

**TO:** Sydney Central City Planning Panel – 27 January 2022

**SUBJECT:** 55 Long Street SMITHFIELD NSW 2164

**APPLICATION No:** DA2021/0472

<b>Application accepted</b>	7 September 2021
<b>Applicant</b>	Mint Biomining Pty Ltd
<b>Owner</b>	Mr G W Hayes & Mrs E I Hayes
<b>Application No.</b>	DA2021/0472
<b>Description of Land</b>	55 Long Street SMITHFIELD NSW 2164 Lot 173 DP 548880
<b>Proposed Development</b>	Alterations and additions to an existing industrial building and use as an E-Waste Recycling Facility (Integrated Development - Section 48 of the Protection of Environment Operations Act 1997)
<b>Site Area</b>	11,618.29m <sup>2</sup>
<b>Zoning</b>	IN1 – General Industrial Zone
<b>Disclosure of political donations and gifts</b>	Nil disclosure
<b>Heritage</b>	The site is not a Heritage item and is not located within the vicinity of a Heritage Item or within a Heritage Conservation Area.
<b>Principal Development Standards</b>	FSR Permissible: No limit Proposed: 0.35:1  Height of Building Permissible: No limit Proposed: 15.6m
<b>Issues</b>	-

## SUMMARY

- Development Application No. DA2021/0472 was received on 7 September 2021 for alterations and additions to an existing industrial building and use as an E-Waste Recycling Facility.*
- The application was publicly notified to occupants and owners of the adjoining properties for a period of twenty eight (28) days between 10 September 2021 and 8 October 2021. In response, no submission was received.*

3. *The subject site is not listed as a heritage item and it is not located within the vicinity of a heritage item or within a heritage conservation area as stated in the Holroyd Local Environmental Plan 2013.*
4. *The application is referred to the Sydney Central City Planning Panel (SCCPP) as the CIV of the proposal exceeds the \$5 million threshold as identified for private infrastructure and community facilities including waste or resource management facilities, at Schedule 7, Clause 5(a) of State Environmental Planning Policy (State and Regional Development) 2011.*
5. *The application is recommended for approval subject to the conditions as provided at **Attachment 1** to this Report.*

## REPORT

### SUBJECT SITE AND SURROUNDING AREA

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The subject site is legally described as Lot 173 in DP 548880 and is known as 55 Long Street, Smithfield. The site, the subject of the development application, occupies an area of 11,618.29m<sup>2</sup> with frontage of approximately 75m on the northern side of Long Street, Smithfield.

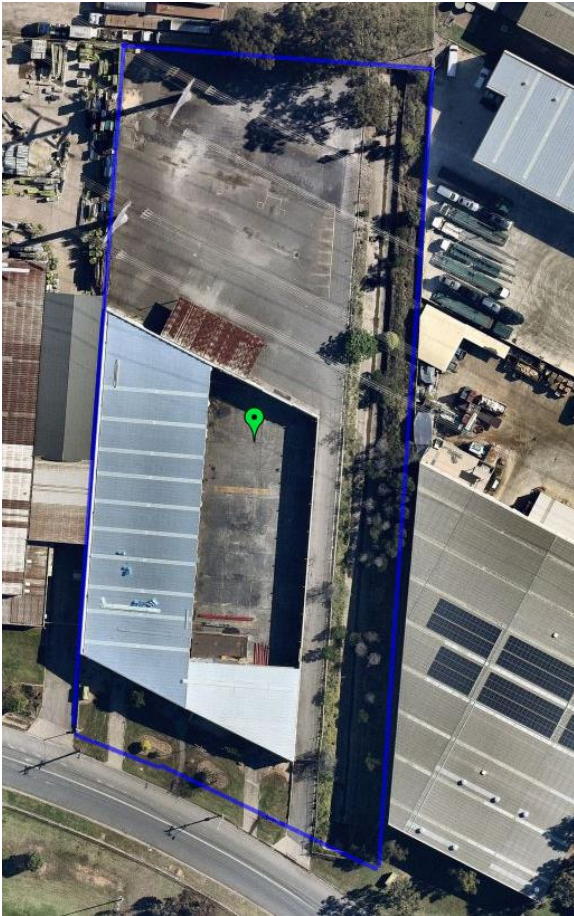
The site marked in purple below in Figure 1 currently contains an existing warehouse of which the eastern side of the roof has been removed and is in the process of being replaced in accordance with a previously issued Complying Development Certificate.

The front setback includes three vehicular access driveways fronting Long Street, landscaping and deep soil areas and one pedestrian pathway. A drainage easement is located for the full length of the eastern side boundary. Additionally, the site includes a driveway providing vehicle access to the rear of the site located on the eastern side of the warehouse, external awning attached to the rear (northern) elevation of the warehouse, a large hard surfaced open area to the rear (northern) elevation of the warehouse, and an Endeavour Energy Transmission Line easement with high transmission powerlines, which transverse the full width of the site from east to west side boundaries within the rear open space hard surface area and includes two large supporting power poles.

The site is located on the northern side of Long Street, Smithfield and is located within the Smithfield Industrial precinct with industrial uses located to the north, south, east and west. Long Street Park is located on the adjacent southern side of Long Street, Smithfield.



*Figure 1 – Locality Plan of subject site (Source: Nearmap, October 2021)*



*Figure 2 – Aerial view of subject site outlined in purple (Source: Nearmap, October 2021)*



*Figure 3 – Street view of subject site*



## DESCRIPTION OF THE DEVELOPMENT

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Council has received a development application for alterations and additions to an existing industrial building and use as an E-Waste Recycling Facility.

The following is a summary of the proposed development (as per the submitted Statement of Environmental Effects/SEE):

Mint Biomining Pty Ltd proposes to develop a full-scale E-Waste Recycling Facility to process Printed Circuit Boards within an existing warehouse building located at 55 Long Street, Smithfield (Lot 173 DP 548880). The facility will have the capacity to receive and process up to 3,000 tonnes per annum. As part of the development, the existing warehouse building will be retrofitted with storage tanks for chemicals used in processing Printed Circuit Boards. The building will also accommodate chemical leaching and treatment facilities and operation of a small kiln as part of the process.

The development will include facilities to accept and process scrap Printed Circuit Boards for the recovery of valuable metals. Printed Circuit Boards will be accepted into a receiving and batching area, then conveyed into a hammer mill and ground into fine sand-like powder.

The material is transferred to the primary leaching and treatment area, where base metals including copper, metal hydroxides, gypsum and water are removed. The inputs to this leaching process are non-cyanide based, and include dilute sulfuric acid, hydrogen peroxide, magnesium oxide, sodium hydroxide and water.

Solids are then separated from the base metal liquor. Copper and other metals are removed from this liquor using electrolysis and precipitation. Solids are then moved to the secondary and tertiary leaching and treatment area to extract precious metals. At this stage, microbes (non-genetically modified, generally regarded as safe, produced by third party offsite) are added to the reactor to absorb the gold metal ions through selective biosorption. Gold coated microbes are filtered out, ashed and refined into green, recycled gold.

The proposed development includes:

- A facility and equipment to process up to 10 tonnes of Printed Circuit Boards per day with a capacity of up to 3,000 tonnes per annum;
- 36 liquid tanks (33 Internal and 3 external) are proposed ranging in capacity from 300L up to 30,000L. The 3 external tanks are proposed to store Sodium Hydroxide, Sulphuric Acid and Hydrogen Peroxide each with a volume capacity of 30,000L.
- Bulk chemical storage tanks, including demolition of an existing awning to the rear of the warehouse, construction of a new awning, bund walls, splash protection, additional fire sprinkler coverage and rollover bunding on the pavement for spill containment;
- Retrofitting of the existing building into an e-waste receival area with a hammer mill;
- Retrofitting of the existing building to house e-waste processing facilities;
- Leaching, treatment and electrowinning plant and equipment;
- A small kiln;
- Five roller doors of the warehouse will be enclosed and replaced with firewalls. One new fire exit is to be installed;
- Fitting of 10 roof stacks for discharge of air emissions in accordance with EPA requirements;

- Minor upgrades to fire services including fire hose reels, smoke alarms and containment bunding for firewater within the warehouse;
- Secondary containment bunding of all process tanks within the warehouse;
- Renovation and fitting of new bathroom and ground floor amenities;
- Fit out of a room to be used as a QA/QC laboratory;
- Removal of three offices to the first floor; and

### Floor Area

The proposal, as calculated by Council's assessing officer, will result in total floor area of 4,085.45m<sup>2</sup> with breakdown of proposed uses as follows.

- Factory/production– 1,483.48m<sup>2</sup>
- Warehouse – 2,400.47m<sup>2</sup>
- Ancillary office – 201.5m<sup>2</sup>

### Car parking

Total onsite car parking for 35 parking spaces, including two accessible spaces, within the rear setback on an existing hard stand surface.

### Hours of operation and staff numbers

The hours of operation are 24 hours a day seven (7) days a week for the processing plant and deliveries and 7:00am to 5:00pm Monday to Friday for the administration office.

The administration office will be operated by up to 10 staff members. The plant will be operated over three 8-hour shifts being 7:00am to 3:00pm, 3:00pm to 11:00pm and 11:00pm to 7:00am. Up to 10 staff members will be operating the plant during each 8-hour shift.

The development will create 40 full time equivalent jobs when operating at maximum capacity.

## **HISTORY**

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Prelodgment meeting (PL2021/0057) was held on 3 June 2021 for fit out of existing warehouse and change of use as an e-waste recycling facility.

## **APPLICANTS SUPPORTING STATEMENT**

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The applicant has provided an amended Statement of Environmental Effects (SEE) prepared by Jackson Environment and Planning Pty Ltd dated 7 June 2021 and was received by Council on 10 November 2021 in support of the application.

## **CONTACT WITH RELEVANT PARTIES**

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The assessing officer has undertaken a site inspection of the subject site and surrounding properties and has been in regular contact with the applicant throughout the assessment process.

## **INTERNAL REFERRALS**

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### *Development Engineer*

The development application was referred to Council's Development Engineer for comment who upon review of amended and additional documentation submitted to Council, advised that the development proposal is satisfactory with regards to traffic, parking, flooding and stormwater management, and therefore can be supported subject to recommended conditions of consent.

### *Building Services Unit*

The development application was referred to Council's Building Services Unit for comment who reviewed the development application including a submitted Building Code of Australia Report and advised that the development application can be supported subject to recommended conditions of consent.

### *Environment and Health*

The development application was referred to Council's Environment Health Officer for comment who upon review of amended and additional documentation submitted to Council, advised that the development proposal is satisfactory with regards to noise/acoustics, air quality, contamination and environmental management, and therefore can be supported subject to recommended conditions of consent.

### *Parks*

The development application was referred to Council's Parks section for comment who advised that the proposal is satisfactory subject to recommended conditions of consent.

### *Waste Management*

The development application was referred to Council's Waste Management Officer for comment who advised that the development proposal is satisfactory with regards to waste management proposed and therefore can be supported.

## **EXTERNAL REFERRALS**

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### *Transport for New South Wales*

The development application was referred externally to Transport for NSW (TfNSW) for comment in accordance with Clause 104 of the State Environmental Planning Policy (Infrastructure) 2007. TfNSW advised that the development proposal is satisfactory and therefore can be supported.

### *New South Wales Police*

The development application was referred externally to the NSW Police for comment who advised that the development proposal is satisfactory with regards to security, safety and crime prevention and therefore can be supported.

New South Wales Environment Protection Authority (NSW EPA)

The development application is identified as integrated development in accordance with Section 48 and schedule 1 of the Protection of Environment Operations Act 1997 and as such the application was referred externally to the NSW EPA.

Upon review of initial documentation submitted with the lodgement of the development application, the NSW EPA advised Council on 28 September 2021, that amended and additional information was required to be submitted for the NSW EPA consideration prior to a General Terms of Approval being issued for the development application. The concerns raised by the NSW EPA included, but were not limited to:

- Clarification of the scheduled activities under the *Protection of the Environment Operations Act 1997*,
- Waste classification to be provided for all waste streams generated and an assurance that these wastes can be disposed of appropriately either as a raw material/fuel or at a landfill,
- Amended Statement of Environmental Effects and Waste Management Plan regarding asbestos generation during construction phase,
- Additional chemical and waste details,
- Amended bunding plan,
- Clarification regarding classification of the materials on site and if these materials are hazardous waste or restricted solid waste and therefore the requirement for a weigh bridge.
- Audible alarms and monitors to be fitted.
- Clarification that the segregating polymer panels proposed to be used between the incompatible bulk chemical tanks to prevent spillage into adjacent bunds will meet the requirements outlined in both AS 3780 and AS 4326.
- Clarification in relation to the composition of the emissions including VOCs emitted during the use of the four 2.5 kW electric-powered drying kilns.

Council forwarded a copy of the issues raised by the NSW EPA to the applicant in a Council issued Request for Information letter dated 7 October 2021. The applicant provided a response to Council's Request for Information letter on 10 November 2021 of which the amended/additional information was forwarded to the NSW EPA for review.

The NSW EPA provided a response to Council on 24 November 2021 advising that the development proposal is satisfactory and the NSW EPA issued a General Terms of Approval for the development application and therefore that the application can be supported subject to recommended conditions of consent and compliance with the terms outlined within the issued General Terms of Approval.

Transgrid

The development application was referred externally to Transgrid for comment who advised that the development proposal is satisfactory.

Endeavour Energy

The development application was referred externally to Endeavour Energy for comment in accordance with clause 45 of State Environmental Planning Policy (Infrastructure) 2007.

Endeavour Energy provided the applicant with a response dated 29 October 2021, which was forwarded to Council. The response provided by Endeavour Energy advises that the development proposal is satisfactory and therefore can be supported subject to conditions to apply for activities within the easements, including but not limited to:



- All movements within electrical easements must be managed with safety in mind for all, preserving the integrity of the network and providing a 24/7 access to our network assets for cyclical patrol and for emergency works.
- Safe Work (formerly WorkCover) guidelines whilst working within proximity to overhead and underground electricity assets.
- Endeavour Energy standard MDI 0044. This instruction also covers the management, control and safe operation of activities within Endeavour Energy's electrical easements.
- No items to be stored within 5m of the power poles.
- No flood/light poles to be installed within the easement. Perimeter lighting is okay outside the easement.
- All metallic objects e.g. metal shelter, tanks, fences, hydrants, taps or air pressure pipes etc. located within the easement must be earthed and or isolated as per (AS/NZS 3000:2018) or Endeavour earthing drawing details.
- No electric fencing is permitted in the easement.
- Should it ever be determined that Endeavour Energy require to utilise the easement for maintenance, upgrade or emergency works, the site may be required to relocate encroachments at their cost.
- 24/7 access to the padmount substation and power poles is required. An Endeavour Energy locking system is required.

## PLANNING COMMENTS

### Environmental Planning and Assessment Act Assessment 1979 (Integrated Development)

#### Section 4.46 of the *Environmental Planning and Assessment (EP&A) Act 1979*

The proposed E-Waste Recycling Facility carries out the following two activities being *Chemical storage* and *waste storage*, which are listed within Schedule 1 of the Protection of Environment Operations Act 1997 (PEO).

In accordance with Schedule 1 Scheduled Activities of the PEO Act 1997, *Chemical storage* and *waste storage* are defined as follows:

9 Chemical storage	
Clause	Comment
(1) This clause applies to the following activities:	The applicable scheduled activity under this schedule is Chemical storage.
<b>general chemicals storage</b> , meaning the storage or packaging in containers, bulk storage facilities or stockpiles of any	The proposed E-Waste Recycling Facility will <u>not</u> receive or process petroleum or petroleum product or radioactive

<p>chemical substance classified as a dangerous good in the Transport of Dangerous Goods Code, other than the following—</p> <p>(a) petroleum or petroleum products,</p> <p>(b) radioactive substances within the meaning of the Radiation Control Act 1990.</p> <p><b>on-site generated chemical waste storage</b> means the storage of any chemical substance produced on site that is prescribed waste (that is, hazardous waste, restricted solid waste or liquid waste, or any combination of them).</p> <p><b>petroleum products storage</b>, meaning the storage or packaging of petroleum or petroleum products in containers, bulk storage facilities or stockpiles.</p>	<p>substances within the meaning of the Radiation Control Act 1990.</p>
<p>(2) However, this clause does not apply to the recovery of stormwater or the processing of any of the following:</p> <p>(a) contaminated soil,</p> <p>(b) contaminated groundwater,</p> <p>(c) sewage within a sewage treatment system (whether or not that system is licensed).</p>	<p>The proposed E-Waste Recycling Facility does involve the recovery of stormwater or processing of any materials identified by (a)-(c).</p>
<p>(2) Each activity referred to in Column 1 of the Table to this clause is declared to be a scheduled activity if it meets the criteria set out in Column 2 of that Table.</p>	<p>The applicable scheduled activity outlined in Column 1 is <i>on-site generated chemical waste storage</i> and is declared to be a scheduled activity in accordance with column 2 as more than 5 tonnes of chemicals stored is nominated to be on site at one time.</p> <p>A General Terms of Approval was issued for the development application by the NSW Environmental Protection Authority.</p>

42 Waste storage	
Clause	Comment
(1) This clause applies to <b>waste storage</b> , meaning the receiving from off site and storing (including storage for transfer) of waste.	Subclause (1) and (1A) is applicable to the proposal as

<p>(1A) Waste is taken to be stored at premises for the purposes of this clause even if the waste is only being transferred at those premises between units of rolling stock, motor vehicles or trailers.</p>	<p>waste is received and stored at the premises.</p>
<p>(2) However, this clause does not apply to any of the following:</p> <ul style="list-style-type: none"> <li>(a) the storage of stormwater,</li> <li>(b) the storage of up to 60 tonnes at any time of any of the following kinds of waste (but not when accompanied by any other kind of waste): <ul style="list-style-type: none"> <li>(i) drilling mud,</li> <li>(ii) grease trap waste,</li> <li>(iii) waste lead acid batteries,</li> <li>(iv) waste oil,</li> </ul> </li> <li>(c) the storage of sewage within a sewage treatment system,</li> <li>(d) the storage and transfer of liquid waste that is generated and treated on site prior to sewer discharge, or lawful discharge to waters.</li> </ul>	<p>Subclause (2) is not applicable to the proposal.</p>
<p>(2A) This clause also does not apply to the receiving of waste from off site and its storage if:</p> <ul style="list-style-type: none"> <li>(a) the waste is to be sold or supplied from those premises as landscaping material (that is, as lawful soil amendments or for landscape gardening) and nothing else occurs in respect of the waste at the premises other than storage of the waste for the purpose of that sale or supply, and</li> <li>(b) the waste is virgin excavated natural material or meets all of the conditions of a resource recovery order (made under clause 93 of the <i>Protection of the Environment Operations (Waste) Regulation 2014</i>) at the time it is received, and</li> <li>(c) the waste does not include any liquid waste or biosolids that are not general solid waste (non-putrescible), and</li> <li>(d) no other activity is carried out at the premises that would result in the premises being a scheduled waste facility within the meaning of the <i>Protection of the Environment Operations (Waste) Regulation 2014</i>.</li> </ul>	<p>Waste received and handled by the proposal will not be stored, sold or supplied from the premises as landscaping material.</p> <p>The proposal will receive, handle, and sort E-Waste materials, and as such waste received is not virgin excavated natural material (VENM).</p> <p>Liquid or biosolids are not received by the proposal.</p> <p>The proposal would not result in the premises being a scheduled waste facility within the meaning of the <i>Protection of the Environment Operations (Waste) Regulation 2014</i>.</p>
<p>(2B) This clause also does not apply to the receiving of virgin excavated natural material from off site and its storage if the only waste received is virgin excavated natural material.</p>	<p>VENM material is not received or stored on site.</p>
<p>(2C) This clause also does not apply to the receiving of waste at premises from off site and its storage if the only waste received from off site is untreated wood waste (other than sawdust or wood shavings) and that wood waste has been cut or split into smaller pieces (other than by chipping) as firewood.</p>	<p>The premises does not only receive untreated wood waste that would become firewood.</p>

<p>(3) The activity to which this clause applies is declared to be a scheduled activity if:</p> <p>(a) more than 5 tonnes of hazardous waste, restricted solid waste, liquid waste or special waste (other than waste tyres) is stored on the premises at any time, or</p> <p>(b) 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), or</p> <p>(c) more than the following amounts of waste (other than waste referred to in paragraph (a) or (b)) are stored on the premises at any time:</p> <p>(i) in the case of premises in the regulated area—more than 1,000 tonnes or 1,000 cubic metres,</p> <p>(ii) in the case of premises outside the regulated area—more than 2,500 tonnes or 2,500 cubic metres, or</p> <p>(d) more than the following amounts of waste (other than waste referred to in paragraph (a) or (b)) is received per year from off site:</p> <p>(i) in the case of premises in the regulated area—6,000 tonnes,</p> <p>(ii) in the case of premises outside the regulated area—12,000 tonnes.</p>	<p>The proposal nominates the storage of waste material in excess of 5 tonnes and as such is a scheduled activity.</p> <p>An Environmental Protection Licence was issued for the development application by the NSW Environmental Protection Authority.</p>
<p>(4) For the purposes of this clause, 1 litre of waste is taken to weigh 1 kilogram.</p>	<p>Noted.</p>

Noting the above, the proposed development is classified as 'Integrated Development' pursuant to Clause 4.46 of the EP & A Act.

### **The provisions of any Environmental Planning Instruments (EP&A Act s4.15 (1)(a)(i))**

#### State Environmental Planning Policies

The proposed development is affected by the following State Environmental Planning Policies:

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

Development of a type that is listed in Schedule 7 of SEPP (State and Regional Development) 2011 is defined as 'regionally significant development'. Such applications require a referral to a Sydney District Panel for determination as constituted by Part 3 of Schedule 2 under the Environmental Planning and Assessment Act 1979.

The proposed development constitutes 'Regional Development' in accordance with State Environmental Planning Policy (State and Regional Development) 2011, schedule 7, clause 5(a), as the development is for the purposes of a waste or resource management facility and the development has a Capital Investment Value (CIV) which exceeds the \$5 million threshold. While Council is responsible for the assessment of

the DA, determination of the Application will be made by the Sydney Central City Planning Panel.

**(b) State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)**

Clause 7 of SEPP 55 requires Council to be satisfied that the site is suitable or can be made suitable to accommodate the proposed development. The matters listed within Clause 7 have been considered in the assessment of the development application.

Matter for Consideration	Yes/No
Does the application involve re-development of the site or a change of land use?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the development going to be used for a sensitive land use (e.g.: residential, educational, recreational, childcare or hospital)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does information available to you indicate that an activity listed below has ever been approved, or occurred at the site? acid/alkali plant and formulation, agricultural/horticultural activities, airports, asbestos production and disposal, chemicals manufacture and formulation, defence works, drum re-conditioning works, dry cleaning establishments, electrical manufacturing (transformers), electroplating and heat treatment premises, engine works, explosive industry, gas works, iron and steel works, landfill sites, metal treatment, mining and extractive industries, oil production and storage, paint formulation and manufacture, pesticide manufacture and formulation, power stations, railway yards, scrap yards, service stations, sheep and cattle dips, smelting and refining, tanning and associated trades, waste storage and treatment, wood preservation	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the site listed on Council's Contaminated Land database?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the site subject to EPA clean-up order or other EPA restrictions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the site been the subject of known pollution incidents or illegal dumping?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the site adjoin any contaminated land/previously contaminated land?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has the appropriate level of investigation been carried out in respect of contamination matters for Council to be satisfied that the site is suitable to accommodate the proposed development or can be made suitable to accommodate the proposed development?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
The development application is for alterations and additions to an existing industrial building and use as an E-Waste Recycling Facility only. The works proposed do not propose any substantial excavation or digging. The NSW EPA and Council's Environmental Health Unit has reviewed the proposed development and are satisfied that the site is suitable to accommodate the proposed development, given the proposed physical works, the proposal is considered satisfactory subject to imposition of condition for unexpected finds protocol in relation to contamination as well as a classification of waste condition.	

**(c) State Environmental Planning Policy (Infrastructure) 2007**

The provisions of the State Environmental Planning Policy (Infrastructure) 2007 have been considered in the assessment of the development application. The following clauses of the policy apply to the development:

*Division 5 – Electricity transmission or distribution - Subdivision 2 Development likely to affect an electricity transmission or distribution network – Clause 45 – Determination of development applications – other development*

Clause 45(1)(b)(i) applies to the development application as the development proposed to be carried out is within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists).

In this regard, the development was referred to Ausgrid and Endeavour Energy for comment. Ausgrid responded stating that there is no impact to Transgrid and Endeavour Energy provided comments on 29 October 2021 raising no objection to the proposed development subject to conditions. Endeavour's energy referral comments are included in the recommended conditions within the development consent.

*Division 17 – Roads and Traffic – Subdivision 2 – Development in or adjacent to road corridors and road reservations – Clause 104 – Traffic Generating Development.*

Waste or resource management facilities are listed within Schedule 3 – Traffic-Generating development to be referred to Transport for NSW and include development of any size or capacity. In this regard, Clause 104(1)(a) applies to the development. In accordance with clause 104(3), Council referred the development application to Transport for NSW. Transport for NSW responded raising no objections to the proposed development.

*Division 23 – Waste or resource management facilities - Clause 121 – Development permitted with consent*

Division 23 – Clause 121 of SEPP (Infrastructure) 2007 relates to waste or resource management facilities. The proposed development is for the purposes of a E-waste facility, which is a type of waste or resource management facility. In accordance with Clause 121(2)(a), development for the purposes of a waste or resource management facility may be carried out by any person with consent on land in a prescribed zone. The land is zoned IN1 - General Industrial which is a prescribed zone.

Notwithstanding this, *Waste or resource management facilities* are a permissible land use within the IN1 – General Industrial zone pursuant to Holroyd Local Environmental Plan (HLEP) 2013, and as such, there is no inconsistency between SEPP (Infrastructure) 2007 and HLEP 2013 permissibility of land use proposed.



**(d) State Environmental Planning Policy No 33—Hazardous and Offensive Development**

The provisions of the State Environmental Planning Policy No 33—Hazardous and Offensive Development have been considered in the assessment of the development application.

Part 3 – Potentially hazardous or potentially offensive development, applies to the development in accordance with part 3(11)(1)(a).

In accordance with Part 3, Clause 12, a preliminary hazard analysis was prepared and submitted to Council with the lodgement of the development application taking into consideration the provisions of Department of Planning, “Hazardous Industry Planning Advisory Paper No. 6 - Guidelines for Hazard Analysis,” and “Hazardous Industry Planning Advisory Paper No. 4 - Risk Criteria for Land Use Safety Planning.”

The development application including the prepared preliminary hazard analysis were referred externally to the NSW EPA. Upon review of amended and additional documentation submitted to Council, the NSW EPA advised that the development proposal is satisfactory as stated in the conclusion of the report as follows.

*Based on the analysis conducted, it is concluded that the risks at the site boundary are not considered to exceed the acceptable risk criteria; hence, the facility would only be classified as potentially hazardous and would be permitted within the current land zoning for the site.*

*Notwithstanding the conclusions following the analysis of the facility, the following recommendations have been made:*

- *Drain covers shall be procured to ensure all site drains may be adequately covered in the event of a fire.*
- *The use of drains covers in the event of an emergency shall be included within the site emergency response plan.*
- *Operators and site personnel shall be trained in the use of the drain covers.*
- *The site processing equipment, where chlorine gas may evolve, shall be interlocked with the wet chemical scrubber (i.e. the process cannot operate if the wet chemical scrubber is not in operation).*
- *Audible alarms and monitors shall be included to alert operators of high chlorine gas levels.*

The preliminary hazard analysis report is to be endorsed in the consent to ensure that the above recommendations are followed.

**Regional Environmental Plans**

The proposed development is affected by the following Regional Environmental Plans:

**(a) Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment (GMREP)**

GMREP definition of chemical or fuel storage on land under clause 11 subclause 4 does not apply to the proposed development as the principal use of the site is not for

chemical or fuel storage on land. Any chemical or fuel storage that occurs is ancillary to the main use of the site as a resource recovery facility.

*Clause 11 – Planning Control Table*

**4 CHEMICAL OR FUEL STORAGE ON LAND**

**Definition**

Use of land for chemical, fuel or fertiliser storage.

**Planning controls**

Prohibited on flood liable land.

Development consent required for all other land.

**Specific matters for consideration**

- That adequate provisions have been made to contain water that may be contaminated by its use for fire control purposes.
- Whether the proposal meets the requirements of the local council's stormwater management plan or, if no such plan is prepared, the local council's stormwater management objectives or policy determined by the council.
- Whether the proposal is in accordance with the local council's soil erosion and sediment management plan or policy.
- Any impacts on groundwater.
- Provision for on-site bush fire hazard reduction where relevant.

**22 WASTE MANAGEMENT FACILITY OR WORKS**

**Definition**

Development for the purpose of waste management facilities or works described in Schedule 3 (Designated Development) to the *Environmental Planning and Assessment Regulation 1994*.

**Planning controls**

Development consent required unless on flood liable land, in which case it is prohibited.

**Specific matters for consideration**

- A system is to be required to manage leachate surface controls on the land on which the waste management facility or works is or are proposed.
- A site management plan is to be required for the land on which the waste management facility or works is or are proposed.
- The likelihood of groundwater contamination.
- The adequacy of the proposed leachate management system and surface water controls.
- The long-term stability of the final landform and the adequacy of the site management plan.
- Where the proposed development involves extraction of material, whether an adverse impact on the Georges River or its tributaries will result.

The subject site is affected by the 1% Annual Exceedance Probability (AEP) flood. Clause 11 of GMREP subclause 22 states that development for the purpose of waste management facilities described in Schedule 3, Designated Development within a flood liable land is prohibited. The area of the site affected by a AEP flood is generally

restricted to a stormwater drainage easement which is located for the full length of the eastern side boundary. The existing warehouse on site is located outside the area of the site affected by an AEP flood. Further to that, the applicant provided legal advice regarding the permissibility of the proposed development under GMREP stating that the development does not meet the threshold to be classified as Designated development.

The proposed development is not identified as designated development given that it does not meet the definition of a Waste and Resource Management Facility and does not trigger the thresholds for a Waste and Resource Management Facility in Schedule 3, subclause 32 of the Environmental Planning and Assessment Regulation 2000. In this regard, GMREP Clause 11, subclause 22, does not apply.

The proposed development is considered satisfactory as the subject site is not affected by acid sulphate soils, does not disturb the bank or foreshore along the Georges Rives tributaries, and the proposed development will not increase flooding or stormwater runoff, will not discharge industrial waste and will not cause land degradation by way of erosion, sedimentation, pollution, salinity or acidity. The proposed development will also not cause adverse impacts to the sensitive natural environments within the Catchment area and sewer is proposed to be connected directly into the Sydney Water sewerage system.

#### Protection of the Environment Operations Act 1997

The proposed development is affected by the following plan:

##### **(a) Protection of the Environment Operations Act 1997**

The Protection of the Environment Operations Act 1997 sets the statutory framework for managing air quality in NSW, including establishing the licensing scheme for major industrial premises.

The proposal is classified as a scheduled activity under the POEO Act (Schedule 1, Part 1), under Clause 9 – Chemical Storage as listed in Schedule 1 and is identified as integrated development in accordance with Section 48 and subsequently an Environment Protection Licence (EPL) is required.

The application was referred externally to the NSW EPA. Upon review of amended and additional documentation submitted, the NSW EPA advised that the development proposal is satisfactory and issued a General Terms of Approval for the development application and therefore that the application can be supported subject to recommended conditions of consent.

#### Local Environmental Plans

##### **Cumberland Local Environmental Plan (CLEP) 2021**

The Cumberland Local Environmental Plan 2021 (CLEP) has been gazetted on the NSW Legislation website and commenced on 5 November 2021. The CLEP 2021 is prepared to provide a single planning framework for the future planning of Cumberland City. The CLEP 2021 harmonises and repeals the three LEPs previously applicable to the Cumberland local government area, those being:

- Holroyd Local Environmental Plan 2013,
- Parramatta Local Environmental Plan 2011, and
- Auburn Local Environmental Plan 2010.

However, as the subject application was lodged prior to the gazettal of the Cumberland LEP 2021, in accordance with Clause 1.8A - Savings provision relating to development applications, the application is assessed under the provisions of the Holroyd LEP 2013. As the Cumberland LEP was an exhibited draft at the lodgement of the subject application, the provisions of the Cumberland LEP are also considered in the assessment of the application and are considered to be satisfactory.

### **Holroyd Local Environmental Plan (HLEP) 2013**

The provision of the Holroyd LEP 2013 is applicable to the development proposal. It is noted that the development achieves compliance with the key statutory requirements of the Holroyd LEP 2013 and the objectives of the Holroyd LEP 2013.

#### **(a) Permissibility:-**

The site is within the IN1- General Industrial zone under Holroyd Local Environmental Plan (Holroyd LEP) 2013. The proposed development is defined as '*resource recovery facility*', which is categorised as a '*waste or resource management facility*' with ancillary office space. Even though office premises being a type of commercial premises are prohibited in IN1 zone, the development proposes retention of existing office space as ancillary to the principal use being a *resource recovery facility*, which is a permissible land use within the zone with consent. In accordance with the standard instrument, they are defined as:-

***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.

***office premises*** means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

#### **Note—**

Office premises are a type of ***commercial premises***—see the definition of that term in this Dictionary.

The relevant matters to be considered under Holroyd LEP 2013 and the applicable clauses for the proposed development are summarised below. A comprehensive LEP assessment is contained in Attachment 2.

*Figure 5 – Holroyd LEP 2013 Compliance Table*

DEVELOPMENT STANDARD	COMPLIANCE	DISCUSSION
4.3 Height of Buildings No limit	Yes	14.47m
4.4 Floor Space Ratio No limit	Yes	0.35:1 – (GFA: 4,085.45m <sup>2</sup> )
5.21 Flood Planning	N/A	<p>The subject site is affected by the 1% Annual Exceedance Probability (AEP) flood.</p> <p>The area of the site affected by a AEP flood is generally restricted to a stormwater drainage easement which is located for the full length of the eastern side boundary. The existing warehouse on site is located outside the area of the site affected by an AEP flood.</p> <p>The existing floor level of the warehouse, which is proposed to be retained, is in excess of the required minimum habitable floor level which is 0.5m above the identified maximum 1% AEP flood level to Australian Height Datum (AHD).</p> <p>A relevant condition of consent is recommended to be imposed to ensure that the carpark and floor levels comply with Council's Flood Advice Letter.</p>

**The provisions of any proposed instrument that is or has been the subject (EP&A Act s4.15 (1)(a)(ii))**

**(a) Draft State Environmental Planning Policy (Environment)**

The draft SEPP relates to the protection and management of our natural environment with the aim of simplifying the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property. The changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011
- State Environmental Planning Policy No. 50 – Canal Estate Development
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment

- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997)
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

The draft policy will repeal the above existing SEPPs and certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

Changes are also proposed to the Standard Instrument – Principal Local Environmental Plan. Some provisions of the existing policies will be transferred to new Section 117 Local Planning Directions where appropriate.

### **The provisions of any Development Control Plans (EP&A Act s4.15 (1)(a)(iii))**

#### **Cumberland Development Controls Plan (CDCP) 2021**

The Cumberland DCP 2021 is in force as of 5 November 2021. However, as the subject application was lodged prior to the Cumberland DCP coming into force, in accordance with Clause 1.1.4 - Savings provision of Part A - Introduction, the application is assessed under the provisions of the Holroyd DCP 2013. As the Cumberland DCP 2021 was adopted by Council at the lodgement of the subject application, the provisions of the Cumberland DCP are also considered in the assessment of the application and are considered to be satisfactory.

#### **Holroyd Development Control Plan (HDCP) 2013**

Holroyd DCP 2013 provides guidance for the design and operation of development to achieve the aims and objectives of the Holroyd LEP 2013. A comprehensive assessment and compliance table is contained in Attachment 3. The proposed development complies with the provisions of Council's Holroyd DCP 2013 and is considered acceptable from an environmental planning point of view.

### **The provisions of the Regulations (EP&A Act s4.15 (1)(a)(iv))**

The proposed development raises no concerns as to the relevant matters arising from the *Environmental Planning and Assessment Regulations 2000* (EP&A Reg).

### **The Likely Environmental, Social or Economic Impacts (EP&A Act s4.15 (1)(b))**

It is considered that the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

### **The suitability of the site for the development (EP&A Act s4.15 (1)(c))**

The subject site and locality are not known to be affected by any natural hazards or other site constraints likely to have a significant adverse impact on the proposed development. Accordingly, it is considered that the development is suitable in the context of the site and surrounding locality.



### **Submissions made in accordance with the Act or Regulation (EP&A Act s4.15 (1)(d))**

Advertised (Website) ☒

Mail ☒

Sign ☒

Not Required ☐

In accordance with Council's Notification requirements contained within the Holroyd DCP 2013 and schedule 1, Division 2, clause 8A(1) of the Environmental Planning and Assessment Act 1979, the proposal was publicly notified for a period of twenty eight (28) days between 10 September 2021 and 8 October 2021. The notification generated nil submissions in respect of the proposal and with nil political donation or gift disclosure submitted.

### **The public interest (EP&A Act s4.15(1)(e))**

In view of the foregoing analysis it is considered that the development, if carried out subject to the conditions set out in the recommendation below, will have no significant adverse impacts on the public interest.

### **CUMBERLAND LOCAL INFRASTRUCTURE CONTRIBUTIONS PLAN 2020**

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The development would require the payment of contributions in accordance with Cumberland Local Infrastructure Contributions Plan 2020.

In accordance with the Contribution Plan a contribution is payable, pursuant to Section 7.12 of the EP&A Act, calculated on the cost of works. A total contribution of \$119,246.00 would be payable prior to the issue of a Construction Certificate.

### **DISCLOSURE OF POLITICAL DONATIONS AND GIFTS**

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The applicant and notification process did not result in any disclosure of Political Donations and Gifts.

### **CONCLUSION**

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The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*, Environmental Planning and Assessment Regulation 2000, Protection of the Environment Operations Act 1997, State Environmental Planning Policy (State and Regional Development) 2011, State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55), State Environmental Planning Policy No 33—Hazardous and Offensive Development, State Environmental Planning Policy (Infrastructure) 2007, Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment, Draft State Environmental Planning Policy (Environment), Cumberland Local Environmental Plan 2021, Holroyd Local Environmental Plan 2013, Cumberland Development Control Plan 2021 and Holroyd Development Control Plan 2013, and is considered to be satisfactory subject to conditions imposed.

For these reasons, it is considered that the proposal is satisfactory having regard to the matters of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and the development may be approved subject to conditions.

## **RECOMMENDATION**

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1. **That Development Application No. DA2021/0327 for alterations and additions to an existing industrial building and use as an E-Waste Recycling Facility (Integrated Development - Section 48 of the Protection of Environment Operations Act 1997) on land at 55 Long Street SMITHFIELD NSW 2164 be approved subject to attached conditions.**

## **ATTACHMENTS**

1. Draft Notice of Determination
2. Holroyd Local Environmental Plan 2013 Assessment
3. Holroyd Development Control Plan 2013 Assessment
4. Architectural Plans
5. Dangerous Goods Report
6. Noise Impact Assessment Report
7. Plan of Management