

<b>SWCPP Ref. No.:</b>	2017SWT018
<b>DA No.:</b>	DA17/1089
<b>PROPOSED DEVELOPMENT:</b>	Alterations and Additions to an Existing Waste Recycling Facility - Lot 16 DP 263353,33 - 37 Plasser Crescent, NORTH ST MARYS NSW 2760
<b>APPLICANT:</b>	Macleans Waste Management
<b>REPORT BY:</b>	Lucy Goldstein, Graduate Environmental Planner, Penrith City Council

## Assessment Report

### Executive Summary

Council is in receipt of a development application for alterations and additions to an existing waste recycling facility at Lot 16 DP 263353, being 33-37 Plasser Crescent North St Marys. The proposal seeks development consent for an increase in the facility's waste processing capacity to 30,000 tonnes per annum, extend weekday operating hours, and alterations and additions including the installation of a site office, wheel wash, weighbridge, and additional storage areas.

Under Penrith Local Environmental Plan 2010 (Penrith LEP) the subject site is zoned IN1 – General Industrial. The proposal is defined as a 'waste management facility', which is a prohibited land use under the provisions of Penrith LEP. Notwithstanding this, the development relies on the provisions under Clause 121 of State Environmental Planning Policy (Infrastructure) 2007 for permissibility. In accordance with Clause 8 of State Environmental Planning Policy (Infrastructure) 2007, the state policy prevails to the extent of an inconsistency with local provisions, and therefore, the proposal is a permissible land use in the zone.

The subject development is defined as Designated Development under Schedule 3 of the *Environmental Planning and Assessment Regulation 2000*. Therefore, in accordance with the former Section 23G of the *Environmental Planning and Assessment Act, 1979*, the Sydney Western City Planning Panel (SWCPP) is the determining authority, as the application was lodged prior to the amendment of the *Environmental Planning and Assessment Act 1979*.

The application is Integrated Development under Section 4.46 (formerly Section 91) of the *Environmental Planning & Assessment Act 1979*, requiring approval under the *Protection of the Environment Operations Act 1997*. Accordingly, the application was referred to the NSW Environmental Protection Authority (EPA). The EPA issued General Terms of Approval on 12 March 2018, and advised that an Environmental Protection License (EPL) can be issued for the proposed development, under the *Protection of Environmental Operations Act 1997*.

In accordance with the requirements of Clause 104 of *State Environmental Planning Policy (Infrastructure) 2007*, the application was also referred to the Roads and Maritime Services (RMS) for review, and in response comments were received dated 23 March 2017, raising no objection to the proposal, subject to recommended conditions.

The application has been advertised and notified to adjoining properties, and the public exhibition occurred between 2 December 2017 and 18 December 2017. Council received no submissions.

Key issues identified in the assessment of the proposal were as follows:

- **Noise Impact**

In accordance with the Secretary's Environmental Assessment Requirements (SEAR's), the application was supported by a Noise and Vibration Impact Assessment (NIA), prepared by Muller Acoustic Consulting (MAC) which provides an assessment of the construction, operational and road traffic noise and vibration impacts generated by the proposal.

The Noise Impact Assessment report details that the proposal is capable of complying with noise level requirements. The report is generally to the satisfaction of Council's Environmental Management officers. However, the Noise Impact Assessment indicates that the project specific noise criteria at receiver 'location 1' and 'location 2' during the evening shoulder and night periods is at the exact same level as the acceptable criteria.

Given this, a condition of consent is recommended to be applied requiring the existing unit door to be closed during sorting activities to ensure the proposal operates below the relevant noise criteria. It is noted the Noise Impact Assessment provided also accounts for adverse weather conditions.

- **Access and Circulation**

Access to the site is via Plasser Crescent, with the site containing two existing vehicle crossovers/driveways, one (1) located along the southern boundary and one (1) along the western boundary. Access to the site is proposed to remain consistent with current practice, with vehicles entering the site via the western entry point only, and vehicles exiting the site via the southern access point only.

The applicant has also submitted a swept path plan, *Turning Movement Large Rigid Vehicle 8.8m*, reference SY17065-P3 Revision A, dated 15 January 2018. Council's Traffic Engineering Officers were generally satisfied with the plans, which demonstrate the site achieves satisfactory vehicle access, circulation and manoeuvrability, subject to imposing a condition of consent requiring that adjustments be made to the proposed vehicle reversing manoeuvres, to remove reversing manoeuvres from the roadway and footpath driveway, so that each reversing manoeuvres are contained wholly within the site boundaries. This is addressed as a recommended condition of consent.

- **Traffic and Car Parking**

Penrith Development Control Plan 2014 specifies that car parking for industries be provided at a rate of one (1) space per 75m<sup>2</sup> gross floor area, or one (1) space per two (2) employees, whichever is the greater.

The existing industrial unit has a gross floor area of 848m<sup>2</sup>, and the additional office proposed as part of the subject application has a floor area of 27m<sup>2</sup>. In accordance with the above car parking rate, this would result in a total of 11.6 (rounded up to 12) onsite car parking spaces required.

The accompanying Environmental Impact Statement, prepared by Pitt and Sherry dated 12 January 2018 states that, given the low number of employees accessing the site, the car parking rate based on gross floor area is inappropriate for the proposal. The development involves a total of ten (10) staff members, and the proposal provides six (6) onsite car parking spaces, in accordance with the car parking rate of one (1) space per two (2) employees, irrespective of the floor space requirements of Penrith DCP.

Given the low staff movements to the site, and noting the available street parking, the provided onsite car parking is considered satisfactory subject to conditions of consent, limiting the number of staff onsite at any one time to ten (10) employees.

- **Air Quality**

As required by the Secretary's Environmental Assessment Requirements (SEAR's), the application was accompanied by an Air Quality Impact Assessment, prepared by Todoroski Air Sciences, reference 17030674A, dated 8 January 2018, assessing the potential air quality impacts associated with the construction and operation of the proposed works.

Section 7, Table 7.2 of the Air Quality Impact Assessment report shows the maximum annual particulate dispersion modelling results for sensitive receives, Pm2.5 is 7.9ug/M3, being only 0.1ug/M3 below the criteria of 8ug/M3. This is compliant with applicable requirements albeit marginally. The EPA has advised that an Environmental Protection License (EPL) can be issued for proposed development, under the *Protection of Environmental Operations Act 1997*. The proposal is therefore satisfactory in this regard, subject to imposing conditions requiring the development to be carried out in accordance with the recommendations of the Air Quality Impact Assessment report.

- **Asbestos Material**

The accompanying Environmental Impact Statement states that the facility will not process asbestos material, and this is recommended to be reinforced through conditions of consent.

## **Site & Surrounds**

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The subject site is legally described as Lot 16 DP 263353, commonly known as 33-37 Plasser Crescent North St Marys. The site is located approximately 100m from the intersection of Plasser Crescent and Kurrajong Road, and 700m from North St Mary's Train Station.

The site is a corner allotment, and irregular in shape with a primary frontage of approximately 52m and secondary frontage of 39m. The site has a depth of approximately 68m along the northern boundary and 63m along the eastern boundary.

The site provides vehicle access via both the south and west boundaries. The surrounding land uses include industrial businesses, with a small retail precinct located approximately 80m north of the site.

Council's records indicate the pre-logement meeting (PL17/0041) regarding the subject application occurred on 18 May 2017.

### **Site History:**

Council's records indicate the following applications apply to the site:

- Development Application DA10/1166.01 - Section 96 Modification to amend condition 8 and delete conditions 9 and 10 (approved)
- Development Application DA10/1166 Skip bin business - sorting of waste and waste transfer/recyclables distribution (approved)
- Building Application BA015206 - Factory: Steel portal frame, metal walls and roof (approved)

## Proposal

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This Development Application seeks consent for the following:

- An increase in waste processing capacity to 30,000 tonnes of waste per annum;
- Extended weekday operation hours of 6:00am to 11:00pm, Monday to Friday (current approved weekday operation hours are 7:00am to 5:00pm Monday to Friday). No changes are proposed to weekend operation hours.
- Upgrades to the existing waste management facility including:
  - Installation of prefabricated site office, being 9m by 3m to the east of the site;
  - Installation of truck wheel wash at the southern gate entrance;
  - Installation of a weighbridge at the western side of the existing shed;
  - Construction of additional storage areas within the existing shed;
  - Provision of six (6) car parking spaces; and
  - Associated landscaping.

## Plans that apply

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- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 33—Hazardous and Offensive Development
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

## Planning Assessment

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

Under Section 2.4 (formerly Section 23) 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 Section 4.8 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 management facility' which meets the requirements for designed 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 West City Planning Panel is the determining authority.

- **Section 79C - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.14 (formerly 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**

The proposal is defined as Integrated Development under Section 4.46 (formerly Section 91) of the *Environmental Planning and Assessment Act 1979*, requiring an approval under the *Protection of the Environment Operations Act 1997* Section 43(a), 47 and 55.

Accordingly, the application was referred to NSW Environment Protection Authority (EPA) on 15 November 2017. In response, the EPA issued a letter dated 15 December 2017 requesting further information be submitted regarding the proposed operational processes, detail of vehicle movements and wheel wash design, stormwater management and dust/emission control measures.

The requested additional documentation was referred to the EPA on 19 January 2018 for assessment. In response, the EPA issued their General Terms of Approval dated 12 March 2018 (see attached), raising no objections to the proposal, subject to conditions.

It is recommended in accordance with Section 4.47 (formerly Section 91A) that these 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(1) states that development specified in Column 1 of the Table in Schedule 3 is subject to requirements of Clause 104. Given that Column 1 of the Table in Schedule 1 specifies '*Landfill, recycling facilities, waste transfer station, of any size or capacity*', and the proposal is suitably defined as a 'recycling facility', the requirements of Clause 104 apply.

Clause 104(3) states that before determining a development application for development to which this

clause applies, the consent authority must:

- (a) give written notice of the application to RMS within 7 days after the application is made, and*
- (b) take into consideration:*
  - (i) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, RMS advises that it will not be making a submission), and*
  - (ii) the accessibility of the site concerned, including:*
    - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
    - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
  - (iii) any potential traffic safety, road congestion or parking implications of the development.*

In accordance with the above, the application was referred to the RMS on 22 November 2017. In response, the RMS provided comments in their letter dated 19 December 2017, which did not raise any objections to the proposal. The following recommendations were provided:

- Swept Path Plan should be submitted prior to determination, demonstrating the proposal's compliance with AUSTROADS requirements;
- A Construction Traffic Management Plan should be prepared prior to the issue of construction certificate;
- All vehicles should enter/exit in a forward direction;
- Car parking to be provided to the satisfaction of Council;
- All works/regulatory signposted associated with the development are to be at no cost to the RMS.

In consideration to the comments provided by the RMS, the Swept Path Plan (SY17065-P3 Revision A, dated 15 January 2018) was submitted, and referred to Council's Traffic Engineering Department for review, who raised no objections to the proposal, subject to conditions.

Further to the above, an internal review of the proposal by Council's Traffic Engineering Department found the proposal achieves satisfactory access and circulation, and provides adequate onsite car parking, providing six (6) car spaces. Given the scale of the development, the traffic generated by the development can be accommodated in the road network.

Given the above, the development is considered to be satisfactory for the purposes of Clause 104 of the Infrastructure SEPP.

### ***Division 23 - Waste or Resource Management Facilities***

Division 23 of Infrastructure SEPP provides controls relating to 'waste or resource management facilities'. The proposed development is suitably defined as a 'waste or resource management facility'.

Under the provision of Clause 121(1) development for the purpose of a waste or resource management facilities, may be carried out by a 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 management facility is permissible with consent.

Given the above, the proposal is considered satisfactory in regards to the requirements under the Infrastructure SEPP.

### **State Environmental Planning Policy No 33—Hazardous and Offensive Development**

The proposal is defined as scheduled activity under the Protection of the Environment Operations Act 1997 (POEO Act), and as such requires an Environmental Protection License prior to operation. The application was referred to the EPA, and in their letter dated 12 March 2018, they issued General Terms of Approval for the proposal, and indicated that the EPA could issue an Environmental Protection License for the proposal, under separation application by the applicant to obtain the license.

Given that the conditions of the Environmental Protection License would ensure the development has a reduced or minimised impact on the locality, and an Environmental Protection License would be required to be obtained in order to operate, the development does not meet the definition of a potentially hazardous industry, and is satisfactory in regards to *State Environmental Planning Policy No 33—Hazardous and Offensive Development*.

### **State Environmental Planning Policy No 55—Remediation of Land**

An assessment has been undertaken of the application against relevant criteria with *State Environmental Planning Policy No 55—Remediation of Land*. The proposal does not constitute a change of use, and the use of the site as an industrial development is typical in the immediate locality. The site is substantially sealed with no evidence of imported or stockpiled material beyond what is approved for processing.

The application is therefore satisfactory, having regard to the provisions of the *State Environmental Planning Policy No 55—Remediation of Land*.

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

An assessment has been undertaken of the application against relevant criteria with Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) and the application is satisfactory subject to recommended conditions of consent.

### **Local Environmental Plan 2010 (Amendment 4)**

<b>Provision</b>	<b>Compliance</b>
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies
Clause 4.3 Height of buildings	Complies - See discussion
Clause 7.2 Flood planning	Complies - See discussion

**Clause 2.3 Permissibility**

The subject site is zoned IN1 General Industry under *Penrith Local Environmental Plan 2010* (Penrith LEP). The proposed development is defined as a 'waste management facility', and is a prohibited land use in the zone.

Notwithstanding this, the development relies on the provisions under Clause 121 of *State Environmental Planning Policy (Infrastructure) 2007* (SEPP Infrastructure) for permissibility. The SEPP Infrastructure prevails to the extent of inconsistencies with Penrith LEP, and therefore, the proposal is a permissible land use in the zone.

**Clause 4.3 Height of buildings**

The proposal provides an addition to the existing building, being 6.1m in height, which is below the existing building height, and below the maximum 12.0m building height limit under the Penrith LEP provisions for the site.

**Clause 7.2 Flood planning**

The subject site is identified as partly flood affected land, and accordingly, the application was referred to Council's Development Engineering Department for assessment regarding flood impacts and the development's stormwater management.

Given that the Flood Planning Level (FPL) encroaches upon a small portion of the site, along the north-western boundary of the site, which is outside of the building footprint, Council's Development Engineering Department is satisfied the development will not result in adverse flood impacts.

Further to the above, as part of the assessment of the application, a detailed Concept Stormwater Plan was requested, in order to ensure the existing stormwater system is capable of accommodating the proposed development, particularly in regards to the addition of the Wheel Wash Bay.

In response, the applicant submitted the Stormwater Concept Plan, prepared by Pitt and Sherry, reference number SY17065, dated 19 December 2017, demonstrating the proposed stormwater design is satisfactory and generally in accordance with Council's Stormwater Drainage Specification for Building Developments (November 2016).



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

### Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies
C4 Land Management	Complies
C5 Waste Management	Complies
C6 Landscape Design	Complies - see Appendix - Development Control Plan Compliance
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies
D4.1. Key Precincts	
D4.2. Building Height	Complies - see Appendix - Development Control Plan Compliance
D4.3. Building Setbacks and Landscape	Does not comply - see Appendix - Development Control Plan Compliance
D4.4. Building Design	Complies
D4.5. Storage of Materials and Chemicals	Complies
D4.6. Accessing and Servicing the Site	Complies
D4.7. Fencing	Complies
D4.8 Lighting	N/A

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

Under Section 4.10 of the Environmental Planning and Assessment 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/ 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 and that are located on a floodplain'. As a result the proposal is deemed to be 'Designated Development', and an Environmental Impact Statement has been prepared in accordance with the Secretary's Environmental Assessment Requirements (SEARs).

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

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

- **Noise**

In accordance with the Secretary's Environmental Assessment Requirements (SEAR's), the application was supported by the Noise and Vibration Impact Assessment (NIA) prepared by Muller Acoustic Consulting (MAC) providing an assessment of the construction, operational and road traffic noise and vibration impacts generated by the proposal. As part of the above assessment, seven (7) noise catchment locations were established to monitor noise/vibration impacts within the surrounding locality.

The Noise Impact Assessment report finds the proposal is capable of restricting construction and operational noise levels to an acceptable level, and the report is generally to the satisfaction of Council's Environmental Management Department.

However, the Noise Impact Assessment indicates that the project specific noise criteria at receiver 'location 1' and 'location 2' during the evening shoulder and night periods is at the same level as the acceptable criteria. Given this, a condition of consent is recommended to be applied requiring the existing unit door to be closed during sorting activities to ensure the proposal complies with the relevant noise criteria. It is noted the Noise Impact Assessment provided accounts for adverse weather conditions.

Further to the above, as included in the General Terms of Approval issued by the EPA, a condition of consent is to be applied requiring that operation of all plant and equipment shall not give rise to and equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level.

In addition, a condition of consent is recommended requiring a noise management plan to the satisfaction of Council, be prepared and submitted to Council.

- **Air Quality**

In accordance with the Secretary's Environmental Assessment Requirements (SEAR's) the application was accompanied by the Air Quality Impact Assessment, prepared by Todoroski Air Sciences, reference 17030674A, dated 8 January 2018, to assess the potential air quality impacts associated with the construction and operation of the proposal.

Section 7, Table 7.2 of the Air Quality Impact Assessment report shows the maximum annual particulate dispersion modelling results for sensitive receives, Pm2.5 is 7.9ug/M3, just 0.1ug/M3 below the criteria of 8ug/M3. It is noted this is close to meeting the criteria, however, given the criteria is not exceeded, the proposal is considered satisfactory in this regard, subject to conditions requiring the development to comply with the recommendations of the Air Quality Impact Assessment report.

- **Odour**

As identified in the accompanying Environmental Impact Statement, the accepted materials for processing/sorting include:

- Cardboard;
- Timber;
- Gyprock;
- Plastics;
- Ferrous and nonferrous metals;
- Mixed lights (cladding, plastics, timber and metal, cardboard and paper); and
- Mixed heavies (bricks, soil, sand, concrete);

Given the above materials are limited to non-putrescible construction and demolition waste materials, the potential for odour emissions generated by the development is of minimal significance.

- **Vehicle Access/ Manoeuvrability**

Access to the site is via Plasser Crescent, with the site containing two existing vehicle crossovers/driveways, one (1) located along the southern boundary and one (1) along the western boundary. Access to the site is proposed to remain consistent with current practice, with vehicles entering the site via the western entry point only, and vehicles exiting the site via the southern access point only.

In accordance with the requirements under Clause 104 of the State Environmental Planning Policy (Infrastructure) 2007, the application was referred to the Roads and Maritime Services (RMS) for comment. In their response, the RMS recommended Swept Path Plan be submitted, demonstrating the proposal complies with AUSTROADS requirements.

In response, the Swept Path Plan titled *Turning Movement Large Rigid Vehicle 8.8m*, reference SY17065-P3 Revision A, dated 15 January 2018 was submitted, and reviewed by Council's Traffic Engineering Department. Council's Traffic Engineering Department were satisfied with the plans, subject to imposing a condition of consent requiring adjustments be made to the proposed vehicle reversing manoeuvres, to remove reversing manoeuvres from the roadway and footpath driveway, so that each reversing manoeuvres are contained wholly within the site boundaries.

- **Traffic and Parking**

The application was accompanied by the Traffic Impact Assessment (TIA) prepared by SECA Solution, which demonstrated the traffic generated by the proposed development can be accommodated by the existing road network. The application was referred to Council's Traffic Engineering Department, who was satisfied with the findings of the report, raising no objections to the proposal, subject to conditions.

Penrith Development Control Plan 2014 specifies that car parking for industries be provided at a rate of one (1) space per 75m<sup>2</sup> gross floor area, or one (1) space per two (2) employees, whichever is the greater.

The existing industrial unit has a gross floor area of 848m<sup>2</sup>, and the additional office proposed as part of the subject application has a floor area of 27m<sup>2</sup>. In accordance with the above car parking rate, this would result in a total of 11.6 onsite car parking spaces required.

However, the accompanying Environmental Impact Statement, prepared by Pitt and Sherry dated 1 November 2017 states that, given the low number of employees accessing the site, the car parking rate based on gross floor area is inappropriate for the proposal. The development involves a total of ten (10) staff members, and the proposal provides six (6) onsite car parking spaces, in accordance with the car parking rate of one (1) space per two (2) employees.

Given the low staff movements to the site, and noting the available street parking, the provided onsite car

parking is considered satisfactory subject to conditions of consent, limiting the number of staff onsite at any one time to ten (10) employees.

- **Stormwater Management**

As part of the assessment of the application, a detailed Concept Stormwater Plan was requested, in order to ensure the existing stormwater system is capable of accommodating the proposed development, particularly in regards to the addition of the Wheel Wash Bay.

In response, the applicant submitted the Stormwater Concept Plan, prepared by Pitt and Sherry, reference number SY17065, dated 19 December 2017, demonstrating the proposed stormwater design is satisfactory and generally in accordance with Council's Stormwater Drainage Specification for Building Developments (November 2016).

### **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 advertised, and notified to nearby and adjoining residents.

Council notified ten (10) residences in the area and the public exhibition of the proposal occurred between 24 November 2017 and 18 December 2017. Council received no submissions in response.

#### **Referrals**

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

<b>Referral Body</b>	<b>Comments Received</b>
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions

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

In considering the scale of the works proposed, and that the application is generally consistent with the objectives and controls under Penrith Local Environmental Plan 2010, Penrith Development Control Plan 2014, and the Environment Protection Authority (EPA) has issued General Terms of Approval for the proposal, indicating that an Environmental Protection License (EPL) can be issued for the development, the development will not generate significant issues of public interest.

## **Conclusion**

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The proposed development is in accordance with the relevant provisions of the environmental planning instruments pertaining to the land, being State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy No 33 - Hazardous and Offensive Development, State Environmental Planning Policy No 55 - Remediation of Land, Penrith Local Environmental Plan 2010, and Penrith Development Control Plan 2014.

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 requirements under Section 4.46 (formerly Section 91) and Section 4.15 (formerly 79C) of the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 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**

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1. The Development Application DA17/1089 for Alterations and Additions to an Existing Waste Recycling Facility at Lot 16 DP 263353, 33-37 Plasser Crescent, North St Marys 2760, be approved subject to the conditions contained in Appendix A and the General Terms of Approval issued by the Environmental Protection Authority.

## CONDITIONS

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### General

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

Drawing Title	Drawing No.	Prepared By	Dated
Site Plan	SY17065-P1	Pitt and Sherry	2 November 2017
Proposed Site Office Elevations	SY17065-P2	Pitt and Sherry	2 November 2017
Stormwater Concept Plan and Memo	SY17065	Pitt and Sherry	19 December 2017
Turning Movement Large Rigid Vehicle 8.8m (AS2890)	SY17065-P3	Pitt and Sherry	10 January 2018
Landscape Plan	L1-L2, Revision A	Hulton Larson Landscape Architect	29 August 2017

- 2 A copy of the General Terms of Approval issued by the Environment Protection Authority (EPA) dated 12 March 2018, pursuant to Section 4.46 (formerly Section 91) of the Environmental Planning and Assessment Act shall be submitted to the Principal Certifying Authority, before the Construction 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 Construction Certificate, if Council is not the Principal Certifying Authority.
- 3 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 4 The operating hours are from 6:00 am to 11:00pm Mondays to Fridays, 7:00am to 3:00pm on Saturdays, and 10:00am to 2:00pm Sundays, unless otherwise restricted by the Environment Protection Authority. No activities shall be conducted on Public Holidays. Delivery and service vehicles generated by the development are limited to the same timings.
- 5 A **Construction Certificate** shall be obtained prior to commencement of any building works.

- 6 Materials other than those outlined in the Environmental Impact Statement prepared for Macleans Waste Management, dated 12 January 2018, prepared by Pitt & Sherry are not permitted to be received, stored or processed as part of the development.
- 7 A copy of the Environment Protection Licence issued by the NSW Environment Protection Authority under the Protection of the Environment Operations Act 1997 shall be submitted to the Principal Certifying Authority before the commencement of the development.  
  
A copy of this document shall also be submitted to Penrith City Council before the commencement of the development if Council is not the Principal Certifying Authority.
- 8 The subject development shall be carried out in accordance with the conditions imposed by the General Terms of Approval letter issued by the Environmental Protection Authority, File Number EF17/1968, dated 12 March 2018.
- 9 A maximum of ten (10) employees shall be onsite at any one time.
- 10 A separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan 2014.

## **Demolition**

- 11 At no time is asbestos to be received, stored or processed as part of the development.

## **Environmental Matters**

- 12 Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

Certification that the erosion and sediment control measures have been installed in accordance with the approved erosion and sediment control plan (s) for the development and "Managing Urban Stormwater: Soils and Construction 2004" shall be obtained and issued a minimum 2 days before any other site works are to commence, including earthworks and clearing of the site.

The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the landscaping, driveway and on-site parking areas have been completed for the development.** These measures shall ensure that mud and soil from vehicular movements to and from the site does not occur during the construction of the development.

- 13 All waste materials associated with the constructions works carried out as part of the subject application, and stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

- 14 All excavated material and other wastes generated as a result of the construction works are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Construction Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

- 15 All works and storage areas where spillages are likely to occur shall be bunded. The size of the area to be bunded shall be calculated as being equal to 10% of the total volume of containers stored, or 110% of the largest container stored, whichever is the greater. All bunded areas shall be graded to a blind sump so as to facilitate emptying and cleaning. Details are to accompany the application for a Construction Certificate.



- 16 The subject development shall be carried out in accordance with the environmental mitigation measures and recommendations within the Environmental Impact Statement, Revision 02, dated 12 January 2018, unless the Environmental Protection Authority directs otherwise.
- 17 Council must be consulted if any amendments or modifications to the noise management plan are made in the future.

## **BCA Issues**

- 18 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
- (a) complying with the deemed to satisfy provisions, or
  - (b) formulating an alternative solution which:
    - complies with the performance requirements, or
    - is shown to be at least equivalent to the deemed to satisfy provision, or
  - (c) a combination of (a) and (b).
- 19 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:
- (a) deal with each essential fire safety measure in the building premises, and
  - (b) be given:
    - within 12 months after the last such statement was given, or
    - if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.
    -
- As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:
- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
  - prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

## **Health Matters and OSSM installations**

20 No waste materials are to be stored external to the building, except for the two waste bins containing steel and timber.

21 The western and southern doors to the building must be closed whilst waste sorting activities are occurring.

## Utility Services

22 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to “Your Business” section of Sydney Water’s website at [www.sydneywater.com.au](http://www.sydneywater.com.au) then the “e-developer” icon, or telephone 13 20 92.

The Section 73 Compliance Certificate must be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

## Construction

23 Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details is to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

24 Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by the council, or
- alternatively, any other sewage management facility approved by council.

(b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).

(d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

## Engineering

25 Stormwater drainage from the site shall be discharged to the:

a) Existing site drainage system

The proposed development and stormwater drainage system shall be designed to ensure no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater flows.

The proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the Certifying Authority.

- 26 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by Pitt & Sherry, reference number SY17065, dated 19 December 2017.

Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person and shall accompany the application for a Construction Certificate.

Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design (WSUD) policies.

- 27 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS2890.2, AS2890.6 and Penrith City Council's Development Control Plan.

- 28 Prior to the commencement of any works on-site (including demolition works) or prior to the issue of any Construction Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Council for approval. The CTMP shall be prepared in accordance with Council's Engineering Construction Specification for Civil Works. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads & Maritime Services (RMS), and in accordance with Council's Engineering Construction Specification for Civil Works. Approval of the CTMP may require approval of the Local Traffic Committee.

- 29 Prior to the issue of any Occupation Certificate, directional signage and linemarking shall be installed indicating directional movements and the location of customer parking to the satisfaction of the Principal Certifying Authority.

- 30 All car parking and manoeuvring must be in accordance with Australian Standards AS2890.1 and AS2890.2, Section C.10 of Penrith Development Control Plan 2010, and other applicable Council requirements.

- 31 All car spaces are to be sealed/line marked and dedicated for the parking of vehicles only and not be used for storage of materials/products/waste materials etc.

- 32 Subleasing of car parking spaces is not permitted by this Consent.

- 33 Signage indicating the location of staff/ visitor parking is required at the driveway entrance.
- 34 All works/ regulatory signposted associated with the development are to be at no cost to the Roads and Maritime Services (RMS).
- 35 The required sight lines around the driveway entrances are not to be compromised by landscaping, fencing or signage. This includes AS 2890.1 and AS 2890.2 Figure 3.2 Sight distance requirements at access driveways and Figure 3.3 Minimum sight lines for pedestrian safety.
- 36 The vehicle reversing manoeuvres shown on plan SY17065-P3 Revision A dated 15 January 2018 are to be adjusted to remove reversing manoeuvring from the roadway and footpath driveway and contained wholly within the site boundaries.

## Landscaping

- 37 All landscape works are to be constructed in accordance with the stamped approved Landscape Plan, Reference L1-L2, Revision A, prepared by Hulton Larson Landscape Architect, dated 29 August 2017 as amended in red with increased planting along the site frontage, and Section C6 of Penrith City Council's Development Control Plan 2014.

Landscaping shall be maintained:

- in accordance with the approved plan, and
- in a healthy state, and in perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising that landscaping dies or is removed, it is to be replaced with vegetation of the same species and, to the greatest extent practicable, the same maturity as the vegetation which died or was removed.

- 38 Upon completion of the landscape works associated with the development and **prior to the issue of an Occupation Certificate for the development**, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a suitably qualified landscape professional.

An Occupation Certificate should not be issued until such time as a satisfactory Implementation Report has been received. If Penrith City Council is not the Principal Certifying Authority, a copy of the satisfactory Implementation Report is to be submitted to Council together with the Occupation Certificate for the development.

39 All landscape works are to meet industry best practice and the following relevant Australian Standards:

- AS 4419 Soils for Landscaping and Garden Use,
- AS 4454 Composts, Soil Conditioners and Mulches, and
- AS 4373 Pruning of Amenity Trees.

## **Certification**

40 Prior to the commencement of any earthworks or construction works on site, the proponent is to:

- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an “Appointment of Principal Certifying Authority” in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

### Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a “Notice of Commencement” to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

41 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the use of the building.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

# Appendix - Development Control Plan Compliance

## Development Control Plan 2014

### Part C - City-wide Controls

#### C6 Landscape Design

There is opportunity for increased landscaping along the site's frontage and secondary frontage, to improve the development's presentation to the street, and minimise its visual impacts. This is recommended to be addressed through conditions of consent, requiring additional landscaping to compliment and enhance the existing vegetation and better screen the development to the street.

#### C10 Transport, Access and Parking

The application was accompanied by a Traffic Impact Assessment (TIA), prepared by SECA Solution, which demonstrated traffic generated by the proposed development can be accommodated by the existing road network. The application was referred to Council's Traffic Engineering Officers, who raised no objections to the proposal, subject to conditions.

Access to the site is via Plasser Crescent, with the site containing two existing vehicle crossovers/driveways, one (1) located along the southern boundary and one (1) along the western boundary. Access to the site is proposed to remain consistent with current practice, with vehicles entering the site via the western entry point only, and vehicles exiting the site via the southern access point only.

The applicant has also submitted a swept path plan, 'Turning Movement Large Rigid Vehicle 8.8m', reference SY17065-P3 Revision A, dated 15 January 2018. Council's Traffic Engineering Officers were generally satisfied with the plans, which demonstrate the site achieves satisfactory vehicle access, circulation and manoeuvrability, subject to imposing a condition of consent requiring that adjustments be made to the proposed vehicle reversing manoeuvres, to remove reversing manoeuvres from the roadway and footpath driveway, so that each reversing manoeuvres are contained wholly within the site boundaries. This is addressed as a recommended condition of consent.

Penrith Development Control Plan 2014 specifies that car parking for industries be provided at a rate of one (1) space per 75m<sup>2</sup> gross floor area, or one (1) space per two (2) employees, whichever is the greater.

The existing industrial unit has a gross floor area of 848m<sup>2</sup>, and the additional office proposed as part of the subject application has a floor area of 27m<sup>2</sup>. In accordance with the above car parking rate, this would result in a total of 11.6 (rounded up to 12) onsite car parking spaces required.

The accompanying Environmental Impact Statement, prepared by Pitt and Sherry dated 12 January 2018 states that, given the low number of employees accessing the site, the car parking rate based on gross floor area is inappropriate for the proposal. The development involves a total of ten (10) staff members, and the proposal provides six (6) onsite car parking spaces, in accordance with the car parking rate of one (1) space per two (2) employees, irrespective of the floor space requirements of Penrith DCP.

Given the low staff movements to the site, and noting the available street parking, the provided onsite car parking is considered satisfactory subject to conditions of consent, limiting the number of staff onsite at any one time to ten (10) employees.

### **C12 Noise and Vibration**

In accordance with the Secretary's Environmental Assessment Requirements (SEAR's), the application was supported by a Noise and Vibration Impact Assessment (NIA), prepared by Muller Acoustic Consulting (MAC) which provides an assessment of the construction, operational and road traffic noise and vibration impacts generated by the proposal.

The Noise Impact Assessment report details that the proposal is capable of complying with noise level requirements. The report is generally to the satisfaction of Council's Environmental Management officers. However, the Noise Impact Assessment indicates that the project specific noise criteria at receiver 'location 1' and 'location 2' during the evening shoulder and night periods is at the exact same level as the acceptable criteria.

Given this, a condition of consent is recommended to be applied requiring the existing unit door to be closed during sorting activities to ensure the proposal operates below the relevant noise criteria. It is noted the Noise Impact Assessment provided also accounts for adverse weather conditions.

In addition, a condition of consent is recommended requiring a noise management plan to the satisfaction of Council, be prepared and submitted to Council.

## **D4 Industrial Development**



## **D4 Industrial Development**

### **4.2 Building Height**

The proposed addition of the site office does not result in an increase in existing building height.

### **4.3 Building Setbacks and Landscape**

The proposed site office provides a front setback of 11.15m, complying with the front setback requirement of 9.0m under Penrith Development Control Plan 2014. To ensure the development enhances the character of surrounding area, a condition of consent requiring additional landscaping along the frontage and secondary frontage of the site is recommended, to screen the development from street view and minimise the its visual impact.

### **4.4 Building Design**

The addition of the prefabricated site office is minor in scale, being 9m by 3m, and will not generate adverse visual impacts. A condition of consent is recommended requiring the external finishes of the office structure to be consistent with the existing industrial unit.

### **4.5 Storage of Materials and Chemicals**

The proposal does not involve the storage of hazardous chemicals, and this will be ensured through conditions of consent. As imposed by the Environment Protection Authority (EPA) General Terms of Approval, dated 12 March 2018, a condition of consent is recommended to be applied requiring all waste processing and storage to be undertaken inside the building.

### **4.6 Accessing and Servicing the Site**

As detailed in the 'Likely Impacts' section of this report, access to the site is via Plasser Crescent, with the site containing two existing vehicle crossovers/driveways, one (1) located along the southern boundary and one (1) along the western boundary. Access to the site is proposed to remain consistent with current practice, with vehicles entering the site via the western entry point only, and vehicles exiting the site via the southern access point only.

The accompanying Swept Path Plan, *Turning Movement Large Rigid Vehicle 8.8m*, reference SY17065-P3 Revision A, dated 15 January 2018 were to the satisfaction of Council's Traffic Engineering Department, subject to imposing a condition of consent requiring adjustments be made to the proposed vehicle reversing manoeuvres, to remove reversing manoeuvres from the roadway and footpath driveway, so that each reversing manoeuvres are contained wholly within the site boundaries.

### **4.7 Fencing**

The subject application does not alter the existing boundary fencing.

### **4.8 Lighting**

The proposal does not involve changes to the existing lighting on the site.