and Maritime Services (RMS). However in response to concerns raised by the EPA and Council the proposal has since been amended to have operating hours of 7am to 9pm Monday to Saturday and 8am to 8pm on Sundays.

The Air Technical Advisory Services and Noise Assessment Units of the EPA have undertaken a review and General Terms of Approval have been issued for the development. Air quality, odour and noise control measures will be installed within the facility to satisfy the requirements of the EPA and to control and minimise amenity impacts for the locality.

The proposed development is permissible and is recommended for conditional approval.

## Description of the Proposal

The subject application seeks the approval of the Sydney Western City Planning Panel for the construction and operation of an asphalt batching plant and recycling facility at the subject property. The proposal specifically involves:

- The construction of an asphalt batching plant, recycling plant and material silos. The nominated Marini MAC 200 facility has a height of 27.5m at its highest point;
- The installation of concrete material bunkers;
- The installation of a 100tonne capacity weighbridge;
- The construction of a car park for nine vehicles (including one accessible space); and
- The operation of an asphalt batching plant and recycling facility.

Operating hours of 7am to 9pm Monday to Saturday and 8am to 8pm on Sundays are proposed for the development. All works associated with the development – processing, screening, crushing, recycling, deliveries and loading – will be undertaken within these hours.

The proposed asphalt batching plant is to have the capacity to produce up to 200,000 tonnes of new asphalt material per year. The site will also receive, stockpile, sort, screen, crush and recycle up to 100,000 tonnes of roadbase material per year.

Documentation supplied in support of the application suggests that initial production will start at around 70,000 tonnes per annum and will steadily increase to around 90,000 tonnes within the first year. The nominated processing capacity of 200,000 tonnes per annum is anticipated after seven years of operation.

Based on the initial production of 70,000 tonnes per annum and the operation of the facility 49 weeks per year, this translates to an average production of 1,428 tonnes per week. Based on a production of 90,000 tonnes per annum and operation of the facility 49 weeks per year, there would be an average production of 1,836 tonnes per week. Finally, based on a maximum production of 200,000 tonnes per annum and operation of the facility 49 weeks per year, this would translate to an average production of 4,081 tonnes per week.

The documentation further suggests that roadbase recycling is likely to be limited to approximately 20,000 tonnes per year, which is less than the designated development threshold requirements for screening and recycling. However, a production capacity of 100,000 tonnes was previously nominated and comments received from the EPA are based on this amount.

The facility will provide employment for approximately 20 to 25 full-time and part-time staff. Approximately six workers will be employed onsite at all times including Plant Operators, Loader Operators, Weighbridge Clerk and Laboratory Technician. Remaining staff will consist of managers, supervisors and truck drivers who will be present onsite when required.

Material will be transported to and from the site by trucks, primarily Heavy Rigid Vehicles (HRV) and articulated vehicles.

With the operation of the asphalt batching plant there will be no stockpiling of material in mounds. Instead the virgin material (aggregate) and Reclaimed Asphalt Pavement (RAP) will be stored in the concrete material bunkers.

The application meets the criteria for determination by the Sydney West Planning Panel as the proposal is categorised as designated development and is for the purpose of a waste management facility under Clause 32 of Schedule 3 to the EP&A Regulation 2000.

The Sydney West Planning Panel's reference number for the application is 2016SYW205 whilst Council's reference number is DA0618/16.

## Site and Locality Description

The subject property is legally known as Lot 2 in DP 1123169 and has a site area of approximately 1.6700Ha. The battle-axe allotment's frontage to Argyle Street consists of an access handle only. The site is currently being used to store material stockpiles and to undertake civil works associated with a depot facility.

The property is burdened by a drainage easement adjacent to the western boundary with 66 Argyle Street, whilst a transmission line extends along the length of the access handle and northern boundary. The property's rear eastern boundary immediately adjoins the T1 Western Train Line.

Surrounding development generally consists of industrial development, although the property adjoins Windsor RSL at 36 Argyle Street and residential properties are located approximately 200m away on Mileham Street and James Meehan Street.



Figure 1 – Locality Plan

### Development History

Previous consents issued for the site include:

Application Number	Development	Date of Consent
DA0807/14	Installation of an office building and the operation of a depot	21/07/2015
DA0332/14	Five lot community title subdivision	17/02/2015
DA0419/07	Two lot Torrens title subdivision	13/09/2007
DA1108/05	Construction of an industrial development consisting of 15 units	24/05/2006
DA0382/03 (Deferred Commencement Consent)	Construction of an industrial development consisting of 11 units	19/06/2003

This subject property was created with Development Consent No. DA0419/07.

Prior to this subdivision, Development Consent No. DA1108/05 approved the construction of an industrial development over land that is now known as 60-62 Argyle Street. The construction of the Stage 1 industrial units at 62 Argyle Street has been completed, as has the filling of the land over the subject property.

The most recent approval issued for the property, Development Consent No. DA0807/14, was originally issued as a 'Deferred Commencement' Consent and approved the operation of a depot. This consent is associated with the subject proposal for an asphalt batching and recycling plant in that this previous consent approved the construction of an office, driveway and acoustic barriers.

Development Consent No. DA0807/14 has been made operational and a Construction Certificate has been issued for civil engineering works. Works associated with this approval are currently being undertaken onsite.



## Legislation, Policies, Procedures and Codes to Which the Matter Relates

- State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)
- State Environmental Planning Policy (State and Regional Development) 2011 (State and Regional Development SEPP)
- State Environmental Planning Policy No. 33 – Hazardous and Offensive Development (SEPP No. 33)
- State Environmental Planning Policy No. 55 – Remediation of Land (SEPP No. 55)
- State Environmental Planning Policy No. 64 – Advertising and Signage (SEPP No. 64)
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP No. 20)
- Hawkesbury Local Environmental Plan (LEP) 2012
- Hawkesbury Development Control Plan 2002 (HDCP 2002)

## Matters for Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979

The following is an assessment of the application with regard to the heads of consideration under the provisions of Section 4.15 of the EP&A Act 1979:

### Environmental Planning Instruments

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

The property is burdened by an electricity transmission easement and immediately adjoins the western railway line. For these reasons the application was referred to Endeavour Energy and Sydney Trains under Sections 45 and 85 of the Infrastructure SEPP. These external agencies have undertaken a review of the proposal and have provided conditions for approval.

Endeavour Energy advised that the installation of a weighbridge within the transmission easement was not supported and subsequently the weighbridge has been relocated near the plant equipment.

Argyle Street is a regional road that is owned and managed by Council. Section 104 and Schedule 3 of the Infrastructure SEPP outline that a waste or resource management facility of any size or capacity requires referral to the RMS for concurrence.

The Traffic and Parking Report prepared in support of the application indicates that during operation heavy vehicle movements to and from the site will use Argyle Street to and from Macquarie Street. Heavy vehicle traffic along Argyle Street would typically split 50% north and 50% south at Macquarie Street, which is a main RMS road and connects to other main roads. Council's Development Engineer has reviewed the proposal and advised that the hourly trip generation and intersection performance analysis are acceptable.

The reduction in operating hours will address previously identified noise concerns generated by the movement of heavy vehicles.

The RMS have undertaken a review of the application and issued their concurrence subject to the preparation of a Construction Traffic Management Plan detailing construction vehicle routes, numbers of trucks, access arrangements and traffic control measures.

#### State Environmental Planning Policy (State and Regional Development) 2011

Clause 7 of Schedule 7 of the State and Regional Development SEPP requires this particular type of designated development to be determined by the Sydney Western City Planning Panel:

##### ***Schedule 7 Regionally significant development***

##### ***7 Particular designated development***

*Development for the purposes of:*

...

- (c) *waste management facilities or works, which meet the requirements for designated development under clause 32 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000.*

These provisions were detailed in Clause 8 of Schedule 4A of the EP&A Act 1979 when the application was originally submitted.

The Sydney Western City Planning Panel were briefed and considered a report on the matter on 22 December 2016. A further briefing on the progress of the application was presented to the Panel on 26 July 2017.

During the Briefing Meeting of 26 July 2017 the Sydney Western City Panel identified a number of key issues and issued the following minutes of the meeting:

*Council will write to the applicant setting out:*

- a) *Dissatisfaction of the Environmental Protection Agency and their refusal to supply General Terms of Approval; and*
- b) *Key Issues not satisfactory to Council:*
  - a. *24 hour use*
  - b. *Trucks passing through residential areas*
  - c. *Number of truck movements*
  - d. *Noise generally*
  - e. *Dual use on site*

*The applicant should be given written warning of the risk of refusal and it is suggested that Council seek written feedback from the applicant about what they are intending to do and on what dates.*

In response to this direction Council staff attended a meeting with the Applicant and EPA to discuss the status of the application and outstanding issues to be resolved. Additional information was prepared by the Applicant and provided to Council and the EPA to address the noise and amenity issues identified in the assessment of the application. Integrated development provisions and comments from the EPA are discussed later in this report.

### **State Environmental Planning Policy No. 33 – Offensive and Hazardous Industry**

SEPP No. 33 defines potentially hazardous and offensive industries as follows:

***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:

- (a) *to human health, life or property, or*
- (b) *to the biophysical environment,*

*and includes a hazardous industry and a hazardous storage establishment.*

***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.

A Preliminary Hazard Analysis forms part of the EIS and provides an assessment of hazards and risks associated with the proposed development. A Preliminary Risk Screening Table has been provided which outlines the class, types, quantities and location of all dangerous goods and hazardous materials associated with the development as required by the Department of Planning's SEARs.

The quantities of dangerous goods do not exceed the threshold quantities detailed in 'Hazardous and Offensive Development Application Guidelines – Applying SEPP 33'. On this basis it is considered that the use is unlikely to pose a risk to human life or property and that the development does not comprise a potentially hazardous industry.

Without appropriate engineering and operational measures in place an asphalt batching and recycling facility may generate offensive noise, odour or pollution. However, Air Quality and Noise Impact Assessment Reports have been prepared in support of the EIS and control measures are to be installed within the facility to minimise the release of air and noise emissions. The asphalt plant, truck loading area, weighbridge, skip conveyor and storage

silos are to be enclosed and kept under negative pressure, to control odour or fume emissions. The height of the designed stack promotes the dispersion of pollutants and dilution with external air so as to decrease ground level concentrations at the nearby sensitive receptors. The installation of acoustic barriers, the cladding of the asphalt plant and the roofing of the bunker areas are also proposed to address potential noise impacts. With the implementation of such measures, and having received General Terms of Approval from the EPA, the development is unlikely to generate excessive amenity impacts so as to be defined as a potentially offensive industry.

It is therefore considered that the proposal does not constitute hazardous or offensive industry.

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

Clause 7(1) of SEPP No. 55 outlines 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 subject property is currently being developed to allow for the operation of a depot. The prepared Contamination Report and Council's records indicate that the property has previously been used for grazing and as a parking area for a former speedway. The site has also been approved for industrial purposes and has been subject to approved landfilling. In this regard it should be noted that Council acted as the certifier for this landfilling.

The Contamination Report indicates the site is suitable from a contamination perspective for a continued industrial use. It is therefore considered that the site is suitable for the proposed industrial development.

#### **State Environmental Planning Policy No. 64 – Advertising and Signage**

Not applicable. The installation of signage is not proposed with this application.

The future installation of signage would be subject to the provisions of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or require the submission of a development application.

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

The subject land falls within the boundary of SREP No. 20. This Policy aims “*to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context*”. SREP No. 20 requires an assessment of development applications with regard to the general and specific considerations, policies and strategies set out in the Policy.

A SPEL Stormceptor is to be installed for water quality treatment prior to discharge from the site.

The property is located within an established industrial area and the EIS and supporting documentation demonstrates that the development will not significantly impact on the environment of the Hawkesbury-Nepean River in either a local or regional context.

#### **Hawkesbury Local Environmental Plan 2012**

The subject property is zoned IN1 General Industrial under the Hawkesbury LEP 2012.

The Dictionary of the Hawkesbury LEP 2012 provides the following definitions that are relevant to the proposal:

**general industry** means a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity.

**heavy industry** means a building or place used to carry out an industrial activity that requires separation from other development because of the nature of the processes involved, or the materials used, stored or produced, and includes:

- (a) hazardous industry, or
- (b) offensive industry.

It may also involve the use of a hazardous storage establishment or offensive storage establishment.

**hazardous industry** means a building or place used to carry out an industrial activity that would, when carried out and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the activity from existing or likely future development on other land in the locality), pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

**offensive industry** means a building or place used to carry out an industrial activity that would, when carried out and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the activity from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on existing or likely future development on other land in the locality.

**waste or resource management facility** means any of the following:

- (a) a resource recovery facility,
- (b) a waste disposal facility,
- (c) a waste or resource transfer station,
- (d) a building or place that is a combination of any of the things referred to in paragraphs (a)–(c).

**resource recovery facility** means a building or place used for the recovery of resources from waste, including works or activities such as separating and sorting, processing or treating the waste, composting, temporary storage, transfer or sale of recovered resources, energy generation from gases and water treatment, but not including re-manufacture or disposal of the material by landfill or incineration.

The environmental assessment prepared as part of the EIS indicates that the proposed use does not constitute a 'heavy industry', 'hazardous industry' or 'offensive industry' and accordingly the asphalt batching plant component would be classified as a 'general industry'. General industries are permissible within the IN1 General Industrial zone under the Hawkesbury LEP 2012.

The proposed recycling operations would be categorised as a 'resource recovery facility', which is a type of 'waste or resource management facility' and is permissible within the IN1 General Industrial zone.

The nominated Marini MAC 200 facility has a height of 27.5m at its highest point. Clause 4.3(2) and the associated Height of Buildings Map of the Hawkesbury LEP 2012 do not establish a maximum building height control for the industrial zones.

The proposed facility would be visible from residential locations within the vicinity however comparable plant facilities already exist within Sovereign Place and Fairey Road. The appearance, materials and finishes of the facility would be characteristic of an industrial area and the Department of Defence have advised that the height of the structure will not impact upon aircraft operations associated with the Richmond RAAF Base. On these grounds the overall height, bulk, scale and appearance of the facility is seen to be acceptable within the industrial context of the locality.

The Hawkesbury LEP 2012 provides the following objectives for the IN1 General Industrial zone:

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.
- To allow commercial development for:
  - (a) uses ancillary to the main use of land in the zone, and
  - (b) the day-to-day needs of the occupants and employees of the surrounding industrial area.
- To ensure that industrial development creates areas that are pleasant to work in and safe and efficient in terms of transportation, land utilisation and services distribution.



The proposed industrial use is permissible and will provide employment opportunities within the area. It is considered that the prepared EIS and supporting documentation adequately address potential noise, air quality, odour, visual and traffic impacts associated with the industrial use and accordingly the development is not expected to result in unreasonable landuse conflict.

The proposal is permissible and is seen to satisfy the provisions of the Hawkesbury LEP 2012.

### **Draft Environmental Planning Instruments**

There are no Draft Environmental Planning Instruments relevant to the subject proposal.

### **Development Control Plans**

#### **Hawkesbury Development Control Plan 2002**

##### Part C Chapter 2: Car Parking

Section 2.5.3 of Part C Chapter 4 of the Hawkesbury DCP 2002 does not outline specific parking controls for asphalt batching plants or waste management facilities, However it does require four spaces for industrial developments with an area of up to 300m<sup>2</sup>. A rate of one space for every 90m<sup>2</sup> of gross floor area (GFA) then applies.

The office building approved with Development Consent No. DA0807/14 has an area of approximately 110m<sup>2</sup> and the provision of nine spaces is seen to be adequate to accommodate the office building and anticipated staff numbers.

Access to the property is provided via a 6.5m wide vehicular crossing constructed in association with Development Consent No. DA0807/14. The facility has been designed so that heavy vehicles will travel in a forward direction to enter, manoeuvre within and exit the site.

##### Part D Chapter 2: Industrial Development

Section 2.2(b) of Part D Chapter 2 of the Hawkesbury DCP 2002 outlines that “*buildings are to be setback 10 metres from the front property boundary*”. The subject property comprises of a battle axe allotment and has minimal frontage to Argyle Street. The proposed asphalt batching plant facility is to be centrally located within the site and views of this structure would be typical and representative of an industrial area.

The subject property is located within an industrial precinct and the structure's bulk, scale, height, setbacks and finishes are considered acceptable within the context of the locality.

### **Planning Agreement**

There are no planning agreements applicable to the proposed development.

### **Matters Prescribed by the Regulations**

Based on the proposed processing capacities and the proximity of the site to residential properties the development is categorised as designated development under Clauses 5(1), 16(1) and 32(d)(v) and (vi) of Schedule 3 of the EP&A Regulation 2000:

#### **5 Bitumen pre-mix and hot-mix industries**

- (1) *Bitumen premix or hot-mix industries (being industries in which crushed or ground rock is mixed with bituminous materials):*
  - (a) *that have an intended production capacity of more than 150 tonnes per day or 30,000 tonnes per year, or*
  - (b) *that are located:*
    - (i) *within 100 metres of a natural waterbody or wetland, or*
    - (ii) *within 250 metres of a residential zone or dwelling not associated with the development.*
- (2) *This clause does not apply to bitumen plants located on or adjacent to a construction site and exclusively providing material to the development being carried out on that site:*
  - (a) *for a period of less than 12 months, or*

- (b) *for which the environmental impacts were previously assessed in an environmental impact statement prepared for the development.*

**16 Crushing, grinding or separating works**

- (1) *Crushing, grinding or separating works, being works that process materials (such as sand, gravel, rock or minerals) or materials for recycling or reuse (such as slag, road base, concrete, bricks, tiles, bituminous material, metal or timber) by crushing, grinding or separating into different sizes:*
- (a) *that have an intended processing capacity of more than 150 tonnes per day or 30,000 tonnes per year, or*
- (b) *that are located:*
- (i) *within 40 metres of a natural waterbody or wetland, or*
- (ii) *within 250 metres of a residential zone or dwelling not associated with the development.*
- (2) *This clause does not apply to development specifically referred to elsewhere in this Schedule.*

**32 Waste management facilities or works**

- (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:*
- ...
- (d) *that are located:*
- ...
- (v) *on a floodplain, or*
- (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.*

The Department of Planning and Environment provided SEARs for the development prior to the lodgement of the application. With its lodgement the application was referred as designated development and submissions received in response to the notification of the application were also sent to the Department on two separate occasions as required under Clause 4.16(9) of the EP&A Act 1979.

After the second notification period for the development, the Department of Planning and Environment reviewed the submissions and advised there were no issues of State or regional significance that applied to the proposal. The Department did note however the concerns raised by the EPA and local residents in relation to potential noise, traffic and air quality impacts upon nearby residential receivers. The Department of Planning and Environment outlined that Council should ensure that these concerns were adequately and appropriately addressed before the determination of this application.

**Likely Impacts of the Development, Including Environmental Impacts on Both the Natural and Built Environments and the Social and Economic Impacts in the Locality**

These matters have been considered in the assessment of this application.

The application is defined as integrated development and was referred to the EPA) under Section 4.46 of the EP&A Act 1979. An Environment Protection Licence will be required for the scheduled activities listed under Items 16, 34, 41 and 42 of Schedule 1 of the Protection of the Environment Operations (POEO) Act 1997.

The EPA's Air Technical Advisory Services Unit reviewed the documentation supplied in support of the original application and requested additional information with respect to:

- The fuel source proposed for the project;
- Clarification on the proposed fugitive emission controls;
- Comparison against the emission limits contained in the Protection of the Environment Operations (Clean Air) Regulation 2010 (the Clean Air Regulation);
- The assessment of fine particles;
- Justification for the adopted odour emission rates;
- The assessment of Volatile Organic Compounds (VOCs);
- Meteorological data used for dispersion modelling;
- The assessment of air toxins; and

- The assessment of potential cumulative impacts.

The Noise Assessment Unit of the EPA also raised concern that there would be a high potential for noise impacts to residences located approximately 200m away as a result of the night-time operations originally proposed for the development.

In response to the matters raised by the EPA the Applicant prepared revised Air Quality and Noise Impact Assessment Reports.

A Level 2 Assessment Air Quality Assessment Report was prepared in accordance with the 'Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales' and outlines predicted dust, particulate matter, odour, sulfur dioxide, nitrogen oxides, carbon monoxide, polycyclic aromatic hydrocarbons and volatile organic compounds from the proposed site operations. Existing air quality data was used to establish the background levels of pollutants and was combined with the predicted levels from the proposed operations to provide a cumulative air quality impact assessment.

The Level 2 Assessment Air Quality Assessment Report found that air pollutants modelled for the operation of the asphalt plant, including particulate matter, odour and other chemicals, were below the relevant assessment criteria with the exception of PM<sub>2.5</sub> and PM<sub>10</sub> particulate matter (24 hour averaging period). The report outlines the PM<sub>2.5</sub> exceedance is justified due to high background concentrations and low incremental impact, whilst the PM<sub>10</sub> exceedance occurred at one industrial receiver only. The guidelines are not directly applicable to industrial premises and therefore this exceedance is considered acceptable and does not warrant further controls. The Level 2 Assessment Air Quality Assessment Report concludes that no adverse impact to health or amenity will occur as a result of the development.

The operation of the facility 24 hours a day was originally sought with this application. However, in response to concerns raised by the EPA and Council the proposal has since been amended to have operating hours of 7am to 9pm Monday to Saturday and 8am to 8pm on Sundays.

The EPA have reviewed the revised Air Quality and Noise Impact Assessment Reports and have issued their General Terms of Approval for the development. Based on the EPA's support of the modified proposal it is considered that the development will not generate unreasonable environmental impacts on the natural and built environments, or social and economic impacts in the locality.

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

These matters have been considered as part of the assessment of the development application.

The land varies in height from approximately 13.5m to 15.9m AHD. The land is located below the adopted Average Recurrence Interval (ARI) flood event level of 17.3m AHD and is categorised as 'flood liable land'. Flooding impacts to the development must be considered under Section 6.3 of the Hawkesbury LEP 2012 and Council's Development of Flood Liable Land Policy.

The Flood Plain Development Manual recommends a merit-based approach to the use of flood liable land.

The area of the site that is to accommodate the asphalt batching plant has a level above 15.3m AHD. The area has been zoned for industrial purposes and the plant equipment is to be located on land less than 3m below the adopted 100 year ARI flood level so as to satisfy Clause 3.1 of Council's Development of Flood Liable Land Policy. Given the predicted extent and frequency of flood inundation this industrial development is considered acceptable in terms of flood risk.

On account of the locality's industrial character, the proposed development is considered suitable within the context of the locality.

### **Public Notification and Submissions**

The application was notified as 'advertised development' from 15 September to 15 October 2016. With the submission of amended plans altering the height of the facility the proposal was again notified between 10 May and 21 June 2018. In addition to notification letters and a site sign, notices of the development were also placed in the local newspaper as required under the EP&A Regulation 2000.

A total of three submissions were received in response to the notification of this application. Two submissions were received during the first notification period, with one submission received from the owner of a residential

property at 69 Mileham Street and the other received on behalf of a group home at 87 Mileham Street. In response to the second notification period, a single submission was received from the owner of an industrial unit at 11/62 Argyle Street.

The matters raised in the submissions are detailed below in italics, followed by a response from the assessing officer:

*The operation of the industry 24 hours a day will negatively impact upon the amenity of the neighbourhood.*

Officer's Comment: The application was amended to propose operating hours of 7am to 9pm Monday to Saturday and 8am to 8pm on Sundays. A Noise Assessment Report was been supplied demonstrating that the development is capable of operating within the relevant noise criteria during the nominated hours.

*The noise and air quality assessments included with the EIS must be reviewed and measures implemented to ensure the ongoing protection of the residential amenity.*

Officer's Comment: Detailed Air Quality and Noise Impact Assessment Reports have been prepared in support of the development and these have been reviewed by Council as well as the Air Technical Advisory Services and Noise Assessment Units of the EPA. The recommendations and findings of the revised reports are generally supported by the EPA and they have issued their General Terms of Approval which include construction and operational conditions.

*The development will generate odour, pollution and dust impacts for the locality.*

Officer's comment: A Level 2 Assessment Air Quality Assessment Report was prepared and provides predicted dust, particulate matter, odour, sulfur dioxide, nitrogen oxides, carbon monoxide, polycyclic aromatic hydrocarbons and volatile organic compound levels associated with the proposed development. The Air Technical Advisory Services Unit of the EPA has reviewed this most recent report and have issued their General Terms of Approval.

*The intersection of Mileham Street and Argyle Street is extremely busy with traffic and the proposed development will exacerbate this issue.*

Officer's Comment: A Traffic and Parking Report was prepared in support of the application and indicates that the proposal will have a minimal impact on intersection service levels along Argyle Street. Council's Development Engineer has reviewed the Traffic and Parking Report and has raised no objection to its findings.

*The development will negatively impact property values.*

Officer's Comment: The subject property is located within an industrial area and the proposal is permissible with consent under the Hawkesbury LEP 2012.

### **The Public Interest**

The proposed development is permissible within the zone and, based on the findings of the EIS and the General Terms of Approval issued by the EPA, is not expected to adversely impact upon the amenity of the locality or the surrounding environment. The approval of the application is therefore seen to be in the public interest.

### **Financial Implications**

The proposed development has an estimated value-of-works of \$3,500,000.00. Council's Section 94A Contributions Plan 2015 applies and based on the supplied value-of-works the payment of a Section 7.12 (formerly known as a Section 94A) Contribution of \$35,000.00 would be payable should the application be approved. An appropriate condition has been included in the recommended conditions of this report.

## Conclusion

The application has been assessed in accordance with the provisions of the EP&A Act 1979 with all matters specified under Section 4.15(1) having been taken into consideration. The proposed development is permissible and General Terms of Approval have been issued by the EPA.

The proposal is acceptable and is recommended for conditional approval.

## Recommendation

**That the Sydney Western City Planning Panel as the consent authority pursuant to Clause 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 (as amended) approve Development Application No. DA0618/18 for a general industry and resource recovery facility on Lot 2 in DP 1123169, known as 60 Argyle Street, South Windsor, subject to the conditions detailed in this report.**

## Reasons for Decision

The Sydney Western City Planning Panel has determined that the application be approved on 15 November 2018 on the following grounds:

1. The proposed development is permissible and is generally consistent with the Hawkesbury Local Environmental Plan 20122.
2. The proposed development is generally consistent with relevant planning instruments, Hawkesbury Development Control Plan 2002 and policies that apply to the development.
3. The proposal is categorised as designated development and the Department of Planning and Environment have issued the Secretary's Environmental Assessment Requirements. Upon the completion of the notification period the Department of Planning and Environment advised there were no issues of State or regional significance that applied to the proposal.
4. The proposal is categorised as integrated development and General Terms of Approval have been issued by the Environment Protection Authority.
4. The application was referred to the Roads and Maritime Services, Department of Defence, Sydney Trains and Endeavour Energy who have raised no objection to the proposal subject to the imposition of conditions.
5. The proposal was notified in accordance with the Environmental Planning and Assessment Regulation 2000 and Hawkesbury Development Control Plan 2002. The submissions received have been considered in the assessment of the application and the development has been amended and conditions have been imposed to address the submissions received.

## Attachments

Attachment 1 – Plans of the Proposal

Attachment 2 – Environment Protection Authority – General Terms of Approval

Attachment 3 – Submissions

## Assessment Officer

**Andrew Johnston** | Senior Town Planner | Hawkesbury City Council

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