

JOINT REGIONAL PLANNING PANEL

(Southern Region)

JRPP No	2017STH026
DA Number	DA-2017/1342
Local Government Area	Wollongong City
Proposed Development	Designated Development – Upgrade to Waste Resource Recovery facility including construction of aerated storage tunnels, biofiltration system, water management area, drilling mud separation plant, new weighbridge and associated operational activities.
Street Address	Lot 402 DP 1148505 & Lot 1 DP 661596, 132 West Dapto Road, Kembla Grange NSW 2526.
Applicant/Owner	MRA Consulting Group
Number of Submissions	Zero (0)
Regional Development Criteria (Clause 4.5(b) of the Act)	The proposal has been referred to Joint Regional Planning Panel pursuant to Section 4.5(b) of the Environmental Planning and Assessment Act 1979 and Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011 as it is considered designated development for a waste management facility or works consistent with clause 32 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000.
List of All Relevant s S4.15(1)(a) Matters	<ul style="list-style-type: none"> List all of the relevant environmental planning instruments: S4.15 (1)(a)(i) <ul style="list-style-type: none"> <u>State Environmental Planning Policies:</u> <ul style="list-style-type: none"> SEPP No. 33 – Hazardous and Offensive Development SEPP No. 55 – Remediation of Land SEPP (Infrastructure) 2007 SEPP (State and Regional Development) 2011 <u>Local Environmental Planning Policies:</u> <ul style="list-style-type: none"> Wollongong Local Environmental Plan (WLEP) 2009 <u>Development Control Plans:</u> <ul style="list-style-type: none"> Wollongong Development Control Plan 2009 <u>Other policies</u> <ul style="list-style-type: none"> West Dapto Release Area Section 94 Contributions Plan (2017) 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: S4.15 (1)(a)(ii) <ul style="list-style-type: none"> Nil List any relevant development control plan: S4.15 (1)(a)(iii) <ul style="list-style-type: none"> Wollongong Development Control Plan 2009 List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4: S4.15 (1)(a)(iv) <ul style="list-style-type: none"> Nil. List any coastal zone management plan: S4.15 (1)(a)(v) <ul style="list-style-type: none"> Nil. List any relevant regulations: S4.15 (1)(a)(iv) eg. Regs 92, 93, 94, 7.12, 288 <ul style="list-style-type: none"> Regulations 93 & 94, AS 2601 in respect of any demolition.
List all documents	Plans – architectural, civil & landscape

submitted with this report for the panel's consideration	Aerial photograph & WLEP 2009 zoning map Wollongong DCP 2009 Assessment Draft conditions
Recommendation	It is recommended that DA-2017/1342 be approved subject to the conditions contained within Attachment 4 .
Report by	Andrew Kite, Development Project Officer

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 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? **NA**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **No**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**
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

Assessment Report and Recommendation Cover Sheet

Executive Summary

Reason for consideration by Joint Regional Planning Panel

The proposal has been referred to the Joint Regional Planning Panel pursuant to Section 4.5(b) of the Environmental Planning and Assessment Act 1979 and Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011 as it is considered designated development for a waste management facility or works consistent with clause 32 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000.

Proposal

The proposal is Designated Development and Integrated Development comprises the upgrade to Waste Resource Recovery facility including construction and operation of a composting and manufacturing facility as follows:

- Construction of a new weighbridge, administration building, composting tunnels, bio filter facility and associated carparking and landscaping. Additional works include the installation of mechanical plant internal of the existing industrial buildings.
- Operational activities onsite will include”
 - Composting of 40,000 tonnes per annum (tpa) of garden and food material;
 - Processing by shredding and mixing of 15,000tpa of timber wastes;
 - Processing by dewatering and treatment of 15,000tpa of drilling muds;
 - Manufacturing of 50,000tpa of soil conditioners by blending of soil, compost and mulch products;
 - Storage and distribution of 50,000tpa of soil, compost and mulch products that are produced onsite.

The proposal is considered Designated Development pursuant to the provisions contained within Schedule 3 of the Environmental Planning and Assessment Regulations 2000 as a *Waste management facilities or works* is proposed. Additionally, the proposal is also considered Integrated Development as a scheduled activity pursuant to Schedule 1 of the Protection of the Environment Operations Act 1997 (POEO Act) which requires an Environmental Protection Licence (EPL) due to the extent of processing proposed. A copy of the site layout and architectural plans is presented at Attachment 1.

Permissibility

The proposed development is located on a portion of the site zoned IN3 Heavy Industrial pursuant to Wollongong Local Environmental Plan (WLEP) 2009. The proposal is categorised as a **waste or resource management facility** and is permissible in the zone with development consent via the State Environmental Planning Policy (Infrastructure) 2007.

Consultation

The proposal was notified in accordance with Wollongong Development Control Plan (WDCP) 2009 Appendix 1 - Advertising & Notification Procedures. No submissions were received.

Main Issues

The main issues arising from the assessment are:-

- Consistency of documentation and plans
- Compliance with Building Code of Australia upgrade requirements
- Storage and management of stockpiles regarding stormwater quality and associated leachates.

Conclusion

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979. The proposed development is permissible with consent and is reflective of the objectives of the IN3 Heavy Industrial zone. The development is consistent with the applicable provisions of the relevant planning instruments including Wollongong LEP 2009. The design of the development is also considered appropriate with regard to the controls outlined in the Wollongong DCP 2009.

It is considered that the proposed development is unlikely to result in adverse impacts on the character or amenity of the surrounding area, environment and adjoining development.

RECOMMENDATION

It is recommended that DA-2017/1342 be approved subject to the draft conditions outlined in **Attachment 4**.

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the proposal:

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulations 2000
- Protection of the Environment Operations Act 1997

State Environmental Planning Policies:

- SEPP No. 33 – Hazardous and Offensive Development
- SEPP No. 55 – Remediation of Land
- SEPP (Infrastructure) 2007
- SEPP State and Regional Development) 2011

Local Environmental Planning Policies:

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans:

- Wollongong Development Control Plan (WDCP) 2009

Other policies

- West Dapto Release Area Section 94 Contributions Plan (2017)

1.2 PROPOSAL

The proposal is Designated Development and Integrated Development comprises the upgrade to Waste Resource Recovery facility including construction and operation of a composting and manufacturing facility as follows:

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1.3 BACKGROUND

A review of the development history of the site indicates that the following applications have been lodged for the subject lots:

Application	Description	Decision
DA-2017/1189	Proposed link road	Approved
DA-2017/437	Construction and operation of a composting and manufacturing facility	Rejected
DA-2017/398	Construction and operation of a composting and manufacturing facility	Rejected
DA-2015/1512	Industrial - change of use to storage and distribution of soil, compost and mulch products and construction of office building	Approved
DA-2014/1347	Vehicle storage and distribution facility	Approved
DA-2014/1347/A	Vehicle storage and distribution facility Modification A - modification to vary Section 94 contribution payment schedule	Approved

The NSW Department of Planning and Environment (DP&E) has issued Secretary's Environmental Assessment Requirements (SEARs) for the proposal on 22 June 2016. The SEARs outline the requirements to be considered in the preparation of an Environmental Impact Statement (EIS) to be lodged with the development application.

The current application was lodged on 17 October 2017.

No pre-lodgement meeting was held for the proposal.

Customer service actions

There are no outstanding customer service requests of relevance to the development.

1.4 SITE DESCRIPTION

The site is located at Lot 402 DP 1148505 & Lot 1 DP 661596, 132 West Dapto Road, Kembla Grange NSW 2526.

The subject lots have frontages and vehicle access to both West Dapto Road and Reddalls Road. The site itself contains a variety of large industrial buildings with associated outbuildings consistent with the prevailing IN3 Heavy Industrial zoning of the site. These are complimented with large open and gravelled storage areas. A railway spur traverses the south-western corner of the site.

The surrounding area consists of similar heavy industrial uses to the north and east in the form of car storage facilities, asphalt plants, water treatment facilities and Councils waste services centre. An aerial photograph of site and surrounds is provided at Attachment 2.

Property constraints

- Contaminated land
- Acid sulphate soils.
- Flood
- Riparian land

Given the proposed development is located across two allotments to ensure compliance is achieved for the required 6m wide access way around the whole building a draft condition requiring lot consolidation has been recommended at Attachment 4.

There are no restrictions on the title.

1.5 CONSULTATION

1.5.1 INTERNAL CONSULTATION

Details of the proposal were referred to Council's Stormwater, Traffic, Environment, Landscape, Building, Community Services, Heritage, West Dapto and Contributions Officers for assessment. Satisfactory referral advice, comments and/or recommended conditions were provided in each instance.

1.5.2 EXTERNAL CONSULTATION

Department of Planning

In accordance with Section 4.10 of the EP&A Act 1979, the applicant obtained SEARs which outlined the statutory matters that must be included in any EIS. It is considered the application has been prepared in accordance with these requirements and was referred to the Department following lodgement for public exhibition in accordance with Clause 50(6) of the EP&A Regulation 2000. At the conclusion of the exhibition period no submissions were received and the Department was also notified of this outcome as required by S81 of the Regulations. No further comments were received.

Roads and Maritime Services

A referral was sent to the RMS and a satisfactory response was received on 14 November 2017 raising no objections. No conditions of consent were recommended.

Sydney Trains

A referral was sent to Sydney Trains in accordance with Clause 84 of the Infrastructure SEPP 2007 and a satisfactory response was received on 14 November 2017 confirming that concurrence was not required. However, a condition was recommended relating to the preparation of a traffic management plan to be imposed on any consent granted.

Environment Protection Authority

The proposal is considered to be a scheduled activity under the Protection of the Environment Operations Act (POEO) 1997 which requires an EPL be issued by the EPA as it is the appropriate regulatory authority. As such, the application was referred to the EPA for comments and/or conditioning. A satisfactory response was provided by the EPA dated 6 February 2018 which included general terms of approval (GTAs). The EPL conditions, as listed in the issued GTAs, will act to regulate operations onsite with regards to waste quantities of materials onsite, water, hours of operation, odour, dust, stormwater/sediment control, wastewater/leachate management, monitoring and recording. Additionally, the EPL conditions mandatory matters to be issued for all licences which include operating conditions, monitoring and recording, reporting requirements and general conditions.

It was noted as part of this process that an EPL must be obtained by the proponent prior to commencement of construction works onsite.

Office of Environment and Heritage (OEH)

A referral was sent to the OEH as they provided initial comments in the SEARs consultation process. A response from the OEH dated 5 December 2017 raised no objection to the application with no recommended conditions.

Sydney Water

A referral has been sent to Sydney Water and a satisfactory response dated 1 March 2018, subject to conditions received and which are included as part of the draft conditions at Attachment 4.

Endeavour Energy

Consultation with Endeavour Energy was undertaken due to its proximity as a nearby land owner. An email response from Endeavour Energy dated 8 December 2017 raised no objection to the proposal subject to a range of requirements. A condition relating to compliance with Endeavour Energy requirements is included as part of the draft conditions at Attachment 4.

Crown Lands

Consultation with Crown Lands has been undertaken as an adjoining land owner. A email response from Crown lands dated 22 November 2017 identified that no works should occur on the Crown lots. It is noted that no works are proposed on adjoining Crown Land.

2 PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997

Pursuant to Schedule 1 of the PoEO Act 1997 and the associated Regulations the proposed facility is deemed a scheduled activity as it would have on site at any one time more than 200 tonnes or organics received from off site and it would receive more than 200tpa of putrescible organics being located within a regulated area. Consequently, the proposal is classified as Integrated Development.

Scheduled activities require an EPL which is administered by the Environmental Protection Authority (EPA). As such, the application was referred to the EPA for assessment and a satisfactory response was provided by the EPA dated 6 February 2018 which included general terms of approval (GTAs).

It is noted that as part of this process the EPL must be obtained by the proponent prior to commencement of construction works onsite.

3 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 – 4.15 EVALUATION

DESIGNATED DEVELOPMENT

Section 4.10 of the EP&A Act 1979 states that Designated Development is development that is declared to be Designated Development by an environmental planning instrument or the regulations. Schedule 3 of the EP&A Regulation 2000 includes waste management facilities or works.

Section 4.13 of the Act sets out notification requirements for designated development which have been followed in assessment of the subject application. Section 77 of the Regulation states that the consent authority must give written notice of a development application for designated development to such public authorities (other than relevant concurrence authorities or approval bodies) as, in the opinion of the consent authority, may have an interest in the determination of that development application. The NSW Department of Planning & Environment, EPA, OEH and the RMS were notified of the application as these agencies provided SEARs commentary for submission of the EIS.

Sections 78 to 80 of the Regulation include requirements for notification of designated development applications to relevant agencies and the general public. These requirements have been observed. Section 81 of the Regulation requires that the consent authority must, immediately after the relevant submission period, forward to the Director-General a copy of all submissions received in response to the public exhibition of a development application for designated development. In this instance no submissions were received and no further comments provided by the Department to Councils advice.

Section 4.12 of the EP&A Act states that a development application for State significant development or designated development is to be accompanied by an environmental impact statement prepared by or on behalf of the applicant in the form prescribed by the regulations.

Schedule 2 of the EP&A Regulation relates to environmental impact statements whilst clause 6 & 7 relate to the form and content of the EIS. It is considered that the submitted EIS and supporting information accompanying the development application reasonably contains the form and content requirements as identified in clauses 6 and 7 of Schedule 2 of EP&A Regulation and the matters identified in the issued SEARs.

It is noted that the EIS accompanying the development application was lodged on 17 October 2017, prior to the expiry date of the issued SEARs.

3.1 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT

3.1.1 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

7 Contamination and remediation to be considered in determining development application

(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.*
- (2) *Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.*
- (3) *The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.*
- (4) *The land concerned is:*
 - (a) *land that is within an investigation area,*
 - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
 - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*
 - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
 - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

The subject site is identified as being contaminated land due to the existing uses onsite within a heavy industrial zoned area. A Preliminary Site Investigation was conducted by Douglas Partners and submitted consistent with the requirements of the SEARs.

It is noted that both the EPA and Council's Environment Officer have reviewed the application submission and are satisfied subject to appropriate draft conditions. It is noted that a condition relating to the disposal of excess excavated material must be classified and disposed of at an appropriate facility able to accept the excavation.

No concerns are raised in regard to contamination as relates to the intended use of the land and the requirements of clause 7.

3.1.2 STATE ENVIRONMENTAL PLANNING POLICY NO. 33 – HAZARDOUS AND OFFENSIVE DEVELOPMENT

Clause 3 of SEPP 33 states that a development is deemed part of a potentially hazardous industry if it satisfies the definition:

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.

In accordance with the Department of Urban Affairs and Planning guideline "Applying SEPP 33" a risk screen procedure has been undertaken and outlined at Section 8.11 of the EIS. As a result of this test it was determined that the proposal would not trigger the requirements of Clause 12 of SEPP 33 which requires a Preliminary Hazard Analysis to be prepared.

Council's Environment Officer has also reviewed the requirements of SEPP 33 and concurs with the assessment undertaken in the EIS.

3.1.3 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

Assessment of the application against the provisions of the State Environmental Planning Policy (Infrastructure) 2007 (ISEPP) has been undertaken.

Division 23, Clause 121 of the ISEPP permits development for the purpose of a waste or resource management facility with consent on the prescribed IN3 Heavy Industrial zoned land. The proposed development is wholly contained within IN3 zoned portion of the site.

It is also noted that a referral was sent to the Roads and Maritime Services who provided a response raising no objection to the proposed development. A referral was also sent to Sydney Trains who were satisfied subject to conditions included in the draft conditions at Attachment 4.

3.1.4 STATE ENVIRONMENTAL PLANNING POLICY (STATE AND REGIONAL DEVELOPMENT) 2011

The proposal has been referred to the Joint Regional Planning Panel pursuant to Section 4.5(b) of the Environmental Planning and Assessment Act 1979 and Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011 as it is considered designated development for a waste management facility or works consistent with clause 32 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000.

3.1.5 ILLAWARRA REGIONAL STRATEGY

The primary purpose of the Illawarra Strategy (2007) is to ensure adequate land is available and appropriately located to sustainably accommodate the projected housing and employment needs of the Region's population over the next 25 years. The economic development and employment growth section of the strategy has the following action relevant to the proposal, that Councils will maintain the supply and protect regionally significant employment lands specifically identifying Kembla Grange industrial lands. The site is located in Kembla Grange on industrially zoned land it is considered that the proposed development is an appropriate use for zone and will contribute to the employment growth and economic development of the region in the provision of a development that assists in achieving the stated outcomes of the strategy.

3.1.6 ILLAWARRA REGIONAL ENVIRONMENTAL PLAN NO. 1

The Illawarra REP No. 1 (now a deemed State Environmental Planning Policy) applies to the subject site however does not contain any specific planning controls or objectives relating to the type of use or the subject site. The REP however contains broad objectives, policies and principles; of most relevance being the aim to establish parameters and controls relating to development, particularly as they relate to the environmental quality and social well-being of residents in the region. These matters are required to be considered under the range of planning controls that apply to the site and are discussed in detail throughout the report.

3.1.7 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned **IN3 Heavy Industrial, E3 Environmental Management** and **SP2 infrastructure**. A copy of the site zoning is provided at Attachment 2.

Clause 2.3 – Zone objectives and land use table

The objectives of the zones are as follows:

IN3 – Heavy Industrial

- *To provide suitable areas for those industries that need to be separated from other land uses.*
- *To encourage employment opportunities.*
- *To minimise any adverse effect of heavy industry on other land uses.*
- *To support and protect industrial land for industrial uses.*
- *To facilitate the ongoing sustainability of steel making and steel product manufacturing that will contribute to the economic and employment growth of Wollongong.*

SP2 – Infrastructure

- *To provide for infrastructure and related uses.*
- *To prevent development that is not compatible with or that may detract from the provision of infrastructure.*
- *To provide for key transport corridors.*

E3 – Environmental Management

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*

The proposal is satisfactory with regard to the above objectives.

The proposal is categorised as **waste or resource management facility** as described below and is permissible in the zone, via the Infrastructure SEPP, with development consent.

Clause 1.4 Definitions

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.

Note.

Resource recovery facilities are a type of waste or resource management facility—see the definition of that term in this Dictionary.

waste or resource transfer station means a building or place used for the collection and transfer of waste material or resources, including the receipt, sorting, compacting, temporary storage and distribution of waste or resources and the loading or unloading of waste or resources onto or from road or rail transport.

Note.

Waste or resource transfer stations are a type of waste or resource management facility—see the definition of that term in this Dictionary.

Part 4 Principal development standards

Clause 4.3 Height of buildings

There is no specific height limitation requirement for IN3 Heavy Industrial zoned land pursuant to WLEP 2009. As a result, it has been determined on a merit basis that the maximum height of the proposed works being 7.2m is appropriate in consideration of the zone objectives, surrounding development and interface with the streetscape. It should be noted that there are no new works that are above the existing buildings onsite.

Clause 4.4 Floor space ratio

There is no specific FSR requirement for IN3 Heavy Industrial zoned land pursuant to the WLEP 2009. As a result, it has been determined on a merit basis, that the proposed additional GFA is

satisfactory in consideration of the zone objectives, increase in density and the potential impact on surrounding developments.

Part 5 Miscellaneous provisions

Clause 5.10 Heritage conservation

The application proposes uses and specific works in the general vicinity of two heritage items being item 5989 - Settlers' Cemetery and World War II cemetery, and item 6327 – cemetery both of local heritage significance. Further afield is item 6432 Glengarry Homestead and Moreton Bay fig tree (6329) which are both of local significance. However, as these are located a considerable distance from the subject site it is considered that no significant adverse impact will result.

A referral has also been sent to Council's Heritage Officer who has reviewed the application and is satisfied. No conditions of consent were recommended.

Part 6 Urban release areas

6.2 Development control plan

(1) The objective of this clause is to ensure that development on land in an urban release area occurs in a logical and cost-effective manner, in accordance with a staging plan and only after a development control plan that includes specific controls has been prepared for the land.

(2) Development consent must not be granted for development on land in an urban release area unless a development control plan that provides for the matters specified in subclause (3) has been prepared for the land.

The subject site is located within the West Dapto Urban Release Area. Chapter D16 within the Wollongong Development Control Plan 2009 contains provisions for development within the West Dapto Urban Release Area, however does not include an approved neighbourhood plan for the subject site. As such, there is no specific development control that has been prepared for the land. However, there are provisions for the exemption from the requirement of a site specific development control in subclause (4) whereby subclause (2) does not apply:

(4) Subclause (2) does not apply to any of the following development:

(d) proposed development on land that is of a minor nature only, if the consent authority is of the opinion that the carrying out of the proposed development would be consistent with the objectives of the zone in which the land is situated.

It is noted that exemptions to this clause have also been granted to other recent development located in close proximity to the subject site including the Prixcar car storage facility (DA-2014/466), Car storage facility (DA-2014/35), Car storage facility (DA-2014/1347), 73 Reddalls Road 9 November 2011, 1 Keevers Place on 3 January 2011, 6 Keevers Place approved on 22 October 2014 and most recently the existing SoilCo use on the subject site approved via DA-2015/1512 on 14 July 2016.

Given this application relates to the use of existing industrial zoned lots, is considered in context to be of a minor nature only and will be consistent with the objectives of the IN3 zone and therefore it is considered to qualify for the development control plan exemption to be granted.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The development is already serviced by electricity, water and sewage services.

Clause 7.3 Flood planning area

The site is located in a low, medium and high flood risk precinct. As such, a referral was sent to Council's Stormwater Officer who has assessed the application and has not raised any objections subject to conditions of consent.

Clause 7.4 Riparian lands

A small section of riparian corridor traverses the site at the western extent of the subject site which is located greater than 450 metres from the development area. Council's Environment Officer is satisfied

with the proposal subject to conditions. As such, the provisions of Clause 7.4 are considered satisfied in this instance.

Clause 7.5 Acid Sulfate Soils

The proposal is identified as being affected by class 5 acid sulphate soils. Council's Environment Officer has reviewed the proposal and is satisfied subject to conditions.

3.2 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

Not applicable.

3.3 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

3.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

The development has been assessed against the relevant Chapters of WDCP 2009. Compliance tables are provided at **Attachment 3** which does not identify any particular issues.

3.3.2 WEST DAPTO RELEASE AREA SECTION 94 PLAN (2017)

The West Dapto Release Area Section 94 Plan (2017) imposes a per hectare rate for industrial development within the release area. The subject sites are located within the release area and a per hectare rate would normally be imposed. However, the previous car storage application for Lot 402 the (DA-2014/1347) had the per hectare rate imposed on the development consent which included the portion of the site proposed for this application. It is also noted that the car storage facility approved on Lot 401 (DA-2009/1583) paid the applicable contribution at the time of approval.

Consequently, as the subject areas have already been included in the previous development applications contributions there is no requirement to impose further Section 94 contributions on this application. Council's Contributions Officer has raised no issues in this regard.

3.4 SECTION 4.15(1)(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 7.4, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 7.4

There are no planning agreements entered into or any draft agreement offered to enter into under S93F which affect the development.

3.5 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

92 What additional matters must a consent authority take into consideration in determining a development application?

Demolition works have been considered and the subject sites are not located within the coastal zone.

93 Fire safety and other considerations

- (1) This clause applies to a development application for a change of building use for an existing building where the applicant does not seek the rebuilding, alteration, enlargement or extension of a building.*
- (2) In determining the development application, the consent authority is to take into consideration whether the fire protection and structural capacity of the building will be appropriate to the building's proposed use.*
- (3) Consent to the change of building use sought by a development application to which this clause applies must not be granted unless the consent authority is satisfied that the building complies (or will, when completed, comply) with such of the Category 1 fire safety provisions as are applicable to the building's proposed use.*

Note. The obligation to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to the relevant development consent.

- (4) Subclause (3) does not apply to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4).
- (5) The matters prescribed by this clause are prescribed for the purposes of section 79C (1) (a) (iv) of the Act.

Council's BCA Officer has reviewed the application and recommended conditions with regard to fire safety and building upgrade matters.

94 Consent authority may require buildings to be upgraded

(cf clause 66B of EP&A Regulation 1994)

(1) This clause applies to a development application for development involving the rebuilding, alteration, enlargement or extension of an existing building where:

- (a) the proposed building work, together with any other building work completed or authorised within the previous 3 years, represents more than half the total volume of the building, as it was before any such work was commenced, measured over its roof and external walls, or
- (b) the measures contained in the building are inadequate:
- (i) to protect persons using the building, and to facilitate their egress from the building, in the event of fire, or
- (ii) to restrict the spread of fire from the building to other buildings nearby.

(c) (Repealed)

(2) In determining a development application to which this clause applies, a consent authority is to take into consideration whether it would be appropriate to require the existing building to be brought into total or partial conformity with the Building Code of Australia.

(2A), (2B) (Repealed)

(3) The matters prescribed by this clause are prescribed for the purposes of section 79C (1) (a) (iv) of the Act.

Council's BCA Officer has reviewed the application and recommended conditions with regard to fire safety and building upgrade matters.

3.6 SECTION 4.15(A)(V) ANY COASTAL ZONE MANAGEMENT PLAN (WITHIN THE MEANING OF THE COASTAL PROTECTION ACT

Wollongong City Council's Coastal Zone Management Plan has ministerial certification; however the subject sites are not located within the coastal zone.

3.7 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT

Context and Setting:

The proposed development is located within an industrial zoned area and surrounded generally by industrial uses such as civil construction business, compositing, car storage facilities and Council's waste facility.

The proposal is not expected to result in unreasonable impacts on the existing context and setting of the surrounding area and is considered appropriate for the site. The proposal is also considered to be consistent with the existing and desired future character of the Kembla Grange Employment lands.

Access, Transport and Traffic:

The proposal is not envisaged to contribute to unreasonable traffic flows from the site or create negative impacts on the local road network or pedestrian facilities in the locality. The proposed development has adequate parking for both light and heavy vehicles onsite and has compliant entry/exit points onto Reddalls Road. A review of the sightlines for the entry/exit point has also been undertaken by Council's Traffic Officer. The proposed development complies with AS2890.1 & .2 for both commercial and domestic vehicles.

Access, traffic and transport matters have been reviewed by Council's Traffic Officer who is satisfied subject to conditions.

Public Domain:

The proposal is not expected to result in adverse impacts on the public domain.

Utilities:

The proposal is not envisaged to place an unreasonable demand on utilities supply. Existing utilities are adequate to service the proposal.

Heritage:

Due to the spatial disposition of the proposed development from heritage items within the Kembla Grange Industrial area it is considered that no adverse impacts are likely as a result of the proposed development.

Other land resources:

The proposal is considered to contribute to the orderly development of the site and is not envisaged to impact upon any valuable land resources.

Water:

The site is presently serviced by Sydney Water, which can be readily extended to meet the requirements of the proposed development.

The proposal is not envisaged to have unreasonable water consumption.

Soils:

The subject site is potentially constrained by acid sulfate soils onsite. As such, a condition of consent has been imposed requiring treatment of any disturbed acid sulfate soils if encountered onsite. It is also noted that the EPL requires that an Erosion and Sediment Control Plan (ESCP) be prepared and implemented for both the construction and operational phases of the development.

The proposal is not expected to have adverse impact on the soils of the subject site or surrounding area.

Air and Microclimate:

The proposal is not expected to have negative impacts on air or microclimate.

Flora and Fauna:

Due to the highly disturbed nature of the site it is unlikely there will be adverse impacts on flora and fauna.

Waste:

A condition will be attached to any consent granted that an appropriate receptacle be in place for any waste generated during the construction.

Energy:

The proposal is not envisaged to have unreasonable energy consumption.

Noise and vibration:

A condition will be attached to any consent granted that nuisance be minimised during any construction, demolition, or works. It is noted that the EIS has undertaken a noise assessment in accordance with the SEARs issued for the proposed development. Council's Environment Officer has reviewed this requirement and is satisfied subject to conditions.

Natural hazards:

Council records list the site as being flood affected. A review of the proposal in relation to these matters has been undertaken by Council Stormwater Officer and is considered acceptable in this instance subject to conditions.

Technological hazards:

Council records list the site as being contaminated. Council's Environment Officer has reviewed the application in relation to the proposed development and is satisfied subject to appropriate conditions of consent. See also Section 3.1.1 – SEPP 55 matters.

Safety, Security and Crime Prevention:

This application is not likely to result in opportunities for criminal or antisocial behaviour.

Social Impact:

The proposal is not expected to create negative social impacts.

Economic Impact:

The proposal is not expected to create negative economic impacts.

Site Design and Internal Design:

The application does not result in departures from development standards or variations to Councils development control plans.

Construction:

Conditions of consent are recommended in relation to construction impacts such as hours of work, erosion and sedimentation controls, works in the road reserve, excavation, demolition and use of any crane, hoist, plant or scaffolding.

A condition will be attached to any consent granted that all works are to be in compliance with the Building Code of Australia.

Cumulative Impacts:

The proposal is not expected to have negative cumulative impacts.

3.8 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR DEVELOPMENT

Does the proposal fit in the locality?

The proposal is considered appropriate with regard to the zoning of the site and is not expected to have negative impacts on the amenity of the locality or adjoining developments.

Are the site attributes conducive to development?

There are no site constraints that would prevent the proposal.

3.9 SECTION 4.15(1)(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

The proposal was notified in accordance with Wollongong Development Control Plan (WDCP) 2009 Appendix 1 - Advertising & Notification Procedures. No submissions were received.

3.10 SECTION 4.15(1)(E) THE PUBLIC INTEREST

The application is not expected to have unreasonable impacts on the environment or the amenity of the locality. It is considered appropriate with consideration to the zoning and the character of the area and is therefore considered to be in the public interest.

4 CONCLUSION

The proposed development has been assessed with regard to the relevant prescribed matters for consideration outlined in Section 4.15 of the Environmental Planning & Assessment Act 1979. The proposed development is permissible with consent and is reflective of the objectives of the IN3 Heavy Industrial zone. The development is consistent with the applicable provisions of the relevant planning instruments including Wollongong LEP 2009. The design of the development is also considered appropriate with regard to the controls outlined in the Wollongong DCP 2009.

It is considered that the proposed development is unlikely to result in adverse impacts on the character or amenity of the surrounding area, environment and adjoining development.

5 RECOMMENDATION

It is recommended that DA-2017/1342 be approved subject to the draft conditions provided at **Attachment 4**.

6. ATTACHMENTS

- 1 Plans
- 2 Aerial photograph & WLEP 2009 zoning map
- 3 Wollongong DCP 2009 Assessment
- 4 Draft conditions