



<b>Panel Reference</b>	PPSSSH-117
<b>DA Number</b>	DA22/0632
<b>LGA</b>	Sutherland Shire Council
<b>Proposed Development</b>	Proposed type of development Waste and resource management facilities Operate a Resource Transfer Station (TRF) or a Materials Recycling Facility (MRF) or a combination of both a TRF and MRF with a maximum annual throughput of 60,000 tonnes per annum, allow for 24-hour operations Mondays to Fridays, with operations from 6:00 am to 4:00 pm Saturdays, Sundays and public holidays.
<b>Street Address</b>	43 Bay Road, Taren Point
<b>Applicant</b>	Visy Industries Australian Pty Ltd
<b>Owner</b>	Maincon Holdings Pty Limited
<b>Date of DA lodgement</b>	13 July 2022
<b>Number of Submissions</b>	One
<b>Recommendation</b>	Approval
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	Yes
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Regulations 2021</li> <li>• Protection of Environmental Operations Act 1997</li> <li>• Roads Act 1993</li> <li>• State Environmental Planning Policy (Planning Systems) 2021</li> <li>• State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>• State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>• Sutherland Shire Local Environmental Plan 2015</li> <li>• Sutherland Shire Development Control Plan 2015</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	Appendix A - Sutherland Shire Development Control Plan 2015 Compliance Table Appendix B - Draft Conditions Appendix C - PAD Letter Appendix D - Environmental Protection Licence from the Environmental Protection Agency Appendix E - Environmental Management and Mitigation Measures Table Appendix F - Mobius Fire Safety Report Appendix G- Emergency Procedures – Flood or Severe Storm Appendix H - SEARs Compliance Table Appendix I - Letter from the NSW Government Planning, Industry and Environment re SEARs request

	Appendix J - Air Quality Impact Assessment prepared by Wilkinson Murray Appendix K - Traffic Impact Assessment Report prepared by Traffix Appendix L - Additional information submitted in response to a request from Council
<b>Report prepared by</b>	Sutherland Shire Council (Daniel Lukic)
<b>Report date</b>	6 March 2023

### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**  
*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not Applicable**  
*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

### Conditions

Have draft conditions been provided to the applicant for comment? **No**  
*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*

## REASON FOR THE REPORT

Section 7(c), Schedule 6 from the State Environmental Planning Policy (Planning Systems) 2021, requires this application to be referred to the Sydney South Planning Panel (SSPP) as the application is for the purpose of a waste management facility and the proposal meets the requirements for designated development pursuant to Clause 45, Schedule 3 from the Environmental Planning and Assessment Regulations 2021.

Additionally, the application must be determined by the SSPP to ensure transparency in the assessment and to avoid any possible perception of conflict of interest as Sutherland Shire Council (SSC) is a client of Visy Industries Australia and uses the subject facility.

## PROPOSAL

The application is for increasing the amount of throughput per year from 30,000 to 60,000 tonnes and increasing the hours of operation.

A detailed description follows in Section 2 in this report.

## THE SITE

The subject site is located on the northeast corner of the intersection of Bay Road and Alexander Avenue in Taren Point. The site is located 225m to the east of the Taren Point Road and Bay Road intersection.

## ASSESSMENT OFFICER'S RECOMMENDATION

<b>1.0</b>	<b>THAT:</b>
<b>1.1</b>	That Development Application No. DA22/0632 for Designated Development - increase operation of an existing recycling facility at Lot 123 DP 815747 43 Bay Road, Taren Point be approved, subject to the conditions contained in <b>Appendix B</b> of the report.

## ASSESSMENT OFFICER'S COMMENTARY

### 2.0 DESCRIPTION OF PROPOSAL

#### 2.1 Overview

Development consent is sought for the following:

- Remove uncertainty regarding the validity of the previous development consent issued by Council in 2004, and
- Operate a recycling facility as either a Resource Transfer Station (TRF) or a Materials Recovery Facility (MRF) or a combination of both with a maximum annual throughput of 60,000 tonnes per annum, and
- Allow for 24 hour operations on Monday to Friday, with operations from 6am to 4pm on Saturday, Sunday and Public Holidays.

The sorting machinery will continue to remain in Unit 1 with Unit 1A principally being used for waste storage and as an egress to Alexander Avenue. Unit 2 will continue to be used to store and dispatch separated paper, steel and aluminium bales. The increase in site operations resulting from the uplift in throughput will

require additional shifts and an expansion of hours of operation. The intensity of throughput at any time will not increase but the period during which the facility will operate the sorting and transfer process will be extended.

The applicant has provided the following summary table comparing existing to proposed site operations:

	Existing	Proposed	Change
<b>Tonnes per year</b>	30,000	60,000	+30,000 tonnes
<b>Operation Days</b>	6 (Monday – Saturday)	7 (Monday-Sunday)	Sunday included
<b>Number of shifts (Weekday)</b>	2	3	1 additional shift to allow for extended day time as well as night time operations
<b>Number of shifts (weekend, public holiday)</b>	1 (Saturday only)	2 (Saturday and Sunday)	Additional shift to allow for operations on a Sunday
<b>Weekday staffing requirements</b>	19	45	+26 people
<b>Weekend staffing requirements</b>	3	17	+14 people
<b>Truck movements (AM peak)</b>	14 (7 in, 7 out)	18 (9 in, 9 out)	+4 movements
<b>Truck movements (PM peak)</b>	2 (1 in, 1 out)	2 (1 in, 1 out)	No change.

In accordance with the Environmental Protection Agency's (EPA) Environmental Protection Licence (EPL), the site must not store more than 1500 tonnes of material onsite at any time. The application is not seeking to increase this limit. No building works are proposed.

## 2.2 Operation of Facility

It is proposed to operate the existing facility as:

- Wholly as a Resource Transfer Station (TRF), or
- Wholly as a Materials Recovery Facility (MRF), or
- A combination of a TRF and an MRF.

The proposal seeks to increase the maximum annual throughput from 30,000 to 60,000 tonnes per year.

During the onsite inspection, the site manager advised Council staff that it is not intended to increase throughput to 60,000 tonnes per year immediately after consent is granted, rather, steadily increase throughput volumes over the coming years. The site manager also advised that 60,000 tonnes is a high ceiling threshold, and this figure was selected to future proof the site as a result of the increasing focus and need for upscaling recycling activities to meet government mandates and targets over the next 20 years.

## 2.3 Staffing and hours of operation

The application details that the total workforce will be 45 people, comprising

- 3 office staff.
- 42 operational staff.

The operation staff will work in shifts of 14 people for the 2 x day shifts and the one night time shift. It is proposed to operate 24 hours a day in the week (Monday to Friday inclusive) and in the daytime only on Saturday, Sunday and public holidays. The office will be operational between 6am to 5pm on Monday to Friday only. Operational staff work the following shifts:

- Weekday Shift 1: 4am to 12pm.
- Weekday Shift 2: 12pm to 8pm.
- Weekday Shift 3: 9pm to 4am.
- Weekend Shift: 6am to 4pm.

The operational staff will be responsible for operations, cleaning and maintenance of the MRF and the TRF. The application details that MRF and TRF may operate concurrently during the daytime weekday shifts (Shifts 1 and 2 only). Only the MRF will operate during the weekday night time shift (Shift 3 only). The MRF will operate at the weekend. The TRF will also operate at the weekend, but only for the loading out of material.

The breakdown of the shift times and the corresponding MRF and TRF operating times are summarised below:

Days	Shift	MRF Operation Times	TRF Operation Times	Total Staff
<b>Monday to Friday</b>	Shift 1 4am-12pm	<ul style="list-style-type: none"> <li>• 4am-5am (cleaning)</li> <li>• 5am-11am (MRF)</li> <li>• 11am-12pm (cleaning and maintenance)</li> </ul>	• 4am-12pm (receiving and loading)	14
	Shift 2 12pm-8pm	<ul style="list-style-type: none"> <li>• 12pm-1pm (cleaning and maintenance)</li> <li>• 1pm-8pm (MRF)</li> </ul>	• 12pm-8pm (receiving and loading)	14
	Shift 3 9pm-4am	• 9pm-4am (MRF)	No TRF activities	14
	Office	• 6am-5pm		3
<b>Weekends and public holidays</b>	Operation Shift 6am-4pm	<ul style="list-style-type: none"> <li>• 6am-2pm (MRF)</li> <li>• 2pm-4pm (cleaning)</li> </ul>	• 6am-2pm (loading out material)	14
	Maintenance Shift 6am-4pm	• 6am-4pm (maintenance and loading out material)	• No TRF activities	

In response to issues raised by Council, the applicant provided the following:

- If the site is running any MRF operations for a shift, that shift will require 14 staff.
- If the site is not running MRF operations for any shift (1 or 2), but is running TRF operations, it will only require 2 staff.

- If the site is performing TRF operations concurrently with MRF operations, there is no requirements for any additional staff onsite. The 14 staff for the MRF are sufficient to absorb the TRF workload as part of their day.
- The TRF tasks during the MRF operation involved using the front end loader to load trucks with loose materials, rather than loading the main feed conveyor and then loading a bulk haul truck with baled, finished material. One operator can perform TRF loading rather than MRF loading.
- In addition, regardless of the operation of the site, Visy have allowed for 3 office staff to be onsite from 6am to 5pm, Monday to Friday. At any one time, there will be a maximum of 17 regular staff onsite.
- There are no office staff required onsite beyond 6am to 5pm, Monday to Friday.
- Supervisory staff for the shifts have been included in the staff count for Operational Shifts 1, 2 and 3.
- There are no cleaning duties at the end of Shift 3 as this is close to the start of Shift 1 or close to the start of the Saturday shift, and sorting of plant may be stopped early, especially on a Friday to ready it for the weekend.

## 2.4 Traffic numbers, generation and flow

The application details that the estimated truck movements based on a 60,000 tonnes of throughput per year, the volume of truck movements will be as follows:

- 122 trucks per weekday (61 in, 61 out) - increased from 88 per day.
- 16 trucks Saturday and Sunday (8 in, 8 out) - increased from 12 per day.
- 18 truck movements (9 in, 9 out) during the weekday site peak between 8 am and 9 pm - increased from 14.
- 20 truck movements (10 in, 10 out) during the weekday site peak between 12 pm and 1 pm - increased from 14.
- 18 truck movements (9 in, 9 out) during the weekday AM network peak -increased from 14, and
- 2 truck movements (1 in, 1 out) during the weekday PM network peak – no change.

A comparison between existing and proposed truck movements and the increase in movements are provided below:

Period	Existing Truck Movements	Proposed Truck Movements	Change
Weekday	88	122	+34
Saturday	12	16	+4
Weekday Site Peaks: 8am-9am	14	18	+4
Weekday Site Peaks: 12pm-1pm	14	20	+6
Weekday AM Peak	14	18	+4
Weekday PM Peak	2	2	0
Total	144	196	52 (36% increase)

Based on the above, the applicant details that the increased throughput capacity will only generate 4

additional truck movements during the AM peak and no additional truck movements during the PM peak, this equates to only 1 additional truck movement every 15min during the AM peak period. The applicant has advised that this increase is relatively small and essentially there will be minimal impact upon the local road network.

In response to issues raised., the applicant confirmed that there will be truck movements during the 3<sup>rd</sup> shift period, being from 9pm to 4am, Monday to Friday. These movements do not occur during peak traffic times. The traffic report lodged with the application shows on average the estimated truck movements will be 3 in and 3 out (6 total) for the period between 9pm to 6am.

## **2.5 Access and parking**

25 parking spaces are located onsite, including 1 disabled parking space. Access to the site for office and operation staff is only from Bay Road. Trucks enter the site from Bay Road and generally exit to Alexander Avenue. Some trucks will leave the site using Bay Road.

In response to issues raised by Council in regard to potential parking conflict during staff arriving and leaving at the same time, the applicant has advised that cleaning and maintenance periods have been arranged so the start and the end of each shift change over to allow for staggered start and end times between 11am and 1pm. Nine staff will leave the site at approximately 11am each day and 5 staff will perform cleaning and maintenance tasks until approximately 12pm. At 1pm, 9 staff will arrive to commence the next shift.

The staggering of staff arrival and departure will limit onsite car parking demand to only 17 (including 3 office staff). Office staff (administration, management, safety, etc.) will typically work an 8 hour day commencing from 6am to 9am and ending from 2pm to 5pm.

## **2.6 Air Quality**

The air quality report details that the main sources of pollutants are exhaust emissions from trucks and mobile plant operating within the buildings and from haulage vehicles travelling along roads servicing the site. Trucks and mobile plant operate using diesel fuel. The report also details that incoming material to the facility is generally clean and not odour causing. In the event that incoming material is identified as being contaminated (that is other than recyclable materials), the material is removed from the site as soon as possible so as to prevent odour generation and other issues from occurring.

To minimise impacts, the report offers a number of management actions that will be incorporated in the operational environmental management plan. The report details that some of the measures may include:

- Engines of vehicles and plant to be switched off when not in use.
- Vehicles and plant to be fitted with pollution reduction devices where practicable.
- Vehicles and plant to be maintained in accordance with manufacturer's specifications.
- Trafficable areas to be swept/cleaned regularly.
- Vehicles restricted to designated routes; and
- On-site speed limits enforced.

## 2.7 Noise Impacts

### a) Onsite operation

The application details that the operation of the facility during the night time period between 10pm to 5am inclusive will result in a noise exceedance up to 2dBA above the permitted operation noise threshold set by the Industrial Noise Policy (INP). The exceedance has been predicted at 5 of the 6 closest residential properties, being:

Addresses	Exceedance
25 Bay Road, Taren Point (lower and upper levels) 2-28 Alexander Avenue (east and west),	Marginal non-compliance of 2dBA during the night time operation with the MRF operating.
1 Crammond Boulevard, Caringbah:	Marginal non-compliance of 1dBA during the night time operation with the MRF operating.

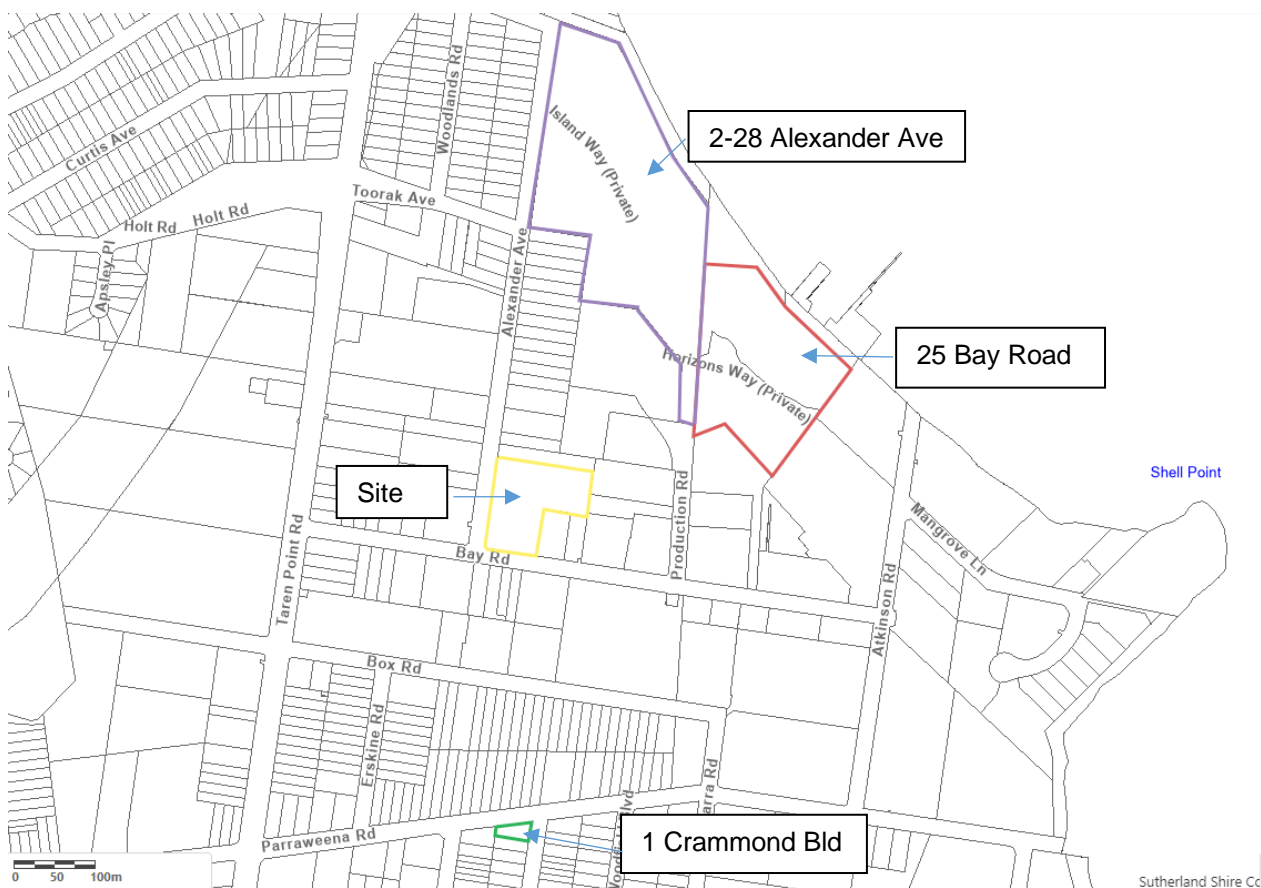


Image 2: Mapping extract showing the site (in yellow) and the location of the nearest residential properties

To establish impacts, noise levels were taken at 2 other facilities that are operated by the same company at Smithfield and St Peters and this information has been used as the basis for operational noise modelling for the subject site. The table below details the equivalent continuous operations of each noise source over a 15 minute period (LAeq 15min). The highest noise source impact within the site is caused by the movement of glass and other materials with the front end loader (FEL).

Noise Source	Sound Power Level LAeq 15min (dBA)
MRF Plant	114
Glass falling into stockpile	108

Front end loader moving/loading waste	106
Unloading from waste truck	105
Haul trucks and waste truck movements	102
Waste truck idling	99
Baler and conveyor	100
forklift	90
Front end loader moving glass and waste	121

A worst case scenario has been established and the highest noise impact occurs when the facility has both the MRF and the TRF operating at the same time. The applicant has provided the following information presenting the worst case noise impacts across a 24 hour period:

Scenario	Noise Source	Description
Morning shoulder (5am to 7am)  Daytime and Evening (7am to 10pm)	Heavy Vehicles	<ul style="list-style-type: none"> <li>3 trucks enter the site, unload recyclable materials inside the warehouse</li> <li>While 1 truck is unloading, 2 are idling outside the warehouse</li> <li>1 truck enters the site, which is unloaded with recyclable materials by a front end loader and leaves the site</li> </ul>
	Front end loader	<ul style="list-style-type: none"> <li>Operates within the warehouse moving recyclable materials onto the stockpile and the MRF.</li> <li>The FEL also loads the truck outside with recyclable materials</li> <li>No glass loaded early in the morning</li> </ul>
	Visy machinery MRF plant (sorting machines, conveyors, bailing machines)	<ul style="list-style-type: none"> <li>Operates continuously</li> </ul>
	Forklift	<ul style="list-style-type: none"> <li>Usually inside, operates sometimes outside of warehouse</li> </ul>
Night time (10pm to 5am)	Heavy Vehicles	<ul style="list-style-type: none"> <li>2 trucks enter the site</li> <li>1 truck unloads waste inside warehouse, the 2<sup>nd</sup> truck is loaded by the FEL inside the warehouse</li> <li>Both trucks leave the site</li> </ul>
	Front end loader	<ul style="list-style-type: none"> <li>Operates within the warehouse moving recyclables materials into stockpile and loads a haul truck</li> </ul>
	Visy machinery (sorting machines, conveyors, bailing machines)	<ul style="list-style-type: none"> <li>Operates continuously</li> </ul>
	Forklift	<ul style="list-style-type: none"> <li>Usually inside, operates sometimes outside of warehouse</li> </ul>
Night time (sleep)	Front end loader	<ul style="list-style-type: none"> <li>Moving recyclable materials within the warehouse.</li> </ul>

disturbance) 10pm to 5am		
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In response to the noise exceedances, the applicant proposes the following management measures to be used to minimise the impacts:

- MRF plant can operate during all periods (day, evening, night).
- 2 roller doors located on the southern side of the warehouse close to the eastern wall are closed between 10pm to 5am when access to the eastern door is not required.
- The front end loader should only operate inside the warehouse only between 10pm to 5am.

The application details that noise monitoring only be undertaken if complaints are made. It has been detailed that if predicted noise levels minus the criteria is  $\leq 2\text{dBA}$ , the significance of the residual noise level is negligible, and no mitigation is required in accordance with the Noise Policy for Industry. Furthermore, an assessment of sleep disturbance impacts at the above properties has been considered and the applicant's consultant has detailed that the maximum noise levels satisfy the relevant sleep arousal criteria.

b) Road Noise Impacts

An assessment of increased noise impacts has been undertaken having regard to the nearest residential receivers located along Taren Point Road. The nearest dwellings are located at:

- 48 Old Taren Point Road, Taren Point, located 800m to the north of the site, and
- 110 The Boulevard, Caringbah, located 1.2km to the south of the site.

As detailed in Section 2.4, the uplift in throughput for the site will increase truck movements to from 144 to 196 per day (an increase of 52 movements or 36%). The application details that according to Transport for NSW data logs, the annual average daily traffic (AADT) count for Taren Point Road is 48099 a day and 8413 a night. The data log is located to the south of the Captain Cook Bridge. The traffic impacts assessment lodged with the application estimates that 7% of all traffic movements along Taren Point Road are heavy vehicles.

Predicted noise levels for existing and proposed traffic movements has been undertaken having regard to the EPA's Road Noise Policy, which sets daytime and night time limits for a residential property. The applicant's consultant predicts a 0.1dBA daytime and a 0.2dBA increase in noise caused by trucks passing the aforementioned properties. The application details that road noise increases less than 1dBA will not be perceptible at the properties, therefore no mitigation measures are needed as noise impacts will have negligible impacts.

## 2.8 Shipping Containers

The application has been revised where the shipping containers denoted as being 'temporary' will now be retained onsite on a permanent basis and continue to be used for storage.

A site plan is provided below:

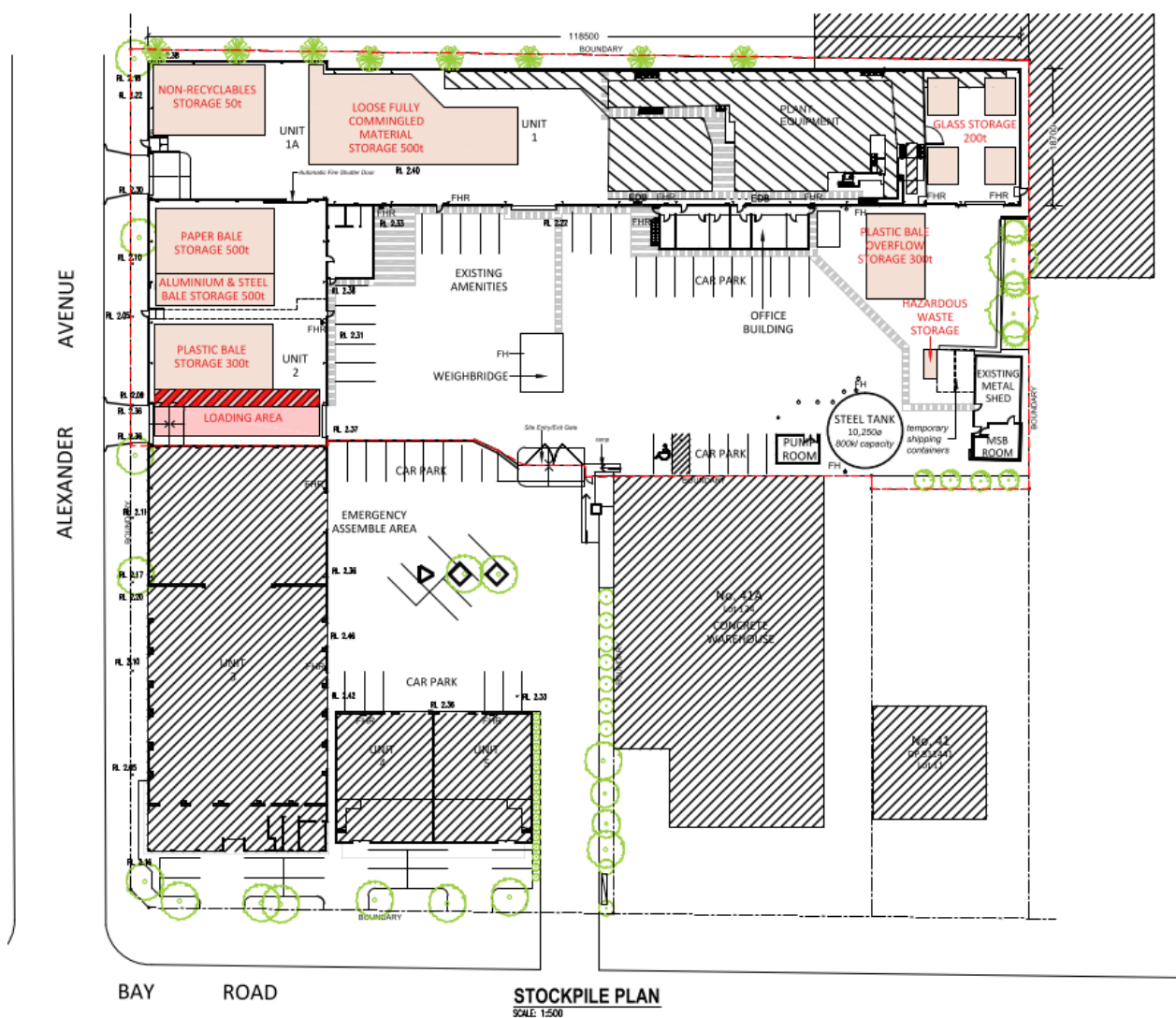


Image 3: Site Plan

### 3.0 SITE DESCRIPTION AND LOCALITY

The site is located on the northeast corner of the intersection of Bay Road and Alexander Avenue in Taren Point. The property is 'L' shaped and has a 63m long frontage to Bay Road, 114m long frontage to Alexander Avenue and has an area of 10,860m<sup>2</sup>. The land is generally flat and there are no significant natural features on the site. An existing factory building is located around the perimeter of the site starting from Bay Road and extending along Alexander Avenue and then across the full length of the northern boundary. Visy Recycling occupies that part of the factory building that extends across the full length of the northern boundary and a length of approximately 53m along Alexander Avenue from the northwest corner of the site to the south. There is another 2 storey detached building that fronts Bay Road which is not part of this proposal.

Other businesses on the site include 'Tradelink' which adjoins Visy to the south, and a garage door supplier and an electrical product supplier located in the detached building. Adjoining the site to the east is a 3 storey

office building with an attached warehouse / industrial building to the rear. Further to the east is an access equipment rental business which adjoins the southeast part of the site.

The streetscape in the vicinity of the proposal is characterised by a variety of industrial developments. The nearest residential properties are located about 270m to the northeast, 320m to the north and 500m to the northwest.

A locality plan and an aerial photo are provided below.



*Image 4: Locality Plan (site highlighted in yellow)*



Image 5: Aerial Plan

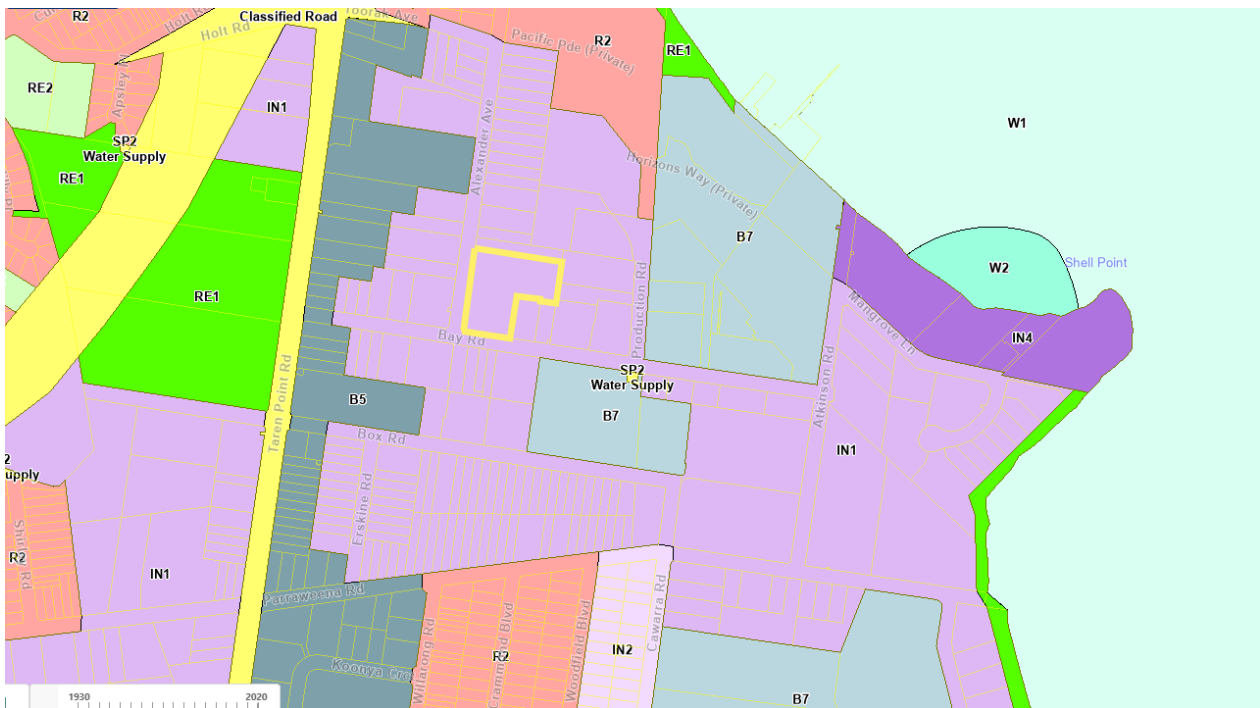


Image 6: Zoning Map (site highlighted in yellow)

#### 4.0 BACKGROUND

A history of the development proposal is as follows:

- Development Application #1/1268 (DA01/1268) was approved on 22 February 2001 granting approval for the operation of a materials recycling facility and limited the operation of the facility to less than 30,000 tonnes per year. This application was not Designated Development.
- Development Application DA03/1999 was approved on 7 December 2004 granting approval for the expansion of throughput from less than 28,500 tonnes/year to 45,000 tonnes/year subject to conditions. This was a Designated Development application.
- Development Application DA19/0921 was approved by the Sutherland Shire Local Planning Panel (SSLPP) on 18 February 2020 granting approval for alterations and additions to an existing fire damaged industrial building. In summary, in July 2019 the north-western portion of the site was affected by fire and the application proposed substantial fire upgrade works throughout the site to comply with then current Building Code of Australia (BCA) requirements.
- A pre-application discussion (PAD) was held on 22 October 2019 regarding this development. A formal letter of response was issued by Council dated 12 November 2019. A full copy of the advice provided to the Applicant is contained within **Appendix C** of this report and the main points contained in this letter are as follows:
  - DA03/1999 for an increase from 30,000 tonnes per year to 45,000 tonnes per year has not been activated and potentially lapsed.
  - Applicant to address Clauses 35 and cl.36 of Part 2 of Schedule 3 of the EP&A Regulation 2000 with regard to whether the proposal is exempt from being classified as designated development.
  - BCA considerations in terms of building upgrades.
  - The drawings and documentation submitted for the development application must clearly indicate that there is to be no excavation for the new works. If excavation is required and documented, additional soil testing and reporting may be required.
  - Subject to demonstrating no groundworks, it is anticipated that the forthcoming DA will be conditioned to manage unexpected finds of both acid sulfate soils and contaminated land during works.
  - The applicant should contact the EPA to request a written response to verify that a referral to the EPA would not be necessary for the development assessment.
  - Any shortfall in landscaped area on the site must be accompanied by a c1.4.6 variation request.
  - Given that Council is a client of Visy Recycling, the development application will be referred to the Local Planning Panel for determination to provide transparency in the process.
  - The property is flood prone according to Council's mapping. While it is not expected that this will trigger additional building works, any future development application must address Chapter 40 of SSDCP 2015.
- The current application was submitted on 27 June 2022 .
- The application was placed on exhibition, with the last date for public submissions being 8 September 2022. One submission was received.
- On 6 September 2022, a virtual "Kick Off" meeting was held between Council staff, the applicant's team and the SSPP panel members. In summary, the SSPP identified the following matters for

consideration:

- Increase in hours of operation to 24 hrs Mon-Fri and 6am-4pm weekends and public holidays. Current approved operating hours to be identified.
  - Increase in traffic movements, (4 additional truck movements during peak periods)
  - Flood prone land along western boundary (along Alexander Ave) requires flood evacuation plan. Concrete bunding for flood retention already in place.
  - Noise mitigation of operational noise out of normal operating hours (10pm-5am).
  - Air quality to be confirmed by Council.
  - Fire engineering requirements to be confirmed by Council.
  - Confirmation from Council that the facility cannot be used for putrescible waste, only recyclables.
- A request for more information was sent on 18 October 2022 requesting the following:
    - Air quality: need to use uniform unit measurements, need to provide data and modelling that has not incorporated the recent bushfire period which does not provide accurate information, need for appropriate unit measurements, need to clarify if the assessment was based on full time MRF or TRF or a combination of the two, need to recalculate emissions if the use of the front end loader runs for a full 24 hours a day.
    - Clarification on whether the temporary shipping containers will be replaced with a permanent facility or will they be retained onsite.
    - Need for bicycle parking now that consent is sought for 24 hour operation.
    - Need for showering facilities now that consent is sought for 24 hour operation.
    - Storage of hazardous material in an unroofed area is not supported.
    - Need for increased parking now consent is sought for 24 hour operation and possible conflict between shift change over. Alternatively, staging of shift times to avoid conflict.
    - Clarification of truck movements, particularly during the 3<sup>rd</sup> shift.
    - Clarification on staffing numbers.
    - Confirmation of office hours during the 3<sup>rd</sup> shift, weekends and public holidays.
    - Clarification on maximum amount of material stored onsite. EPA's licence has a ceiling of 1500 tonnes yet Table 3.3 details 2350 tonnes being stored onsite as part of a flexible approach.
    - Clarification on Table 6.9 scenarios, particularly time periods, operation of Visy machinery operation and acoustic consideration.
    - Page 96 assumes roller doors are open between 5am to 8pm, but open doors between 5am-6am may impact sensitive uses, contrary to the Industrial Noise Policy which limits impacts from 10pm to 6am. What will be the impact if doors are required to 6am?
    - Clarification on cleaning activities, particularly during Shift 3.
    - Address the issues raised by the SSPP.
  - The requested additional information was lodged on 14 November 2022.
  - A request for additional information was sent on 21 November 2022.
  - The requested information was lodged by the applicant on 21 November 2022.
  - On 2 December 2022, an email was sent to the applicant requesting a copy of the revised air quality assessment report as it was not lodged with the bundle of documents received 21 November 2022.
  - On 14 December 2022, the revised air quality assessment was lodged.

## **5.0 ADEQUACY OF APPLICANT'S SUBMISSION**

In relation to the Statement of Environmental Effects, plans and other documentation submitted with the application and / or after a request from Council, the applicant has provided adequate information to Council to enable an assessment of this application.

## **6.0 PUBLIC PARTICIPATION**

The application was notified in accordance with the provisions of Chapter 42 of Sutherland Shire Development Control Plan 2015. Council notified 182 adjoining or affected owners of the proposal and 1 submission was received highlighting the following:

### **Issue 1: Increased traffic along Bay Road.**

Comments: TfNSW and Council's Traffic Section have not raised issues with the capacity of the local road network and the increase in traffic movements along Taren Point and/or Bay Roads.

### **Issue 2: Relocation is preferred.**

Comments: Based on the merits of the proposal, it is considered that the existing site and facility can absorb the proposed intensification of material processing and extension of hours. It has been established that the proposal will have minimal impacts to adjoining and nearby sensitive uses to the satisfaction of Council's officers.

### **Issue 3: Insufficient information regarding truck movements.**

Comments: Sufficient information has been provided in the planning statement and in the separate traffic and parking report addressing the increase in vehicle movements associated with the additional shift and the increase throughout. No issues have been raised by TfNSW and/or Council's Traffic Section regarding the content of the application or the traffic impact assessment report.

### **Issue 4: Previous fire.**

Comments: This is not a matter for consideration in this application. Separate consent has been granted for the rebuilding of that part of the building that was affected by fire and significant fire safety upgrades have been undertaken to ensure sufficient onsite water capacity is available should another situation arise. Council's Building Section has not raised any objection with the proposal.

### **Issue 5: Pedestrian crossing issues**

Comments: The increase in traffic generation associated with the application will not affect pedestrian movements along Bay Road and/or Alexander Avenue. Council's Traffic Section has not raised any objection regarding pedestrian and motor vehicle conflict. The percentage increase of additional truck movements proposed as part of the application will be considerable insignificant compared to the volume of traffic that use Alexander Avenue and Bay Road on a daily basis.

## **Revised Plans**

The applicant lodged additional plans and information on 18 October, 14 November and 21 November 2022.

The revised air quality assessment report was lodged on 14 December 2022. In accordance with the requirements of SSDCP2015 these plans were not publicly notified as, in the opinion of Council, the changes being sought did not intensify or change the external impact of the development to the extent that neighbours ought to be given the opportunity to comment.

## 7.0 STATUTORY CONSIDERATIONS

The subject land is located within Zone IN1 General Industrial pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being a waste or resource management facility is a permissible land use within the zone with development consent from Council. The following Environmental Planning Instruments (EPIs), Draft EPIs, Development Control Plan (DCP), Codes or Policies are relevant to this application:

- Environmental Planning and Assessment Regulations 2021 (the Regulations).
- Protection of Environmental Operations Act 1997 (PoEO).
- Roads Act 1993.
- State Environmental Planning Policy (Planning Systems) 2021 (PSSEPP).
- State Environmental Planning Policy (Transport and Infrastructure) 2021 (TISEPP).
- State Environmental Planning Policy (Resilience and Hazards) 2021 (RHSEPP).
- Sutherland Shire Local Environmental Plan 2015 (SSLEP2015).
- Sutherland Shire Development Control Plan 2015 (SSDCP2015).

## 8.0 COMPLIANCE

### 8.1. Environmental Planning and Assessment Regulations 2021 (the Regulations)

The application triggers the designated development provisions in accordance with Clause 45, Schedule 3 of the Regulations. An assessment of the relevant section and clauses is provided below:

Provision	Comments
(2) Development for the purposes of a waste management facility or works is designated development if—	
(a) the facility or works sorts, consolidates or temporarily stores waste at a transfer station or material recycling facility for transfer to another site for final disposal, permanent storage, reprocessing, recycling, use or reuse, and	Site temporarily stores products before being shipped to another site
(b) the facility or works— (i) handle substances classified in the ADG Code or medical, cytotoxic or quarantine waste, or (ii) have an intended handling capacity of more than 10,000 tonnes per year of waste containing food or livestock, agricultural or food processing industries waste or similar substances, or (iii) have an intended handling capacity of more than 30,000 tonnes per year of waste such as glass,	i) Not Applicable.  ii) Not Applicable.  iii) meets the threshold and triggers designated development

plastic, paper, wood, metal, rubber or building demolition material.	
(3) Development for the purposes of a waste management facility or works that purify, recover, reprocess or process more than 5,000 tonnes per year of solid or liquid organic materials is designated development.	Not Applicable.
(4) Development for the purposes of a waste management facility or works is designated development if the facility or works are located—	
(a) in or within 100 metres of a natural waterbody, wetland, coastal dune field or environmentally sensitive area of State significance, or	The application has been designed to comply. The nearest watercourse is 113m east of the site. Coastal area is 332m to NE of site.
(b) in an area of high watertable, highly permeable soils, acid sulfate, sodic or saline soils, or	Not Applicable.
(c) in a drinking water catchment, or	Not Applicable.
(d) in a catchment of an estuary where the entrance to the sea is intermittently open, or	Not Applicable.
(e) on a floodplain, or	The site is flood prone
(f) within 500 metres of a residential zone or 250 metres of a dwelling not associated with the development and, in the consent authority's opinion, considering topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood because of noise, visual impacts, vermin, traffic or air pollution, including odour, smoke, fumes or dust.	Development Consent DA01/1268 granted approval to the site's location and operation. While the nearest residential zone is located 123m to the north-east of the site and the nearest dwelling is located 201m to the north-northeast of the site, well within the prescribed areas, based on the merits of the application, Council officers do not raise objection to the intensification of the facility subject to conditions.

## 8.2. State Environmental Planning Policy (Planning Systems) 2021 (PSSEPP)

The PSSEPP identifies State and Regionally Significant development in NSW. Section 7(1)(c), Schedule 6 of the SEPP identifies this application as regionally significant development as it is for a particular designated development. As such, the application is referred to the SSPP for determination.

## 8.3. Protection of Environmental Operations Act 1997 (PoEO)

the application was referred to the EPA as Integrated Development in accordance with the provisions of Section 4.46 of the EP and A Act 1979. In accordance with this Act, an environmental protection license is required by Section 43(b), 48 of PoEO.

Provision	Comments
<b>3 Objects of Act</b> The objects of this Act are as follows—	The proposal is consistent with the aims of the Act. The expansion of the facility will result in minimal environmental impacts subject to

(a) to protect, restore and enhance the quality of the environment in New South Wales, having regard to the need to maintain ecologically sustainable development,	compliance with conditions and the EPA's EPL
(b) to provide increased opportunities for public involvement and participation in environment protection,	Noted
(c) to ensure that the community has access to relevant and meaningful information about pollution,	Noted
(d) to reduce risks to human health and prevent the degradation of the environment by the use of mechanisms that promote the following— (i) pollution prevention and cleaner production, (ii) the reduction to harmless levels of the discharge of substances likely to cause harm to the environment, (iia) the elimination of harmful wastes, (iii) the reduction in the use of materials and the re-use, recovery or recycling of materials, (iv) the making of progressive environmental improvements, including the reduction of pollution at source, (v) the monitoring and reporting of environmental quality on a regular basis,	Noted
(e) to rationalise, simplify and strengthen the regulatory framework for environment protection,	Noted
(f) to improve the efficiency of administration of the environment protection legislation,	Noted
(g) to assist in the achievement of the objectives of the <i>Waste Avoidance and Resource Recovery Act 2001</i>	Noted
<b>Schedule 1</b>	
<b>34 Resource recovery</b>	
(1) This clause applies to the following activities— <b>recovery of general waste</b> , meaning the receiving of waste (other than hazardous waste, restricted solid waste, liquid waste or special waste) from off site and its processing, otherwise than for the recovery of energy. <b>recovery of hazardous and other waste</b> , meaning the receiving of hazardous waste, restricted solid waste or special waste (other than asbestos waste or waste tyres) from off site and its processing, otherwise than for the recovery of energy. <b>recovery of waste oil</b> , meaning the receiving of waste oil from off site and its processing, otherwise than for the recovery of energy.	Section 34 applies

<b>recovery of waste tyres</b> , meaning the receiving of waste tyres from off site and their processing, otherwise than for the recovery of energy.		
(3) Each activity referred to in Column 1 of the Table to this clause is declared to be a scheduled activity if— (a) it meets the criteria set out in Column 2 of that Table, and (b) either— (i) less than 50% by weight of the waste received in any year requires disposal after processing, or (ii) an exemption granted under Part 9 of the <i>Protection of the Environment Operations (Waste) Regulation 2014</i> exempts the person carrying out the activity from the requirements of section 48 (2) as they apply to waste disposal (application to land), waste disposal (thermal treatment), waste processing (non-thermal treatment) and waste storage.		The proposal is a scheduled activity
Column 1 Activity	Column 2 Criteria	Comments
recovery of general waste	if the premises are in the regulated area— (a) involves having on site at any time more than 1,000 tonnes or 1,000 cubic metres of waste, or (b) involves processing more than 6,000 tonnes of waste per year if the premises are outside the regulated area— (a) involves having on site at any time more than 2,500 tonnes or 2,500 cubic metres of waste, or (b) involves processing more than 12,000 tonnes of waste per year	60,000 tonnes p.a. throughput is proposed therefore Schedule 1 is triggered
<b>42 Waste Storage</b>		
(1) This clause applies to <b>waste storage</b> , meaning the receiving from off site and storing (including storage for transfer) of waste.		This section is triggered
(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.		This section is triggered
(3) The activity to which this clause applies is declared to be a scheduled activity if— (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 (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		a) Not Applicable.  b) Not Applicable.

(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— (i) in the case of premises in the regulated area—more than 1,000 tonnes or 1,000 cubic metres, (ii) in the case of premises outside the regulated area—more than 2,500 tonnes or 2,500 cubic metres, or (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— (i) in the case of premises in the regulated area—6,000 tonnes, (ii) in the case of premises outside the regulated area—12,000 tonnes.	c)  i) not a regulated area  ii) meets threshold  d)  i) Not Applicable. ii) meets threshold
(4) For the purposes of this clause, 1 litre of waste is taken to weigh 1 kilogram.	Noted

#### **8.4. State Environmental Planning Policy (Resilience and Hazards) 2021 (RSSEPP)**

##### *Chapter 4 Remediation of Land*

Chapter 4 of the RSSEPP requires Council to consider whether the land subject to the development proposal is contaminated; and if the site is contaminated, Council must be satisfied that the site is suitable or can be made suitable (i.e. following remediation) for the proposed land use.

A site inspection identified that the site is currently occupied by industrial premises, used as a waste resource recovery facility. A review of Council's GIS and historical aerial photos has shown that buildings have been in place since 1970 (those fronting Alexander Avenue), with the large building adjacent to the northern boundary being place since 1978.

The property is on Council's contaminated land register as being potentially contaminated due to the previous and current land uses. The Statement of Environmental Effects further details that the site is not listed on the NSW EPA list of contaminated sites notified to the EPA. The site is not declared as being significantly contaminated and is, therefore, not being regulated by the EPA under the Contaminated Land Management Act. Pre-existing soil contamination may remain onsite but as the use of the site will continue as an industrial use, there is no immediate contaminated land risks if the site is to operate as usual and the sealed surfaces of the site are not compromised.

Pursuant to Section 4.6(2) of the RSSEPP, as the proposal does not involve any works and/or a change in the land use activity, no further investigation regarding onsite contamination is required. In conclusion, the site is suitable in accordance with requirements of the RSSEPP.

#### **8.5. State Environmental Planning Policy (Transport and Infrastructure) 2021 (TISEPP)**

##### *Traffic Generating Development (Section 2.122)*

In accordance with Section 2.122(1), Division 17 of the TISEPP, the application must be referred to Transport for NSW (TfNSW) if the land use activity is traffic generating development as defined by Schedule 3 of the SEPP. Column 1, Schedule 3 specifies that a waste or resource management facility of any size or capacity is traffic generating. TfNSW have advised that they have no objection to the proposal, including issues with the operation of the Bay and Taren Point Roads in.

#### 8.6. Sutherland Shire Local Environmental Plan 2015

The proposal has been assessed for compliance against SSLEP2015. A compliance table with a summary of the applicable development standards is contained below:

CLAUSE	REQUIRED	PROPOSAL	COMPLY
cl.4.3 Height of Building	16m	No change from DA19/0921 (11.7m)	Yes
cl.4.4 Floor Space Ratio	1.5:1 (16,290m <sup>2</sup> )	No change from DA19/0921 (5528.5m <sup>2</sup> )	Yes
cl.6.14 Landscaped Area	10% (1082m <sup>2</sup> )	Pre-existing shortfall approved by SSLPP in DA19/0921	Yes

#### 8.7. Sutherland Shire Development Control Plan 2015

The proposal has been assessed for compliance with SSDCP 2015. A compliance table with a summary of the applicable development controls is contained in **Appendix A**.

The extension of hours is considered acceptable subject to mitigation and operation management conditions to ensure minimal impacts to sensitive receivers.

In response to concerns raised by Council, the applicant has advised that a bicycle rack for the parking of at least 3 bicycles to be provided near the southern side of the office building.

### 9.0 SPECIALIST COMMENTS AND EXTERNAL REFERRALS

The application was referred to the following internal and external specialists for assessment and the following comments were received:

#### 9.1 Environmental Protection Agency (EPA)

The application was referred to the EPA as the proposal is a scheduled activity pursuant to Sections 34, 41, 42, Schedule 1 of PoEO. The EPA have advised they do not raise any objection and the onus falls upon the persons or entity having the benefit of the consent to comply with their existing licence.

#### 9.2 Transport for New South Wales (TfNSW)

The application was referred to TfNSW as the application is a traffic generating land use activity pursuant to Section 2.122 and Schedule 3 of the TISEPP.

TfNSW have advised that Increasing throughput to 60,000 tonnes per annum will result in 1 additional truck movement every 15 minutes in the peak period and as such, they have no objection to the proposal. The

operation of the site is unlikely to have a significant traffic impact on the classified road network.

### **9.3 Sydney Water**

The application was referred to Sydney Water who advised the following:

- A Section 73 Certificate must be obtained.

### **9.4 Traffic Section**

The application was referred to Council's Traffic Section who advised that they do not have any objection to the proposed on the basis that TfNSW have not raised any issues.

### **9.5 Engineering (Assessment Team)**

The application was referred to Council's Assessment Team Engineer who raised issues with the performance of the Bay and Taren Point Roads intersection and internal parking conflict at changeover.

Concerns over the level of service/performance of the intersection has been considered by TfNSW who do not raise an issue. Concerns over the internal parking conflict has been addressed by the applicant and staggered shift starting and ending times to minimise the issues.

### **9.6 Environmental Science Section**

The application was referred to Council's Scientist who advised the revised air quality assessment report indicates that the increased air pollutants is likely to be minimal compared to existing background readings. The application is supportable subject to conditions.

### **9.7 Waste Management Section**

The application was referred to Council's Waste Officer who provided the following comments:

- The application satisfies the requirements of the SEARS.
- The proposal will continue to operate in accordance with the Environmental Protection Licence.
- No objections are raised and no conditions are recommended.

### **9.8 Building Section**

The application was referred to Council's Building Officer who provided the following comments:

- As no building works are proposed, there is no trigger for building and/or other upgrades as the intensity of the operation is not being varied.
- The fire safety letter details that there will be no additional stockpiling of materials.
- The application details that current fire safety measures implemented to satisfy the previous development approval (DA19/0921) remain valid for the increased hours of operation and throughput. It must be noted that should stockpiling volumes increase, additional measures must be needed.

### **9.9 Flooding Section**

The application was referred to Council's Flooding Engineer who advised the application is supportable based on the following:

- a) A drawing must be prepared by a registered surveyor to confirm bunding/crests have been installed

ensuring flood waters will not inundate the building and stockpiles up to the level of 2.45mAHD. it must also be confirmed that potential ingress of backwater into the site via internal stormwater drainage will not occur.

- b) In the event of a flood, the occupants should seek refuge on Level 1 of the site rather than evacuate the site.
- c) The 'Flood Procedures - Flood or Severe Storm by Visy dated 20/03/2021' must form part of the condition of consent.
- d) All structures below the FPL must be constructed with flood compatible building materials and using flood compatible methodology.
- e) All electrical and mechanical components susceptible to flood damages must be located at or above the FPL.
- f) Maintain natural ground level external of the building
- g) An engineer is to provide certification that the proposed development is structurally sound and existing building able to withstand all forces associated with flooding.

A review of the SSLPP meeting minutes for the determination of DA19/0921, conditions relating to:

- all structures located below the 1% AEP level plus 0.5m freeboard to be flood compatible,
- certification for the structure being capable of withstanding the forces of flooding

were not supported. The SSLPP sought advice from Council staff that given pre-existing floor levels remain unaltered and works were only in response to fire damage. Given that there are no works proposed as part of this application, there is no nexus for the recommended conditions (d), (e), (f) and (g) to be imposed.

A review of the previous consent has revealed that there has been no confirmation of bunding levels, the adoption of a flood procedures manual or plan and refuge during emergency events. It is recommended that condition (a) is imposed as certification and rectification works to ensure bunding levels are provided at RL2.45 will ensure buildings, materials and equipment are not affected by water inundation. Ensuring bunds are constructed at the required level will essentially address the issues raised in (d) through (g) inclusive. The adoption of the flood procedure manual and location of refuge are considered necessary to ensure the safety to life during flooding events.

#### **9.10 Health Regulation Unit**

The application was referred to Council's Environmental Health Unit who provided the following comments:

- The noise impact assessment report details that there will be a 1-2dB(A) noise exceedance during the 24 hour operation of the site with the MRF operating. The report details that this exceedance is negligible, and the impact is unlikely to be detected at the nearest sensitive receivers.
- It is agreed that the exceedance is considered acceptable but nonetheless, a condition is recommended requesting a post validation report to be lodged to confirm the operational noise levels are complying with the night noise criteria.
- Further conditions are recommended to require additional acoustic assessment and attenuation measures (that is when no MRF is operating) should complaints be received. This condition is limited to the first 12 months of operation of the increased operation hours.

## 10.0 ASSESSMENT

A detailed assessment of the application has been carried out having regard to the matters for consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979. The following matters are considered important to this application.

### 10.1. Issues raised by the SSPP at the Kick Off meeting

a) *Increase in hours of operation to 24 hrs Mon-Fri and 6am-4pm weekends and public holidays. Current approved operating hours to be identified.*

The applicant has advised the following:

- DA01/1268 does not include a condition restricting hours of operation.
- The consent does advise that development is to be carried out substantially in accordance with the documents that supported the application.
- The planning statement identified hours of operation of the MRF under normal conditions to be Monday to Friday, from 6am to 10pm with a clean up period of 4 hours at the end of each day and the possibility of other maintenance works.
- The request was therefore 24 hours per day, 7 days a week operation.
- There is nothing in the assessment report that indicates 24 hours was not approved. Therefore, the requested hours of operation are less than those currently approved.

A review of the application material and consents for DA01/1268 and DA19/0921 confirms that there are no conditions that restrict hours of operation to anything less than 24 hours a day.

Condition 3 from DA01/1268 does advised that *“development shall be implemented substantially in accordance with the details and specifications...and on any supporting information received with the application except as amended by the conditions specified and imposed hereunder.”*

Contrary to the applicant's response, it can be construed that the 24 hour period was only intended for clean-up and maintenance only and all waste/resource recovery operations are limited between 6am to 10pm daily. Discussion on hours of operation is discussed in more detail later in this report.

b) *Increase in traffic movements, (4 additional truck movements during peak periods)*

Sections 2 in this report details that the increased throughput capacity will only generate 4 additional truck movements during the AM peak and no additional truck movements during the PM peak, this equates to only 1 additional truck movement every 15min during the AM peak period. The applicant has advised that this increase is relatively small and essentially there will be minimal impact upon the local road network.

TfNSW have advised that they do not raise any concerns with the operation of the local and public road network as a result of the site's increased capacity. Council's Traffic Section do not raise issue with the proposal.

c) *Flood prone land along western boundary (along Alexandria Ave) requires flood evacuation plan. Concrete bunding for flood retention already in place.*

The proposal is located on land which is potentially affected by flooding and as such Clause 5.21 of SSLEP 2015 is applicable. Clause 5.21 requires Council to be satisfied of certain matters prior to development consent being granted. These matters include compatibility; with the flood risk; impact on flooding behaviour; measures to manage risk to life; impact on the environment; and social and economic costs. These matters have been addressed to Council's satisfaction, subject to conditions as described in Section 9 in this report and later discussed in Section 10.

d) *Noise mitigation of operational noise out of normal operating hours (10pm-5am).*

Section 2 in this report details that the operation of the facility between 10pm to 5am Monday to Friday will have result in noise exceedance up to 2dBA above the permitted operation noise threshold set by the INP. As detailed in Section 9, Council's Environmental Health Officer has advised that the noise exceedance is considered to be negligible but a condition requiring a post validation report must be lodged to confirm the operation noise levels are complying with the night time noise limits specified in the noise report.

A 12 week timeframe will be imposed regarding the preparation and the lodgement of the post validation report. Conditions are also recommended that if post validation testing detects exceedances beyond those specified in the report, works must be completed within 28 days to minimise continual impacts upon the nearby sensitive receivers.

Further conditions are recommended to require additional acoustic assessment and attenuation measures (that is when no MRF is operating) should complaints be received. This condition is limited to the first 12 months of operation of the increased operation hours.

A condition is recommended that requires the garage doors to be closed between 10pm to 5am inclusive, Monday to Friday. The applicant has detailed that only the front end loader will be used within the building during Shift 3, therefore a condition is recommended to ensure that there is no ambiguity in the operational aspects of the site and what machinery, equipment and the like are permitted to operate during the hours that fall outside of the INP.

e) *Air quality to be confirmed by Council.*

The revised air quality report advises that air pollutants will increase as a result of the proposal, but Council's Scientist has confirmed that the increase are minimal when compared to existing background readings, therefor the proposal is acceptable. Conditions are recommended to ensure compliance with any legislative changes and also to strive to minimise and mitigate impacts through continual improvements in technologies, equipment and operational procedures. The EPA have also reviewed the application and do not raise any issues or concerns with the intensification of site operations.

f) *Fire engineering requirement's to be confirmed by Council.*

Substantial fire safety upgrades were undertaken throughout the whole site as required by DA19/0921, including the installation of an 8000L static water supply and a dedicated pump room to ensure onsite water capacity to minimise the threat of fire.

Council's Building Section have advised that there is no increase threat of fire as there will be no increase in the amount of material being stockpiled. The Building Section agree with the applicant's fire consultant who confirmed the existing fire engineering report for the current operation of the site (based on previous approvals) remains valid and no additional measures are needed even though operations will expand to a 24 hour period between Monday and Friday. Validation was provided as part of DA19/0921 prior to the issue of the Occupation Certificate for that consent, which substantiates the facility was constructed to satisfy the requirements of the BCA.

g) *Confirmation from Council that the facility cannot be used for putrescible waste, only recyclables.*

DA01/1268 approved the operation and use of the site as a materials recycling facility. Latter approvals have not permitted the facility to accept putrescible waste streams and this application does not seek consent to allow and/or accept other waste streams and/or putrescible waste.

As detailed in Section 2, there will be the occasional instance where such waste will arrive to site and these types of wastes will be removed by staff as part of the MRF operation and taken to a specific holding area. To ensure that there is no ambiguity, a condition is recommended to specifically advise the types of waste streams that are permitted to be processed onsite.

## **10.2. Hours of operation**

In relation to Late Night Trading Premises controls, the subject site is located in the IN1 General Industrial Zone and is categorised as being a Low Activity Area. The guidelines for Late Night Premises are in Chapter 37 - Late Night Trading. The controls in Section 3 of Chapter 37 specify base trading hours of 6am to 10pm and extended hours only permitted to midnight. The application proposes 24 hour operation on Monday to Friday, with operations from 6am to 4pm on Saturday, Sunday and Public Holidays.

Following detailed assessment of the proposed activities and the potential impacts upon nearby sensitive uses, it is recommended approval be granted for the extended hours of operation as detailed by the applicant in Table 3.5 Shift times and operation, located on page 51 of the EIS and as included in Section 2 in this assessment report. The applicant has provided extensive and detailed investigation and modelling undertaken and subject to recommended operational conditions from Council's Environmental Health Officer ,including post validation reporting and necessary works, it is considered important to allow for the intensification of the operational aspects.

The applicant has detailed that there is a genuine need to intensify the operational aspects of the site in order to meet the Commonwealth Government's and NSW Government's commitments to recycling

strategies and targets, helping to divert recyclable and reusable wastes from landfill, provide a commercial return and increased employment opportunities. Additionally, the expansion of hours will also allow for SSC to meet their waste strategies and goals as identified in the Sutherland Shire Local Strategic Planning Statement (LSPS) and the Sutherland Shire Council: Our Community Plan 2017.

It is considered necessary to include the table into the condition as this will prescribe when specific activities are permitted throughout the day rather than allowing an open ended or generic condition advising 24 hour operation between Monday and Friday. If complaints are received, it will assist the persons or entity having the benefit of this consent and Council's Compliance Section to verify if the operator or site is the point source of the impact(s) and additionally, helps sets the basis and properly informs the required acoustic engineer for their post validation noise reporting after the commencement of the extended hours of operation.

### **10.3. Maximum storage of materials**

In Section 2 of this report, it is detailed that the site must not store more than 1500 tonnes of material onsite at any time and this is a limit that has been set by the EPA licence. Concerns were raised by Council as the applicant did refer to there being flexibility between the various material within the individual material/waste stream limits and details that 2350 tonnes can be stored onsite.

In response, the applicant has advised and confirmed that there will be no more than 1500 tonnes stored onsite and provided the following:

*"Although it is predictable when assess across a long time period, the make up of the loose commingled recycling being delivered to site varies from day to day. This means that we must set and maintain safe maximum level of each stream or material being stored onsite. Consequently, the site will theoretically have space available to safely store a total of 2350 tonnes of varying materials.*

*However, Visy will, as a matter of both regulatory compliance and safety, comply with its EPA licence requirements and will not store more than 1500 tonnes on the site at any one time. This 1500 tonnes is not flexible."*

To avoid any confusion, a condition is recommended that sets a threshold of 1500 tonnes of material storage for the site. This will ensure that there is no ambiguity and/or misalignment between the consent and the EPA licence.

### **10.4 Flooding**

The conditions recommended by the Flooding Officer are not supported as they relate to the buildings being constructed to flood compatible materials, location of electrical and mechanical components susceptible to flood to be above the FPL, maintaining the ground levels external of the buildings and provide certification the development is structurally sound and able to withstand the impacts from flooding.

As there are no new building works proposed by the application, there is no nexus to impose flood

compatibility conditions. As detailed in Section 9, conditions will be imposed for certification to be provided for the height of the bunding, compliance with the flood procedure manual and where people must seek refuge during flooding inundation.

A review of the previous consent has revealed that there has been no confirmation of bunding levels, the adoption of a flood procedures manual or plan and refuge during emergency events. It is recommended that condition (a) is imposed as certification and rectification works to ensure bunding levels are provided at RL2.45 will ensure buildings, materials and equipment are not affected by water inundation. Ensuring bunds are constructed at the required level will essentially address the issues raised in (d) through (g) inclusive. The adoption of the flood procedure manual and location of refuge are considered necessary to ensure the safety to life during flooding events.

### 10.5 Health Conditions

Much the same as the flooding conditions, some recommended conditions from Council's Environmental Health Officer already appear in the approval for DA19/0921. Therefore, only those deemed relevant are recommended to be imposed.

### 10.6 Compliance issues and breach of conditions of consent

During the Kick Off meeting, an SSPP Panel member asked if there were any non-compliances or breaches of conditions. An answer was not provided on the day, but Council staff did advise this would be looked into and reviewed.

In the assessment report for DA19/0921, the following was provided to assist the SSLPP in their decision making:

*The facility holds an EPA license covering its activities and is required to comply with the ongoing requirements of the conditions of consent. In relation to the EPA license, the applicant has provided details regarding the environmental management performance and compliance with the EPA license of the facility relative to notices issued by the NSW Environment Protection Authority (EPA) since commencing operation. These notices are on the public register on the EPA website and have been confirmed as being accurate. The following is a summary:*

<b>Date</b>	<b>Details of notice</b>	<b>Comment / Resolution</b>
2008	<i>The annual return was not received by the EPA within 60 days of the anniversary date and a penalty note was issued.</i>	<i>It appears that the return was lodged 1-2 days late</i>
2011 - 2012	<ul style="list-style-type: none"> <li>- <i>Odour from stored materials &amp; litter offsite from the activity of scavenging birds. Excess quantities of glass waste stored at site due to transport difficulties.</i></li> <li>- <i>Litter caused by excess quantities of glass waste stored at site due to transport difficulties.</i></li> </ul>	<i>Glass removed, stockpiles covered. Ensure stockpiles do not build up;</i>
2012 - 2013	<i>Litter escaped from premises onto neighbour's property during windy conditions. Windy conditions caused litter to</i>	<i>Site activities are now carried out indoors due to</i>

	<i>escape. Increased height of fence to capture litter.</i>	<i>changes to operations</i>
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*In addition to the above, a check of Council records has been undertaken with regard to any law and enforcement action by Council officers during the time the facility has been in operation. The following table is a summary:*

<b>Date / Reference No.</b>	<b>Details of complaint / notice</b>	<b>Comment / Resolution</b>
23/09/2016 CR16-129987	<i>Air quality - Industrial-customer reporting that the smell and large number of flies coming from the Visy Recycling Plant are affecting his business</i>	<i>Investigation by Council officer concluded that the odour was negligible on the day of inspection &amp; no flies were noted at the time of inspection. The audit showed the business was compliant with the legislation &amp; no issues were noted.</i>
Date not recorded	<i>A complaint about vermin</i>	<i>Council's Environmental Health Officer has advised that given the pest regime on site and the short period during which material is on the site, this is unlikely to be a concern arising from the site itself and is more likely to arise from vermin being in the general area of the site.</i>
12/07/2019 CR19-358527	<i>The rear corner with the non-recyclable materials caught fire after the factory had shut for the day. The fire brigade attended &amp; put out the fire relatively quickly on the Friday night. Only water was used to extinguish the fire so no PFAS concerns. The fire extended into the comingled recycled area before it was extinguished. It did not reach through the firewall into the paper / cardboard recycling area. The site had approx. 90 tonnes of waste on site at the time of the fire. The average daily throughput for the site is 90 tonnes.</i>	<i>The EPA attended &amp; were happy with the way the site is progressing &amp; that minimal environmental harm has occurred. The site has generally been kept clean &amp; tidy whenever inspected previously &amp; the throughput of waste is quick with waste only being held on the site for 1 day usually. The site is generally very tidy whenever it has been inspected by Council officers. This has probably helped the fire to be contained. No further action was required.</i>

*The above notices and complaints over the course of an 18 year period are considered relatively minor and at each time, either prompt rectification has occurred or the complaint was found to be unsubstantiated. There has also not been any notices relating to any non-compliance with conditions of consent. In the case of the fire at the building, this proposal intends to rectify damage to the building and upgrade the fire management system of the overall building.*

Comment: As the previous report has detailed, the extent of breaches over the course of 18 years since the commencement of operations are considered relatively minor and the operator has addressed the issues

promptly. Based on the above, there appears to be no reason why consent cannot be issued by the SSPP.

### **11.0 DEVELOPMENT CONTRIBUTIONS**

Due to its nature, the proposed development will not require or increase the demand for local and district facilities within the area. Accordingly, it does not generate any Section 7.12 contributions. Further the proposed development has a value of less than \$100,000 and therefore does not attract any Section 7.12 Contributions in accordance with Council's adopted Section 7.12 Development Contribution Plan 2016.

### **12.0 DECLARATIONS OF AFFILIATION, GIFTS AND POLITICAL DONATIONS**

Section 10.4 of the Environmental Planning and Assessment Act, 1979 requires the declaration of donations/gifts in excess of \$1000. In addition, Council's development application form requires a general declaration of affiliation. In relation to this development application no declaration has been made.

### **13.0 CONCLUSION**

The subject land is located within Zone IN1 General Industry pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015. The proposed development, being a waste or resource management facility is a permissible land use within the zone with development consent.

In response to the public notification, 1 submission was received. The matters raised in these submissions have been considered and based on the responses provided from TfNSW and Council's Traffic Section, the issues are not considered substantive.

The proposal requests to vary the late night trading hours specified in Chapter 37 of the Sutherland Shire Development Control Plan 2015. The site is located within a 'low' activity zone and normally limited to base hours of 6am to 10pm and extended hours only up to midnight. Based on the merits of the application, the detailed investigation and modelling undertaken by the applicant and subject to recommended operational conditions from Council's Environmental Health Officer ,including post validation reporting and necessary works, it is considered that a 24 hour operation on Monday to Friday is supportable.

The applicant has detailed that there is a genuine need to intensify the operational aspects of the site in order to meet the Commonwealth Government's and NSW Government's commitments to recycling strategies and targets, helping to divert recyclable and reusable wastes from landfill, provide a commercial return and increased employment opportunities. Additionally, the expansion of hours will also allow for SSC to meet their waste strategies and goals as identified in the Sutherland Shire Local Strategic Planning Statement (LSPS) and the Sutherland Shire Council: Our Community Plan 2017.

The application has been assessed having regard to the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979. The application will not result in any significant impact on the environment or the amenity of nearby residents. Following assessment, Development Application No. DA22/0632 may be supported for the reasons outlined in this report.

The officer responsible for the preparation of this Report is the Development Assessment and Certification Manager (Beth Morris), who can be contacted on 9710 0333.