

SWCPP Ref. No.:	2017SWT009
DA No.:	DA17/0564
PROPOSED DEVELOPMENT:	Stage 2 Works to an Approved Resource Recovery Facility for an Increase in Production Capacity to 20,000 tonnes per Annum - Lot 54 DP 31908,39 - 45 Vallance Street, ST MARYS NSW 2760
APPLICANT:	Awesome Rubber
REPORT BY:	Mahbub Alam, Environmental Planner, Penrith City Council

Assessment Report

Executive Summary

Council is in receipt of a Development Application from Awesome Rubber to increase production capacity of an approved resource recovery facility. The proposed increase is 20,000 tonnes per annum. The site is 39-45 Vallance Street St Marys.

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

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

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

The application was also referred to the NSW Roads and Maritime Service for consideration, and comments have been received dated 19 September 2017 raising no objection to the proposal subject to recommended conditions.

The application has been notified to adjoining properties and exhibited between 14 July 2017 and 14 August 2017. The application was also advertised between 14 July 2017 and 14 August 2017. No submissions were received in response.

Key considerations in the assessment of identified the proposed development and site include:

Wastewater generation and disposal.

Wastewater would not be generated as a result of the proposed operations. Section 5.3.1.1 of the submitted Environmental Impact Statement (EIS) describes the water use on site. This will be limited to top up supply of the crushing mill cooling water. Cooling water for the crushing mill would be recirculated and therefore no wastewater would be generated. A water balance diagram provided as Figure 5.12 in the EIS sufficiently details this process.

The submitted diagram shows the water balance for the site would involve a supply of mains water for both the cooling water crushing mill top up and office and amenities. Office wastewater from kitchen and amenity areas would then be directed to the domestic sewer. The cooling water used for the crushing mill would all be recirculated. Top up water would be required due to evaporation and no wastewater would be generated.

Outdoor Tyre Storage

The development to be captured by the definition of a “small tyre facility” and the maximum quantity of tyres proposed by this development application to be stored outside to 50 tonnes. A special condition of consent has been imposed to ensure the quantity of waste tyres stored in the outdoor area is not to exceed 50 tonnes at any time and also compliance with NSW Fire and Rescue Guidelines for Bulk storage of Rubber Tyres is required at all the times.

Noise impact

The potential of noise source from the proposed development would generally be from movements of vehicles, and tyre recycling equipment including the shredder, conveyors and air compressor. A Noise impact assessment was prepared by Benbow Environmental which includes noise measurements taken during daytime, evening and night time operations for several days. Noise meters were also located in three nearest residential properties. The nearest residential property is located 780m from the subject site. The noise assessment concludes that noise impacts associated with the operational activities were predicted to comply with the project specific noise levels at all of the nearest residential properties and therefore this consideration has been suitably addressed.

Traffic impact assessment.

A Traffic Impact Assessment Report prepared by Transport and Urban Planning Pty Ltd has been submitted. The Report has identified proposed truck and car traffic generation for the proposal. All truck movements will occur on weekdays and will total up to 30 truck movements per day. Most of these trips (26) will be SRV's. Three or four semi-trailer trips per day will occur. The AM and PM peak hour truck movements are expected to be up to 4 trips in and 4 trips out. The proposal will also generate up to 11 car trips in each peak hour. Overall the proposed development is assessed as moderate traffic generator and the Traffic Assessment Report provides the following conclusion:

- The on-site parking provisions are adequate to accommodate for the projected demand given the likely number of employees on-site at any one time;
- The subject site and premises access arrangements and internal circulation proposed provide for safe and efficient vehicular and pedestrians movements during peak times;
- The surrounding road operates with a reasonable level of service during peak periods; and
- The surrounding road network is capable of accommodating the vehicular traffic generated by the proposal.

As a result of suitable on site parking and overflow potential on the adjacent site the proposal is considered to satisfy the intent of the development standard.

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

Background

On 03 May 2017, Council approved DA16/0073 for Stage 1 of development with the following:

- The proposal involved shredding of old tyres by using single a processing line converting used car and truck tyres for overseas export.

- It was intended to produce 3,800 tonnes per year.
- The maximum storage of rubber on site would not exceed 60 tonnes and will be stored within one part of the building.
- The hours of operation are 7am to 11pm Monday to Sunday and will involve a total of 15 employees in two shifts.
- Demolition of two small structures namely building 4 & 5.
- Reconfiguration the internal of the building to suit its function.
- New awning/roof proposed for the workshop building.
- Placement of an onsite weighbridge.
- Provision of 19 on-site parking spaces including 1 accessible space located behind the office area.
- Placement of an identification sign along the front façade.

It is noted that an Occupation Certificate has not yet been issued for the approved stage-1 operations.

Site & Surrounds

The site has a frontage of 135m and a depth of 65m with a total site area of 8,862.00sqm. The site currently contains a large industrial building and a smaller industrial building comprising a total floor area of 2,016sqm. These building are located along the front boundary with parking located in front of the buildings. There are several small out buildings on the site located along the rear boundaries that include a workshop and a toilet block. Vehicular access for trucks is provided between the large building and outbuilding No.5. Other vehicle access for the staff and visitors are proposed from a driveway located between the large and small office building.

The site is within an industrial area where there are similar industrial buildings and uses existing in the St Mary's Industrial Estate. A large parcel of land located opposite this site is vacant and an undeveloped.

Proposal

This Development Application seeks consent for Stage 2 works which involves:

- Increased production to three lines & processing being 20,000 tonnes per annum of products such as coloured rubber crumbs, tiles and pavers.
- All other aspects of the original proposal remain as approved under DA16/0073.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

- **Section 23G – Sydney Western City Planning Panel (SWCPP)**

Under Section 23G of the *Environmental Planning and Assessment Act 1979*, a regional panel is taken to be the Council whose functions are conferred on a regional panel.

Under Clause 8(c) of Schedule 4A of the *Environmental Planning and Assessment Act 1979*, a regional panel has the function of determining applications for development for the purpose of a 'waste or resource recovery facility' which meets the requirements for designated development under Clause 32 of Schedule 3 of the *Environmental Planning and Assessment Regulation 2000*.

The application meets the above criteria and as such the Sydney Western City Planning Panel is the determining authority.

- **Section 79C - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 79C of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

- **Section 91- Integrated development**

Protection of the Environment Operations Act, 1997 (POEO Act)

The proposed development is defined as a "recovery of waste tyres" under POEO Act which states

(34) Resource Recovery "resource recovery" meaning the recovery of waste tyres from off site and their processing, otherwise than for the recovery of energy.

(41) Waste Process (non-thermal treatment), "non thermal treatment of waste tyres" meaning the receiving of waste tyres from off site and their processing otherwise than by thermal treatment.

(42) Waste Storage, more than 5 tonnes of waste tyres or 500 waste tyres is stored on the premises at any time (other than in or on a vehicle used to transport the tyres to or from the premises).

"Waste Tyres" are defined under the Waste Classification Guidelines as: use, rejected or unwanted tyres, including casings, seconds, shredded tyres or tyre pieces. The proposed activity must be treated as waste tyres and as it involves over 5,000 tonnes of waste tyres per annum it exceeds the threshold of Schedule 1 of the POEO Act and hence requires an Environmental Protection Licence from NSW EPA. The proposal is not Integrated Development under Section 91 of the EP & A Act 1979 and requires approval from the EPA.

The Environmental Protection Authority has provided general terms of approval (see separate attachment). It is recommended in accordance with Section 91A that these recommended conditions are imposed on the consent.

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

State Environmental Planning Policy (Infrastructure) 2007

Clause 104 Traffic Generating Development

Clause 104 states that landfill, recycling or waste transfer stations of any size or capacity with access to any road is traffic generating development requiring referral to the Roads and Maritime Service (RMS).

The subject application was accompanied by a Traffic Impact Statement prepared by Transport & Urban Planning Pty Ltd. Council's Senior Traffic Officer and the RMS have reviewed the proposed development and have raised no objections subject to the imposition of conditions relating to parking and manoeuvrability across the site. The proposal is small in scale with no adverse impacts to the functioning of the local road network.

The development is considered to be satisfactory for the purposes of Clause 104 of the *State Environmental Planning Policy (Infrastructure) 2007*.

Division 23 Waste or Resource Management Facilities

Division 23 of *State Environmental Planning Policy (Infrastructure) 2007* provides controls relating to 'waste or resource recovery facilities'. The proposed development is suitably defined as a 'waste or resource recovery facility'.

Clause 121 requires the development of 'waste or resource recovery facility' to be carried out by person with consent on land in a prescribed zone. In this case, an IN1 General Industry zone is considered a prescribed zone and the proposed waste or resource recovery facility is permissible with consent.

There are no other provisions within this policy or clause relevant to the subject application.

State Environmental Planning Policy No 55—Remediation of Land

As assessment has been undertaken of the application against relevant criteria with State Environmental Planning Policy No 55—Remediation of Land and the application is mainly internal alteration to existing buildings and some additional office areas on the site.

The application was accompanied by a "Soil Contamination Assessment" completed by Petrolink Pty Ltd. The contamination assessment found that of all the soil samples analysed results were well within the criteria for industrial/commercial land use. The development proposes to utilise existing buildings for the purpose of an ongoing industrial/commercial use with no construction or earthworks proposed as part of this application.

The application has been examined by Council's Environmental Officer who has verified that the site is satisfactory for the proposed use as the proposal does not constitute a changing land use from that already approved.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

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

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

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion

Clause 2.3 Permissibility

The subject site is zoned IN1 General Industry under *Penrith Local Environmental Plan 2010*. The proposed development is defined as a 'waste recovery facility' and is not a permissible land use in the zone under the LEP provisions.

Notwithstanding, the development relies on the provisions within *State Environmental Planning Policy (Infrastructure) 2007* for permissibility. The SEPP prevails to the extent of any inconsistencies with the LEP and therefore the development is a permissible land use in the zone.

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

Development Control Plan 2014

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

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

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

The proposed development falls within the category of *waste management facilities or works* under Schedule 3 of the Regulation due to activities that '*sort, treat, purify or dispose of waste or sort, process, recycle, recover, use or reuse material from waste and that purify, recover, reprocess or process more than 5,000 tonnes per year of solid or liquid organic materials*'. As a result the proposal is deemed to be 'Designated Development', and an EIS has been prepared in accordance with the Secretary's Environmental Assessment Requirements (SEARs).

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

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

Environmental Impacts

The application was supported by an Environmental Impact Assessment (EIA) with respect to noise, fire safety, waste and odour considerations. The application was referred to the EPA for comments and for their concurrence. The EPA after examining the application have raised no objection the proposal subject limiting the amount of waste tyres to be stored on the premises at any one time to only 185 tonnes inside the building and 50 tonnes outside the building. Their conditions as outlined in the General Terms of Approval (GTA) is recommended to form part of the consent.

The application was also referred to Council's Environmental Officers for comments. They have examined the EIA of the proposed development and the GTA is submitted by the EPA. They are satisfied that the proposed operation and its function can operate without significant environmental impact to the existing amenity of the area and have raised no objection to the application subject to the GTAs being incorporated into the development consent and also to include their recommended conditions in the consent. All proposed conditions form part of the recommendation outlined within this report.

Noise Impact

The potential of noise source from the proposed development would generally be from movements of vehicles, and tyre recycling equipment including the shredder, conveyors and air compressor. A Noise impact assessment was prepared by Benbow Environmental which includes noise measurements taken during daytime, evening and night time operations for several days. Noise meters were also located in three nearest residential properties. The nearest residential property is located 780m from the subject site. The noise assessment concludes that noise impacts associated with the operational activities were predicted to comply with the project specific noise levels at all of the nearest residential properties and therefore this consideration has been suitably addressed.

The noise assessment concludes that noise impact associated with the operational activities was predicted to comply with the project specific noise levels at all of the nearest residential properties.

- It noted that the shredding equipment would operate within the building and unlikely to generate high noise level.
- The operation of few forklifts, trucks and the air compressor is likely to generate noise however, the noise generated from these are not considered be significant to have impacts to any residences located over 500m from the site.
- An externally located conveyor would transfer the shredded tyre pieces into shipping container. These when filled would be sealed and transported off-site for reuse elsewhere and its handling is unlikely to generate significant noise to the area.

The GTA's issued by the EPA have included specific reference to noise criteria and controls and these requirements are proposed to form conditions of consent.

Odour Impacts

It is noted that the applicant has stated that the process does not involve any heating features which could produce odour and as such the potential for odour from the process is minimal.

The processing of tyres are mainly shredding of tyres which is all carried out within the building. The processed tyre particles are then moved into container and shipped out via trucks and hence there is unlikely to be significant air pollution from the development process.

It is therefore considered that the potential for odour impacts has been suitably addressed.

Fire Safety

Consideration has been given to the the potential of fire impacts from this development to the adjoining property developments. It is noted that the development proposes the following:

- The building floor is constructed of a reinforced concrete slab.
- Two industrial units make up the main building which are divided by a steel clad wall. the first 2m of the wall are constructed with concrete and the upper part is made of 0.48mm thick colourbond steel cladding.
- The building has fire sprinklers and special sprinklers where tyres are stored.
- Fire Hydrant system and Hose Reel also will be required for this facility.

The applicant has stated that all tyres will be stored within the building as per Fire and Rescue NSW, Fire Safety Guideline: Guideline for Bulk Storage of Rubber Tyres. it is also proposed to install the followings:

- Fire Hydrant system;
- Fire extinguishes;
- Hose reel system;
- Sprinkler system;
- Foam injection kits, Fire extinguishes;
- Bunding of area for containment of contaminated firefighting water; and
- Trained personnel in procedures and use of on-site fire equipment and strict control of ignition source.

This consideration has been examined by Council's Building Surveyor and the EPA, with appropriate conditions being recommended to comply as per Fire and Rescue NSW, Fire Safety Guideline: Guideline for Bulk Storage of Rubber Tyres. Those are deemed to be acceptable measures applied for these types of facilities. The fire assessment report with the EIS recommend several measures that are required to be provided for the safeguards to control any potential fire risks and appropriate conditions have been included in the recommendation for the applicant to provide those in place prior to the occupation of the building.

With the provision of an appropriate storage area and above nominated mitigation measures in place, it is considered that appropriate measures will be in place to minimise potential Fire risk from the building and can be managed/controlled in case of accidental fire.

Traffic Management and Parking

A Traffic Impact Assessment Report prepared by Transport and Urban Planning Pty Ltd has been submitted. The Report has identified proposed truck and car traffic generation for the proposal. All truck movements will occur on weekdays and will total up to 30 truck movements per day. Most of these trips (26) will be SRV's. Three or four semi-trailer trips per day will occur. The AM and PM peak hour truck movements are expected to be up to 4 trips in and 4 trips out. The proposal will also generate up to 11 car trips in each peak hour. Overall the proposed development is assessed as moderate traffic generator and the Traffic Assessment Report provides the following conclusion:

- The on-site parking provisions are adequate to accommodate for the projected demand given the likely number of employees on-site at any one time;
- The subject site and premises access arrangements and internal circulation proposed provide for safe and efficient vehicular and pedestrians movements during peak times;
- The surrounding road operates with with a reasonable level of service during peak periods; and
- The surrounding road network is capable of accommodating the vehicular traffic generated by the proposal.

As a result of suitable on site parking and overflow potential on the adjacent site the proposal is considered to satisfy the intent of the development standard.

Waste Management

The proposal involves 2 aspects of wastes, one being those tyres accepted at the site and the other being waste generated from the processing of these being waste tyres. Tyres brought to the site would be segregated for re-treading off site and processed on site. The majority of waste generated by the process would be recyclable. There will be no generation of rubber wastes. No tyres will be disposed as wastes. A general waste bins would be used for wastes generated from the offices and staff.

The applicant states that there is no chemical wastes generated from this development.

The EIS states that a licensed waste contractor shall be used to collect and dispose of office waste and all waste material that cannot be recycled or reused.

Wastewater

Wastewater would not be generated as a result of the proposed operations. Section 5.3.1.1 of the submitted Environmental Impact Statement (EIS) describes the water use on site. This will be limited to top up supply of the crushing mill cooling water. Cooling water for the crushing mill would be recirculated and therefore no wastewater would be generated. A water balance diagram provided as Figure 5.12 in the EIS sufficiently details this process.

The submitted diagram shows the water balance for the site would involve a supply of mains water for both the cooling water crushing mill top up and office and amenities. Office wastewater from kitchen and amenity areas would then be directed to the domestic sewer. The cooling water used for the crushing mill would all be recirculated. Top up water would be required due to evaporation and no wastewater would be generated.

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

The application has demonstrated that the proposed development is suitable for the site. There are no significant natural or built environment constraints that would hinder the proposed development and appropriate measures can be employed to mitigate potential impacts.

Section 79C(1)(d) Any Submissions

Community Consultation

In accordance with Clause 4.4 of Appendix F4 of Penrith Development Control Plan 2014, the proposed development was notified to nearby and adjoining residents and advertised in the local paper. The exhibition period was between 14 July 2017 and 14 August 2017. Council has received no submissions in response.

The application was referred to the NSW Environmental Protection Authority and General Terms of Approval have been provided, which require an Environmental Protection License (EPL) to be issued for the use of the site, under the Protection of Environmental Operations Act 1997.

The application was also referred to the NSW Roads and Maritime Service for consideration, and comments have been received dated 19 September 2017 raising no objection to the proposal subject to recommended conditions.

Referrals

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

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

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

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

The proposal will increase the efficiency of tyre recovery and provide clean rubber suitable for recycling. As such, the proposal is considered to be of public interest.

Conclusion

The proposed development is in accordance with the relevant provisions of the environmental planning instruments, and DCP pertaining to the land. Subject to the recommended conditions, the proposed development is unlikely to have a significant negative impact on the surrounding environment.

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

Recommendation

The Development Application 17/0564 for Tyre Recycling Facility at 39- 45 Vallance Street, St Marys be approved subject to the conditions contained in Appendix A and the General Terms of Approval issued by the Environmental Protection Authority.

CONDITIONS

General

- 1 A copy of the General Terms of Approval (GTA), Notice No. 1554332, dated 29 August 2017 issued by the Environment Protection Authority NSW under the Environment Operation Act 1997 shall be submitted to the Principal Certifying Authority, **before the Occupation Certificate** can be issued for the same development. A copy of the approval shall be **submitted to Penrith City Council with the copy of the Occupation Certificate**, if Council is not the Principal Certifying Authority.

The applicant shall comply with all of the matters/conditions outlined in both of the GTAs attached with this consent notice.

- 2 The development shall not be used or occupied until an **Occupation Certificate** has been issued.

The **Occupation Certificate** will not be issued if any of the conditions in this consent or the development consent **DA16/0073** issued for the development on the land are outstanding.

- 3 The applicant shall comply with all requirements contained in the letter issued by the NSW Roads and Maritime Services (RMS), Reference SYD17/01037 (A19015356) dated 19 September 2017 as follows:
 - The proposed driveways and layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004 and AS 2890.2-2002 for heavy usage. Please note that the northern driveway may need to be widened to cater for two-way simultaneous entry/exit of heavy vehicles.
 - The swept path of the longest vehicle entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval which shows that the proposed development complies with this requirement.
 - All vehicles are to enter and exit the site in a forward direction. Provision for vehicles to turn around must be provided within the property boundary.
 - Car parking should be provided to Council's satisfaction.
 - All works/regulatory signposting associated with the proposed development are to be at no cost to Roads and Maritime