

DATE OF DETERMINATION	Monday 19 November 2018
PANEL MEMBERS	Justin Doyle (Chair), Nicole Gurran, Bruce McDonald, Jeff Organ, Judy Clark
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held at Hawkesbury City Council Chambers at 366 George Street Windsor on 19 November 2018, opened at 12.35pm and closed at 1.20pm.

MATTER DETERMINED

2016SYW205 – Hawkesbury – DA0618/16 at 60 Argyle Street South Windsor (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel approved the development application for the following reasons:

1. The proposed development will provide an asphalt batching plant and associated recycling facility which will manufacture substantial material for the resurfacing and construction of roads within the Sydney region including roads operated by the Roads and Maritime Services. The proposal will also generate additional employment within the Hawkesbury local government area.
2. The proposed development adequately satisfies the relevant State Legislation and State Environmental Planning Policies including the Protection of Environment Operations Act, SEPP 55 - Remediation of Land, SEPP 33-Hazardous and Offensive Development and Sydney Regional Plan No.20 Hawkesbury – Nepean River. The Panel particularly notes that the proposal initially lodged was reviewed by the EPA and subsequently amended to address concerns raised in that review. The EPA has reviewed the amended proposal and issued General Terms of Approval which have been included as conditions of consent to the proposal.
3. The proposal adequately satisfies the applicable objectives and provisions of Hawkesbury Local Environmental Plan 2012 and Hawkesbury DCP 2002.
4. The proposed development subject to the conditions imposed is unlikely to have any unacceptable adverse impacts on the natural or built environments including air, water or noise pollution, odour emissions, the amenity of residential, premises or the utility of the local road system.
5. While the application initially proposed 24 hour operation, hours of operation are now to be limited to 7am to 9pm Mondays to Saturdays and 8am to 8pm Sundays. These revised hours are considered acceptable having regard to the noise assessments that have been conducted and reviewed. Those

hours have been taken into account by the EPA in formulating the acoustic condition on the EPA licence.

6. The proposed development is considered to be of acceptable form and scale consistent with the industrial land use context in which it is placed. The Panel notes that while the subject site is located within a 1% flood liability area the building is required to be designed and constructed to withstand floodwater impacts.
7. In consideration of conclusions 1-6 above the Panel considers the proposed development is a suitable use of the site and approval of the proposal is in the public interest.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments:

- Condition 1b) amended to read as follows:

b) Document Reference:

<i>Document Name/Reference</i>	<i>Prepared By</i>	<i>Issue</i>	<i>Date</i>
<i>'Level II Air Quality Impact Assessment Report' (Document No. 141067-04_AQIA_Rev5)</i>	<i>Benbow Environmental</i>	<i>5</i>	<i>9 March 2018</i>
<i>'Revised Noise Impact Assessment Report' (Document No. 141067-03_NIA_Rev5)</i>	<i>Benbow Environmental</i>	<i>5</i>	<i>12 September 2017</i>
<i>Statement of Commitments under Section 9 of the 'Environmental Impact Statement' (Document No. 141067-03_EIS_Rev2)</i>	<i>Benbow Environmental</i>	<i>2</i>	<i>25 August 2016</i>

- Condition 18 amended to read as follows:

Operational Traffic Management Plan – Heavy Vehicle Traffic Routes

All heavy vehicle traffic during the operation of the development must use Argyle Street and Macquarie Street to enter and exit the property. Use of alternative routes such as the use of Fairey Road, Mileham Street and Walker Street are prohibited.

An Operational Traffic Management Plan demonstrating compliance with the above requirement and reflecting the approved operating hours must be submitted to Council for approval. Evidence of Council's approval of the Operational Traffic Management Plan must be provided to the Certifying Authority prior to the issue of the Construction Certificate.

- Condition 36 amended to read as follows:

Air Quality and Noise Impact Mitigation Measures

The development must be designed to incorporate the pollutant control, noise control and mitigation measures detailed in:

- *Section 6.2 of the 'Level II Air Quality Impact Assessment Report' (Document No. 141067-04_AQIA_Rev5) prepared by Benbow Environmental and dated 9 March 2018;*
- *Section 8.3 of the 'Revised Noise Impact Assessment Report' (Document No. 141067-03_NIA_Rev5) prepared by Benbow Environmental and dated 12 September 2017; and*

- The Statement of Commitments detailed in Section 9 of the 'Environmental Impact Statement' (Document No. 141067-03_EIS_Rev2) prepared by Benbow Environmental and dated 25 August 2016.

Documentation, plans and details demonstrating compliance with this requirement must be submitted to the Certifying Authority prior to the release of the Construction Certificate. Certification of compliance from a suitably qualified person must be provided to confirm that the design satisfies these requirements.

- Condition 37 amended to read as follows:

Dust and Material Suppression Measures

Sprinklers and dust suppression measures must be installed and operated to service the development and provide coverage over the site (including material bunkers and all trafficable areas) to suppress dust. Appropriate measures, such as a shaker with collection facility, must also be installed within the driveway to prevent heavy vehicles exiting the premises from transporting material onto the road.

Details demonstrating compliance with these requirements must be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

- Condition 41 amended to read as follows:

Department of Defence – Extraneous Lighting

Outdoor lighting situated within 6km of an airfield has the potential to be confusing for pilots due to similarities with approach or runway lighting, may impede a pilot's ability to see due to brightness or glare, and affect visibility from the Air Traffic Control Tower due to the brightness or glare.

The subject site is located within the Civil Aviation Safety Authority's (CASA) 6km radius controlled light installation area. Defence has adopted CASA guidelines for extraneous lighting near its airfields and any future development must comply with the extraneous lighting controls detailed in the CASA Manual of Standards (MOS-139) Aerodromes.

Documentation prepared by a suitably qualified person and demonstrating compliance with this requirement must be submitted to the Certifying Authority prior to issue of the Construction Certificate.

- Condition 75 amended to read as follows:

General Industry and Resource Recovery Facility – Maximum Processing Capacities

The asphalt batching plant shall have a maximum processing capacity of 200,000 tonnes of new asphalt material per annum.

The total quantity of Recycled Asphalt Product (RAP) received at the premises for storage and/or resource recovery must not exceed 100,000 tonnes per annum.

- Condition 76 amended to read as follows:

Environment Protection Authority – Operational Requirements

The development must be operated in accordance with the Environment Protection Licence (EPL) and General Terms of Approval issued by the Environment Protection Authority (EPA).

The development must be operated in accordance with the following requirements:

- *The screening, mixing and hot storage sections of the plant must be enclosed. The enclosure must be designed and maintained to achieve negative pressure, with emissions directed to the bag house.*

- *Crushing of reclaimed asphalt pavement (RAP) must be conducted in enclosed plant.*
- *The asphalt truck loadout area must be enclosed, with emission capture directed to the bag house.*
- *The premises must be maintained and strategies implemented to prevent the emission of dust from the premises.*
- *Trucks entering and entering the premises that are carrying loads must be covered at all times, except during loading and unloading. The Applicant must ensure no material, including sediment, is tracked from the premises.*
- *The asphalt plant is only permitted to operate on natural gas.*

- Condition 74 amended to read as follows:

Hours of Operation

All operations associated with the asphalt batching plant and recycling facility, including the delivery and dispatch of material to and from the site, shall be undertaken within the following hours only:

<i>Mondays to Saturday</i>	<i>7am to 9pm</i>
<i>Sundays</i>	<i>8am to 8pm</i>
<i>Public Holidays</i>	<i>Closed</i>

Note: *These operating hours apply to all activities that are to be undertaken onsite and override any operating hours approved under previous consents.*

- Condition 77 amended to read as follows:

Operation – Air Quality and Noise Impact Mitigation Measures

The person having the benefit of this consent must ensure the development is operated in accordance with:

- Section 6.2 of the 'Level II Air Quality Impact Assessment Report' (Document No. 141067-04_AQIA_Rev5) prepared by Benbow Environmental and dated 9 March 2018;*
- Section 8.3 of the 'Revised Noise Impact Assessment Report' (Document No. 141067-03_NIA_Rev5) prepared by Benbow Environmental and dated 12 September 2017; and*
- The Statement of Commitments detailed in Section 9 of the 'Environmental Impact Statement' (Document No. 141067-03_EIS_Rev2) prepared by Benbow Environmental and dated 25 August 2016.*

- Condition 78 amended to read as follows:

Noise Limits

Noise from the premises must not exceed the limits detailed under Condition L3 of the General Terms of Approval (Reference No. 1544789) issued by the NSW Environment Protection Authority and dated 23 April 2018:

Location	Noise Limit dB(a)	
	Day LAeq (15 minute)	Evening LAeq (15 minute)
<i>1 James Meehan Street, Windsor</i>	<i>50</i>	<i>39</i>
<i>12 Kingley Close, South Windsor</i>	<i>46</i>	<i>39</i>
<i>49 Mileham Street, South Windsor</i>	<i>54</i>	<i>39</i>
<i>81 Mileham Street, South Windsor</i>	<i>46</i>	<i>39</i>

- Condition 80 amended to read as follows:

Environmental Performance Audit

The proponent shall conduct an Air Quality and Noise Audit of the project to the satisfaction of the NSW Environment Protection Authority (EPA) and Council. The audit shall:






- a) be undertaken by a suitably qualified and experienced person;*
- b) assess whether the project is complying with the relevant air quality and noise assessment criteria in this approval and the Environment Protection Licence (EPL) and General Terms of Approval issued by the EPA;*
- c) should the audit identify areas of non-compliance then mitigation measures must be identified and implemented to ensure compliance in this approval, the EPL and General Terms of Approval issued by the EPA; and*
- c) provide details of any complaints received with respect to the air quality and noise impacts of the project, as well as any action taken to respond to these complaints.*

The audit is to be undertaken and submitted to Council within 12 months from the commencement of operations.

- Condition 87 amended to read as follows:

External Lighting

Any external lighting must be directed in such a manner so as not to cause any adverse impact to neighbouring properties, aircraft and road users. Lighting installations must comply with Australian Standard AS4282 'Control of the obtrusive effects of outdoor lighting' and the Civil Aviation Safety Authority's (CASA) Manual of Standards (MOS-139) Aerodromes.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Bruce McDonald
 Nicole Gurran	 Judy Clark
 Jeff Organ	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2016SYW205 – Hawkesbury – DA0618/16
2	PROPOSED DEVELOPMENT	General Industry and Resource Recovery Facility – Construction and operation of an asphalt batching plant and recycling facility.
3	STREET ADDRESS	60 Argyle Street South Windsor (Lot 2 DP 1123169
4	APPLICANT/OWNER	Hawkesbury Eco Asphalt, J&R Vella Properties Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Designated development - waste management facility or works
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy (State and Regional Development) 2011 ○ State Environmental Planning Policy No.33 Hazardous Offensive Development ○ State Environmental Planning Policy No.55 Remediation of Land ○ State Environmental Planning Policy No.20 – Hawkesbury - Nepean River ○ Hawkesbury Local Environmental Plan 2012 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Hawkesbury Development Control Plan 2002 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 6 November 2018 • Updated conditions received 19 November 2018 • Written submissions during public exhibition: 3 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Object – Noel Burley, Dianne Burley ○ Council assessment officer – Andrew Johnston, Christie Evenhuis ○ On behalf of the applicant – Chris Engelbrecht
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection: 19 November 2018 • Final briefing to discuss council's recommendation, 19 December 2018 at 11.30am. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Bruce McDonald, Nicole Gurran, Judy Clark, Jeff Organ ○ <u>Council assessment staff</u>: Andrew Johnston, Christie Evenhuis
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report