

SYDNEY WESTERN CITY PLANNING PANEL

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSWC-228
DA Number	DA-1486/2021
LGA	Liverpool City Council
Proposed Development	<p>Change of use of the site and to a resource recovery facility to receive and process up to 40,000 tonnes per annum of muds and slurries.</p> <p>The application is identified as Designated Development as specified in Schedule 3 of the Environmental Planning and Assessment Regulation 2021.</p> <p>The application is identified as Nominated Integrated Development requiring approval from the NSW Environmental Protection Agency under the Protection of the Environmental Operations Act 1997.</p>
Property Description	<p>53 Heathcote Road, Moorebank</p> <p>Lot 1 of DP 222104</p>
Applicant/Owner	Esther Hughes/ Flat Glass Holdings Pty Ltd
Date of DA Lodgement	22 December 2021
Number of Submissions	No submission received
Recommendation	Approval
Regional Development Criteria (Schedule 6 of the SEPP (Planning Systems) 2021)	Schedule 6 Regionally Significant development (7) Particular Designated development.

<p>List of all relevant s4.15(1)(a) matters</p>	<ul style="list-style-type: none"> • <i>List all of the relevant environmental planning instruments: s4.15(1)(a)(i)</i> <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Planning Systems) 2021. ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021. ○ State Environmental Planning Policy (Resilience and Hazards) 2021. ○ State Environmental Planning Policy (Transport and Infrastructure 2021). ○ Protection of the Environment Operations Act 1997 ○ Liverpool Local Environmental Plan (LLEP) 2008. • <i>List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s4.15(1)(a)(ii)</i> <ul style="list-style-type: none"> ○ No draft Environmental Planning Instruments apply to the site. • <i>List any relevant development control plan: s4.15(1)(a)(iii)</i> <ul style="list-style-type: none"> ○ Liverpool Development Control Plan 2008 (LDCP 2008) <ul style="list-style-type: none"> ▪ Part 1 – General Controls for All Development ▪ Part 7 – Development in Industrial Areas. • <i>List any relevant planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4: s4.15(1)(a)(iia)</i> <p>No offer or draft offer to enter into a voluntary planning agreement has been made.</p> <ul style="list-style-type: none"> • <i>List any relevant regulations: s4.15(1)(a)(iv)</i> <ul style="list-style-type: none"> ○ Consideration of the provisions of the National Construction Code (NCC)
<p>List all documents submitted with this report for the Panel's consideration</p>	<ul style="list-style-type: none"> • Recommended Conditions of Consent • Site Plans • Fire Safety Plan • Erosion and Sediment Control Plan • Traffic Report

	<ul style="list-style-type: none"> • Soil and Water Management Plan and Addendum Report • Environmental Impact Statement • Air Quality Statement • Acoustic Report • Operational Environmental Management Plan • Incident Response Management Plan
Clause 4.6 requests	No
Report date	16 March 2023

1. EXECUTIVE SUMMARY

1.1 Reasons for the report

The State Environmental Planning Policy (Planning Systems) 2021, Schedule 1 State significant - General, outlines various categories of development that are of state significance, including category number 23 – Waste and resource management facility. The proposed volume of waste does not fall under categories 1 to 6.

Council referred the matter to the Sydney West City Planning Panel (SWCPP) secretariat on the question of jurisdiction. This was confirmed in an email dated 20 May 2022. While the category was not specified, it is concluded that it could fall under Schedule 6 Regionally Significant development (7) Particular Designated development.

The proposal triggers Schedule 3 (Designated Development) under the Environmental Planning and Assessment Regulation 2021, due to the nature of the use as a waste management facility close to flood prone land. In addition, the site is also in proximity to residential zoned (<500m) land and Anzac Creek (water body).

1.2 The proposal

Change of use of the site to a resource recovery facility to receive and process up to 40,000 tonnes per annum of muds and slurries. Specifically, the facility will accept and process slurry waste which involves dewatering and temporary storage of inputs and outputs including aggregates and spadable solids.

1.3 The site

The subject site is located within a parcel of land legally described as Lot 1 in DP 222104, and is known as 53 Heathcote Road, Moorebank. This lot is irregular in shape and defined by three property boundaries with frontages to Centenary Drive on the west and south and Heathcote Road to the east. The total land area is 13,800 m².

The land is occupied by 2 tenancies with the subject site in this application occupies the northwest corner comprising an area of 4,570m².

The site is currently occupied by a standalone brick administration building, an attached shed building, a weighbridge, concrete hardstand, landscaped vegetation, and approximately 600m² of gravel hardstand.

It has previously been used for waste and resource recovery activities.

1.4 Exhibition of the proposal/consultation

The development application was advertised between 17 June to 20 July 2022 in accordance with the Liverpool Community Participation Plan 2019. No submissions were received objecting to the application.

As part of the Environmental Impact Statement (EIS) submitted with the application, an information sheet was prepared by the applicant and distributed to all landowners and occupiers within a 200m radius of the site. Businesses and residences in the designated area were subject to a letter box drop in November 2020 to distribute information regarding the proposal and discuss any issues of potential concern. No responses were received following distribution of flyers from neighbouring businesses or residents.

Consultation with relevant agencies was undertaken in accordance with the requirements set out in the Secretary's Environmental Assessment Requirements (SEARS) including Liverpool City Council.

1.5 The Issues

The development is generally compliant with the applicable planning provisions. The main key issues identified by Council officers are as follows:

- **Operational Environmental Management Plan and Bunding Construction and secondary containment**

Liverpool City Council's Environmental Health Officer (EHO) requested that an Operational Environmental Management Plan (OEMP) and detailed floor and section plans to demonstrate the bund surrounding the proposed HVRRR system. An Operational Environmental Management Plan (OEMP) has since been provided by the applicant as part of the EIS process and incorporated in the approval documents. Likewise detailed floor and section plans of the bonded area have been required as a condition of consent to be submitted and reviewed by Council's Environmental Health Section prior to the issue of a construction certificate.

- **Flooding**

Council's Flood Engineer requested on-site water quality treatment facilities designed using MUSIC modelling software to ensure that stormwater runoffs leaving the site comply with Council's water quality standards. The applicant has since provided an update where the proposed use of a bioretention system and Stormsacks to treat the stormwater prior to discharge, which is considered acceptable to Council.

1.6 Conclusion

The applicant has responded to these matters with additional information and by amending the application. As a result of the assessment of the DA it is considered that the above listed matters have been resolved.

The application has been assessed pursuant to the provisions of the Environmental Planning and Assessment Act 1979 (EPA&A 1979). Based on the assessment of the application, it is recommended that the application be approved.

2. SITE DESCRIPTION AND LOCALITY

2.2 The site

The site is located on 53 Heathcote Road, Moorebank within the parcel of land legally identified as Lot 1 of DP 222104. The lot is irregular in shape defined by three property boundaries with frontages to Centenary Avenue (west boundary), Centenary Drive (south boundary), Heathcote Road (to the east). The total land area is 13,800m².



Figure 1: Aerial photograph of the Site



Figure 2: View of the Site from Centenary Avenue, to the west (Source: Streetview)

The site is currently occupied by a standalone brick administration building, an attached shed building, a weighbridge, concrete hardstand, landscaped vegetation, and approximately 600m² of gravel hardstand.

The site is bounded to the north and south by industrial premises with frontages on Centenary Avenue.

The site is situated within an established industrial precinct at Moorebank and extends more than 1.7km to the west of the site, 100m to the east across Heathcoat Road and 1.3km north. The locality is characterised by similar industrial development of comparable scale – generally consisting of warehouse complexes and small industrial units.



The nearest residential areas are located within 200m to the east and 70m to the south in the suburbs of Moorebank and Wattle Grove (See Figure 3). Residences located nearby are visually shielded from the site by roadways, including the South Western Motorway and Heathcote Road, as well as existing vegetation and other industrial developments.

2.4 Site affectations

a) Flooding

The site is affected by flooding as shown on the map below. Council's Flood Engineer requested for an on-site water quality treatment facility designed using MUSIC modelling software to ensure that stormwater runoffs leaving the site comply with Council's water quality standards. The applicant has since provided an update where the proposed use of a bioretention system and Stormsacks to treat the stormwater prior to discharge is considered acceptable to Council.

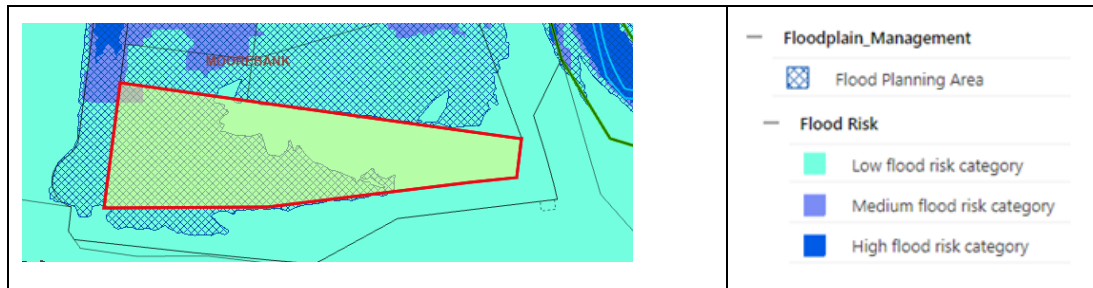


Figure 4: Flooding Map

b) Aboriginal Sensitivity

The site is partly affected by aboriginal heritage sensitivity as shown below on the map below. An Aboriginal Heritage Information Management System (AHIMS) search was conducted by the applicant on 20 August 2020. The search did not return any sites or places of Aboriginal Heritage.

The proposed excavation of a pit is unlikely to result in the discovery of aboriginal artefacts due to the previous development of the site.

The EIS, which was endorse by NSW EPA thru the GTA, conducted the assessment in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales, to examine the presence of culturally sensitive objects/ areas of the site. As a result of the AHIMS search and the extensive development undertaken on the site, no further investigation was required. However, mitigation measures during earthworks including confining works within the area indicated in the submitted design diagram and should a than item of Aboriginal significance or suspected significance be discovered on sites, all work in the vicinity of the area would cease and the site management would be contacted immediately to engage in the appropriate course of action which may include contacting a heritage professional, notifying the NSW Department of Environment, Energy and Science and the Local Aboriginal Land council (LALC).

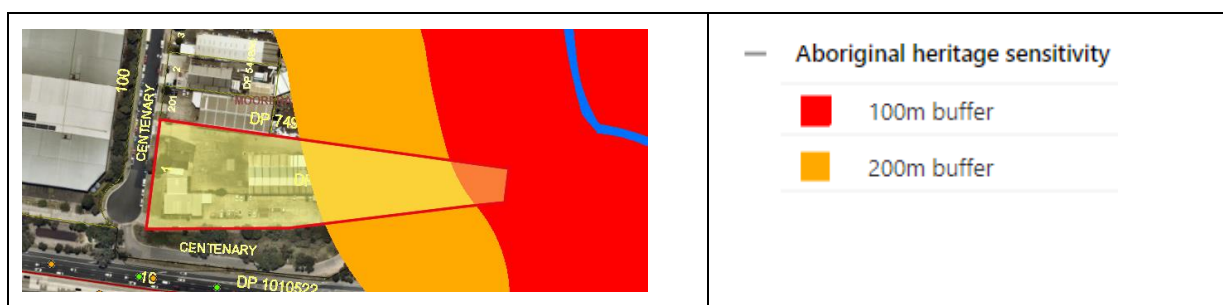


Figure 5: Aboriginal Sensitivity Map

c) Classified Road.

The site is in close proximity to the intersections of Heathcote Rd/Centenary Ave/Junction Rd and M5 motorway, both being classified roads as shown on the Figure 6 below. Council's traffic officer has concluded that additional traffic movements are minimal and well within the road carrying capacity of the road network.



Figure 6: Map of adjoining classified Roads

3. BACKGROUND

3.1 History of Application

3.1.1 On 6 May 2004, DA-607/2004 was determined and approved for the processing of waste detailed as follows:

- 300 tonnes of medical waste;
- 1000 tonnes of product destruction of expired liquid beverages;
- Storage of bulk bin containers (6 to 30m³). These are provided to industrial and commercial clients for collection of large rubbish volumes. Bins are then transported directly to landfill for disposal;
- Storage of oily/water liquids in a 25,000L below ground container. Once filled, it is transported to disposal facility in Wollongong.
- Processing of engine oil filters with separation of the oil, metal and filter element for recycling and potential recycling off site. Oil temporarily stored onsite in an above ground bunded 5,000L to 10,000L tank.

3.1.2 On 13 May 2019, DA-607/2004/A was determined and approved the following modifications to the above approval:

- Acceptance, sorting and processing of paper and cardboards, and non-putrescible materials collected from residential, commercial and industrial sites. The total volume of waste materials to be accepted at the premises is a maximum of 28,000 tonnes per annum.

3.1.3 On 14 July 2020, PL-40/2020 - Pre-lodgement meeting was conducted between the applicant and Liverpool Council officers where comments were provided on the proposal including a requirement for the preparation of an EIS.

3.1.4 On 15 October 2020, a Planning Secretary's Environmental Assessment Requirement (SEAR) No 1499 was issued by the Department of Industry and Environment.

- 3.1.5** On 18 November 2021 the Environmental Impact Statement (EIS) was prepared by the applicant and lodged with the development application.
- 3.1.6** On 22 December 2021, DA-1486/2021 (subject application) was lodged to Council which seeks change of use of the site to a resource recovery facility to receive and process up to 40,000 tonnes per annum of muds and slurries.
- 3.1.7** On 29 March 2022, the application was referred to the NSW EPA. A response dated 11 May 2022 was received which required additional information (RFI) on noise impacts and tracking, testing regimes for processing of waste material.
- 3.1.8** On 20 May 2022, the SWCPP secretariat confirmed jurisdiction.
- 3.1.9** On 7 October 2022, the applicant uploaded its response to the RFI on the planning portal.
- 3.1.10** On 22 November 2022, the NSW EPA provided the General Terms of Approval (GTA).

3.2 Sydney Western City Planning Panel

The proposal was briefed to the Sydney Western City Planning Panel on two occasions being 21 March 2022 and 20 June 2022.

4. DETAILS OF THE PROPOSAL

The site is located on the northwest corner of Lot 1 DP 2232104 as shown on Figure 7 below. A concept layout of the facility is shown on Figure 8.

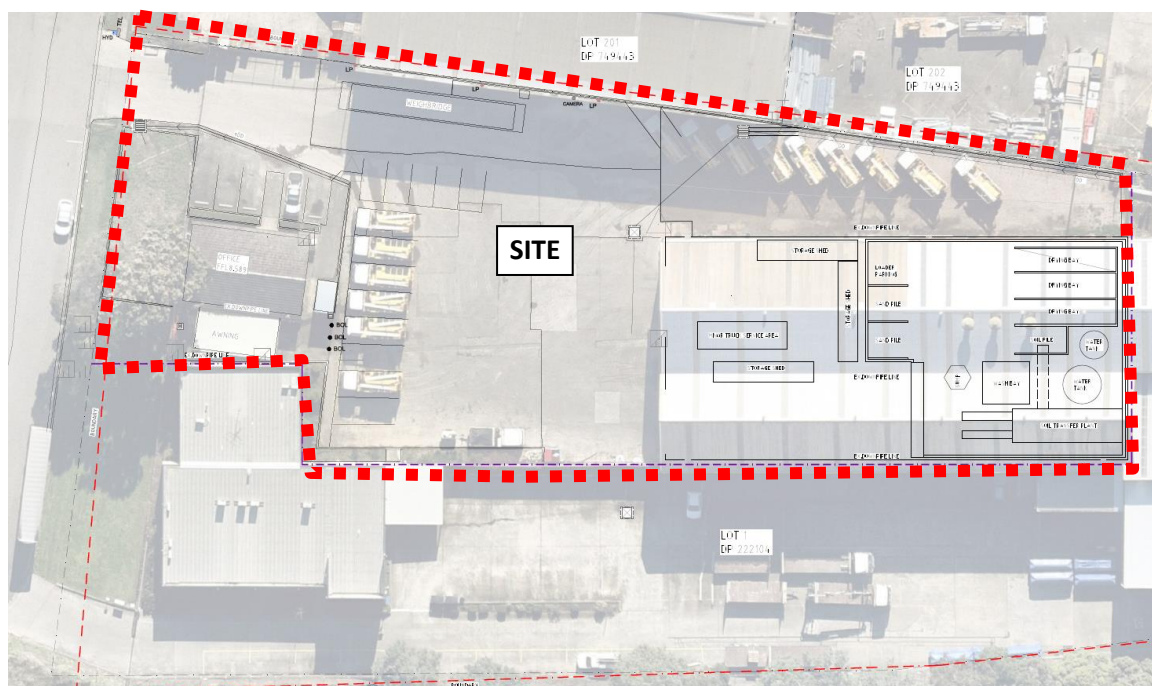


Figure 7: Site plan

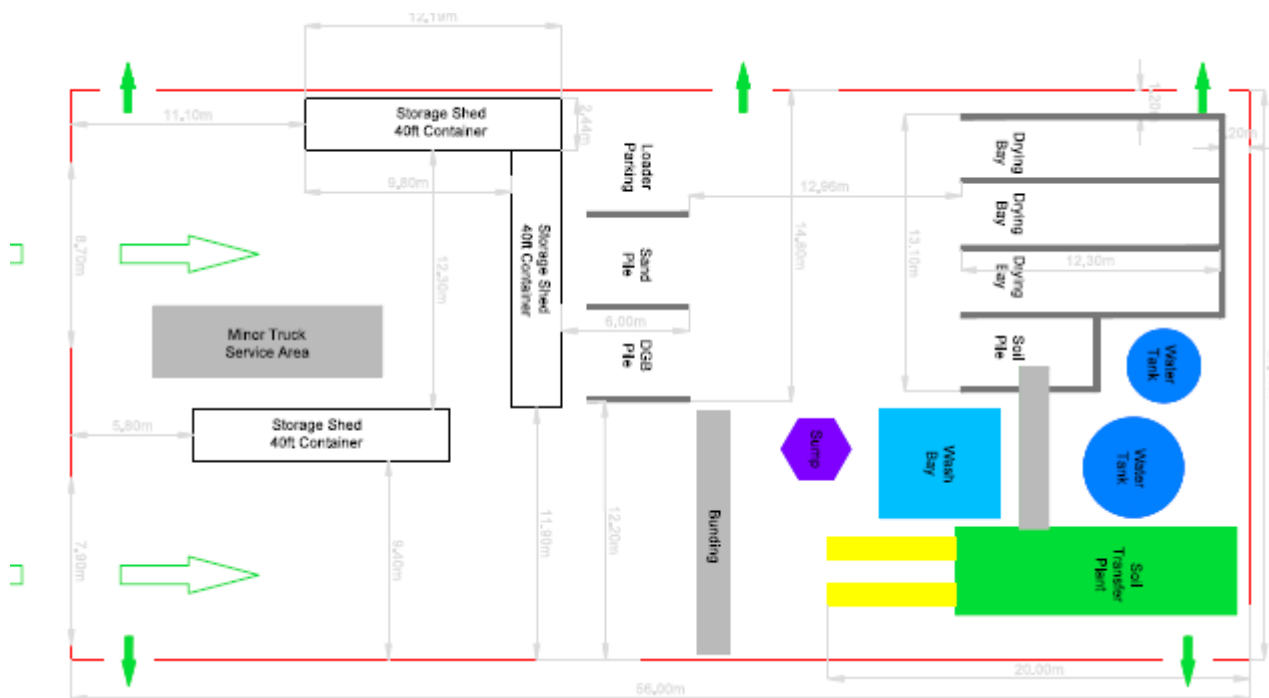


Figure 8: Concept Layout of facility

The proposed development for the change of use of the site from a processing of up to 28,000 tonnes per annum of paper and cardboard, and non-putrescible waste collected from residential, commercial and industrial sites into a resource recovery facility to receive and process up to 40,000 tonnes per annum of muds and slurries.

Details of the proposal are as follows:

- Approval is sought for use of the site to accept and process non-destructive digging (NDD) slurry waste, generated from Vac Group hydro-excavation activities within the existing building.
- Minor works involved in processing NDD wastes include excavation and construction of a drainage pit with sump, construction of bunding, construction of a concrete hardstand, installation of the Hydro-Vac Recycling and Resource Recovery unit, and minor landscaping. Construction works will involve concrete hardstand, connection to sewer, construction of drive over bund for the truck maintenance area, and line marking.
- The proposal also seeks to modify the use of the site to receive and process up to 40,000 tonnes of drilling muds. Activities include a dewatering process and temporary storage of input materials and outputs, being recovered aggregate and spadable solids. Treated water will be tested and reused for washout of the processing equipment and in vacuum excavation trucks. Excess water will be treated to Sydney Water standards and discharged to sewer as trade waste. Flocculants will be used and stored to aid the dewatering process.

Central to the processing of waste inputs from excavation trucks is the Hydro Vac Recycling and Resource Recovery (HVRRR) technology water and soil recovery system. The HVRRR and water treatment systems are non-thermal processes which dewater mud from hydro excavation to produce a spadable solid, sand and water. The solids can be reused in various applications as engineering fill, earthworks, as a soil

amendment, or added to a compost. The water will be treated to Sydney Water discharge standard.

- A section of the building will be used for truck maintenance, requiring the storage and use of fuels, and automotive oils. The truck maintenance floor area will be enclosed by drive-over bunding, and all hazardous materials will be stored in bunded containers above the probable maximum flood level.
- The facility will require 28 staff at full operation comprising of truck drivers, staff that attend the site to collect a trade vehicle and attend job sites across Sydney and 5 full time staff in roles such as administration, management, and site operations.
- The hours of operation for receipt, processing, and offtake will be 24/7 for delivery and operation of machines. Offtake times are only on weekdays between 7am to 4pm.

5. STATUTORY CONSIDERATIONS

5.1 Relevant matters for consideration

The following Environmental Planning Instruments, Development Control Plans and Codes or Policies are relevant to this application:

Environmental Planning Instruments (EPI's)

- State Environmental Planning Policy (Planning Systems) 2021.
- State Environmental Planning Policy (Biodiversity and Conservation) 2021.
- State Environmental Planning Policy (Resilience and Hazards) 2021.
- State Environmental Planning Policy (Transport and Infrastructure 2021).
- Liverpool Local Environmental Plan (LLEP) 2008.

Draft Environmental Planning Instruments (EPI's)

- No draft Environmental Planning Instruments apply to the site.

Development Control Plans

- Liverpool Development Control Plan 2008, Part 1 – General Controls for All Development
- Liverpool Development Control Plan 2008, Part 7 – Development in Industrial Areas.

6. ASSESSMENT

The development application has been assessed in accordance with the relevant matters of consideration as prescribed by Section 4.15 of the EP&A Act 1979 and the Environmental Planning and Assessment Regulation 2021 as follows:

6.1 Section 4.15(1)(a)(i) – Any Environmental Planning Instrument

(a) State Environmental Planning Policy (Planning Systems) 2021

The application falls under Schedule 6 Regionally Significant development (7) Particular Designated development.

The proposal triggers Schedule 3 (Designated Development) under the Environmental Planning and Assessment Regulation 2021, due to the nature of the use as a waste

management facility close to flood prone land. In addition, the site is also in proximity to residential zoned (<500m) land and Anzac Creek (water body).

(b) State Environmental Planning Policy (Biodiversity and Conservation) 2021

The subject land is located within the Georges River Catchments and as such, Chapter 11 – Georges River Catchment of the State Environmental Planning Policy (Biodiversity and Conservation) 2021, formerly the Greater Metropolitan Regional Environmental Plan No. 2 – Georges River, applies to the application.

The State Environmental Planning Policy (Biodiversity and Conservation) 2021 generally aims to maintain and improve the water quality and river flows of the Georges River and its tributaries.

When a consent authority determines a development application, planning principles are to be applied (Clause 11.5). Accordingly, a table summarising the matters for consideration in determining development applications (Clause 11.6 and Clause 11.7), and compliance with such is provided below.

Section 11.2 General Principles	Comment
When this Part applies the following must be taken into account:	Planning principles are to be applied when a consent authority determines a development application.
(a) the aims, objectives and planning principles of this plan,	The plan aims generally to maintain and improve the water quality and river flows of the Georges River and its tributaries.
(b) the likely effect of the proposed plan, development or activity on adjacent or downstream local government areas,	The proposal provides soil and erosion control measures.
(c) the cumulative impact of the proposed development or activity on the Georges River or its tributaries,	The proposal provides a stormwater management system that will connect to the existing system. The Stormwater concept plan also outlines proposed sediment and erosion control measures.
d) any relevant plans of management including any River and Water Management Plans approved by the Minister for Environment and the Minister for Land and Water Conservation and best practice guidelines approved by the Department of Urban Affairs and Planning (all of which are available from the respective offices of those Departments),	The site is located within an area covered by the Liverpool District Stormwater Management Plan, as outlined within Liverpool City Council Water Strategy 2004.
(e) the <i>Georges River Catchment Regional Planning Strategy</i> (prepared by, and available from the offices of, the Department	There is no evidence that with imposition of mitigation measures, the proposed development would affect the diversity of

of Urban Affairs and Planning),	the catchment.
(f) all relevant State Government policies, manuals and guidelines of which the council, consent authority, public authority or person has notice,	The application was not required to be referred to the Natural Resource Access Regulator (NRAR).
(g) whether there are any feasible alternatives to the development or other proposal concerned.	No. The site is located in an area nominated for industrial development and the proposal provides an opportunity to address past potentially contaminating land use practices

Section 11.7 Specific Principles	Comment
(1) Acid sulfate soils	The site is not identified as containing the potential for acid sulphate soils to occur.
(2) Bank disturbance	No disturbance of the bank or foreshore along the Georges River and its tributaries is proposed.
(3) Flooding	<p>The site has been identified to be flood affected, with the majority of the site impacted with low flood risk. A small area in the north-western corner of the site is identified as medium flood risk.</p> <p>The processing area is elevated and is not within the medium flood prone land.</p> <p>The storage of hazardous goods and materials will be effectively managed as part of the site operation (in accordance with the site Operational Environmental Management Plan).</p> <p>The proposal has been reviewed by Council's flooding engineers and considered satisfactory.</p>
(4) Industrial discharges	<p>This proposal does not include the discharge of any waste products to any water course.</p> <p>Excess water resulting in drilling mud dewatering will be reused or treated to Sydney Water trade wastewater standards and will be discharged to sewer.</p> <p>The receival, processing, storage, offtake, and truck washing area will be located within the confines of the shed and in a bunded area.</p>
(5) Land degradation	All external areas of the site will feature sealed concrete hardstand (with exception of existing landscaped areas).

	An erosion and sediment control plan aims to manage salinity and minimise erosion and sediment loss.
(6) On-site sewage management	On-site sewage management is part of the existing premises infrastructure.
(7) River-related uses	Not applicable.
(8) Sewer overflows	Not applicable.
(9) Urban/stormwater runoff	There will be a slight increase in sealed hardstand present onsite for water runoff. This has been assessed as part of the Stormwater Assessment Report, as well as the mitigation measures to be employed for water management at the site. The Stormwater Assessment Report also assesses the project against Liverpool Council's Water Sensitive Urban Design (WSUD) principles.
(10) Urban development areas	Not Applicable.
(11) Vegetated buffer areas	Not applicable.
(12) Water quality and river flows	The proposal does not involve discharge of stormwater runoff or treated water to any water course. Water quality or river flows will not be adversely affected.
(13) Wetlands	Not applicable.

It is considered that the proposal satisfies all the relevant provisions of the SEPP (Resilience and Hazards) 2021 and is supported on this basis.

(c) State Environmental Planning Policy (Resilience and Hazards) 2021

(i) Chapter 3 Hazardous and Offensive development

The proposal has been assessed under the relevant provisions of SEPP (Resilience and Hazards) 2021, specifically Chapter 3 – Hazardous and Offensive development, as the proposal involves activities that would be defined by the SEPP as a 'potentially hazardous industry' or 'potentially offensive industry'.

The Department of Urban Affairs and Planning (DUAP) (1997) guideline “Applying SEPP 33” provides a risk screening procedure to facilitate determination of whether a proposed development is applicable under the SEPP. If, under this screening test SEPP 33 is triggered, Clause 3.11 of SEPP requires that any proposal to carry out a potentially hazardous development must be supported by a Preliminary Hazard Analysis (PHA).

The applicant has undertaken a screening assessment which is outlined in Section 7.6. of the EIS. Based on this assessment, the facility would not be classified as a potentially offensive industry.

Furthermore, it was recommended that an Operational Environmental Management Plan (OEMP) that outlines objectives, training and procedures for site management is prepared. The plans will incorporate an Emergency Response Management Plan and a Pollution Incident Response Management Plan (PIRMP) among others mitigating strategies.

(ii) Chapter 4 – Remediation of Land

The proposal has been assessed under the relevant provisions of SEPP (Resilience and Hazards) 2021, specifically Chapter 4 – Remediation of Land, as the proposal involves the development of land to accommodate a change of use with the potential under the former SEPP 55 guidelines to be a site that could be potentially contaminated.

The objectives of SEPP (Resilience and Hazards) 2021 are:

- *to provide for a statewide planning approach to the remediation of contaminated land.*
- *to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.*

Pursuant to the above SEPP, Council must consider:

- whether the land is contaminated.
- if the land is contaminated, whether it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the proposed use.

Pursuant to Clause 4.6 of SEPP (Resilience and Hazards) 2021, Council is required to undertake a merit assessment of the proposed development. The following table summarises the matters for consideration in determining development application.

No significant excavation is proposed as part of this application and historical data indicates that the Site has been used for “Processing of wastes” from 2004.

No significant subsurface disturbance activities are proposed. On this basis, it is considered that the Site is suitable for the existing facility, and no further contamination assessment is required.

Council’s Environment and Health section have reviewed the reports and agree that the site is suitable for the proposed development.

(d) State Environmental Planning Policy (Transport and Infrastructure) 2021

The subject site is in close proximity to classified roads, being Heathcote Rd to the east and the South Western Motorway (M5) to the south, therefore the provisions of the SEPP (Transport and Infrastructure) 2021 are to be considered.

Considerations	Comments
2.118. Development with frontage to classified road	
The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that: Where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and	Not applicable. The proposed development does not have direct frontage to the classified roads.

<p>The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:</p> <ul style="list-style-type: none"> (i) the design of the vehicular access to the land, or (ii) the emission of smoke or dust from the development, or (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and <p>The development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.</p>	<p>The application was referred to Transport for NSW who did not have objection to the proposed development.</p>
2.119. Impact of road noise or vibration on non-road development	
<p>If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:</p> <ul style="list-style-type: none"> - In any bedroom in the residential accommodation—35 dB(A) at any time between 10 pm and 7 am, - Anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time. <p>In this clause, <i>freeway</i>, <i>tollway</i> and <i>transitway</i> have the same meanings as they have in the <i>Roads Act 1993</i>.</p>	<p>Not applicable.</p> <p>The proposal is not a residential development</p>
2.120 Impact of road noise or vibration on non-road development	
<p>This section applies to development specified in Schedule 3 –Traffic-generating development to be referred to TfNSW—Chapter 2</p> <p>Under Column 1, Waste or resource management facilities the referral requirements are:</p> <ul style="list-style-type: none"> • In Column 2: Size or capacity—site with access to a road (generally). • In Column 3: size or capacity in or to road that connects to classified road (if access within 90m of connection, measured along alignment of connecting road) <p>The proposed waste and resource management facility requires referral to TfNSW.</p>	<p>Complies.</p> <p>The application was referred to Transport for NSW. No objection was raised by the agency</p>

The proposed development is considered to be consistent with the relevant provisions of the SEPP (Transport and Infrastructure) 2021

(e) Protection of the Environment Operations Act 1997

The *Protection of the Environment Operations Act 1997* (PoEO Act) is administered by the Environment Protection Authority (EPA). The principal objectives of the PoEO Act are to:

- Protect, restore and enhance the quality of the environment, while having regard to the principles of ecologically sustainable development (ESD);
- Provide increased opportunities for public involvement and participation in environment protection;
- Reduce risks to human health and prevent the degradation of the environment; and
- Assist in the achievement of the objectives of the Waste Avoidance and Resource Recovery Act 2001.

Under the PoEO Act, activities that will or are likely to cause pollution are identified as scheduled activities and require an environmental protection licence (EPL). EPLs are issued and administered by the EPA. An application for an EPL is made after development consent has been granted.

Pursuant to Schedule 1 of the PoEO Act and the *Protection of the Environment Operations (Waste) Regulation 2014* (Waste Regulation), the facility is a *scheduled activity* as it would have on site, at any one time more than 200 kilograms of liquid waste for processing and more than 60 tonnes for storage. Therefore, the Proposal will require a licence and is classified as 'Integrated Development' under the PoEO Act as shown on the table below.

Clause	Applicable Schedule of Activities	Applicable Trigger
Cl.41	Waste Processing (non-thermal treatment) – non-thermal treatment of liquid waste meaning the receiving of liquid waste (other than waste oil) from off site and its processing otherwise than by thermal treatment.	Involves having on site at any time more than 200 kilograms of liquid waste (other than clinical and related waste)
42	Waste Storage , meaning the receiving from off Site and storing (including storage for transfer) of waste.	Storage in excess of 60 tonnes at any one time of drilling mud

The Act provides incentives for local governments, businesses, and industry to reduce waste sent to landfill and increase their levels of resource recovery.

The proposal aligns with the above objectives to reduce waste to landfill as the operations will result in almost 40,000 tonnes of waste being diverted from landfill and the recovery of water and soil for reuse.

(f) Liverpool Local Environmental Plan 2008

(i) Zoning

The development site is zoned IN1 – General Industrial, pursuant to the Liverpool Local Environmental Plan (LLEP) 2008. An extract from the LLEP 2008 – zoning map is provided below.

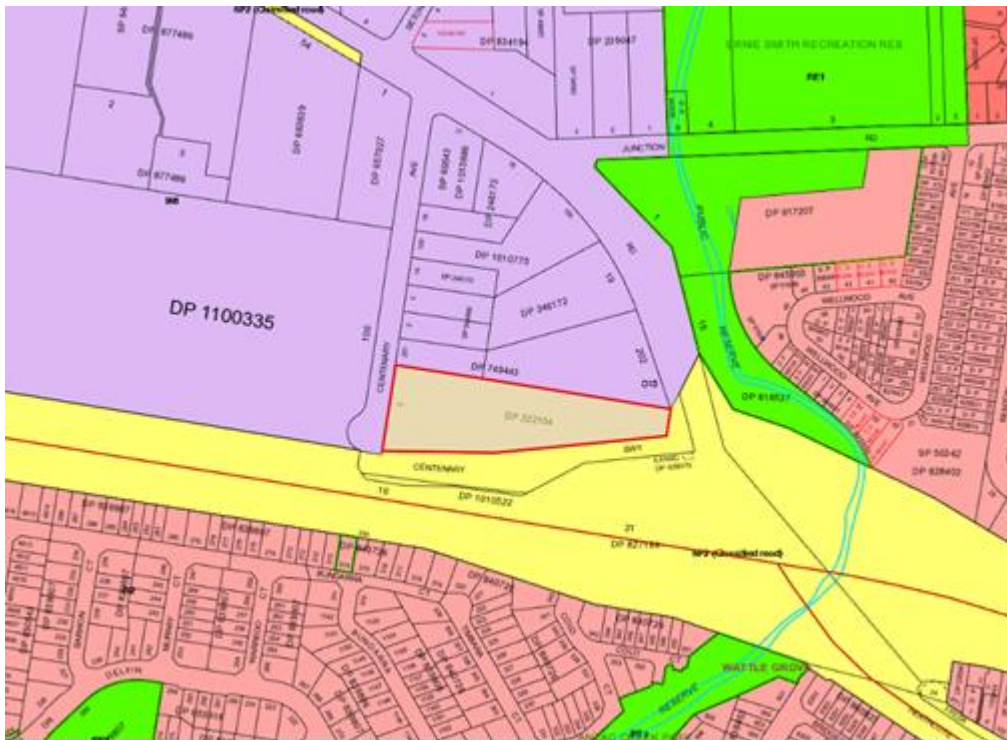


Figure 10: Extract of Liverpool LEP zoning map

The objectives of the IN1 – General Industrial zone are:

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.
- To particularly encourage research and development industries by prohibiting land uses that are typically unsightly or unpleasant.
- To enable other land uses that provide **SITE**ilities or services to meet the day to day needs of workers in the area.

The proposed development aligns with the objectives of the IN1 zone.

(ii) Permissibility

The application seeks consent for a 'waste or resource management facility'. 'Waste or resource management facilities' are prohibited within IN1 zone; however they are permissible with consent pursuant to Part 2.2 General, Division 23 of the State Environmental Planning Policy (Transport and Infrastructure) 2021. In Section 2.153 (1) *Development for the purpose of waste or resource management facilities, other than development referred to in subsection (2), may be carried out by any person with consent on land in a prescribed zone.*

In Clause 2.152 Definitions, *prescribed zone* means any of the following land use zones or a land use zone that is equivalent to any of those zones—

- (a) RU1 Primary Production,

- (b) *RU2 Rural Landscape,*
- (c) *E4 General Industrial,*
- (d) *E5 Heavy Industrial,*
- (e) ***IN1 General Industrial,***
- (f) *IN3 Heavy Industrial,*
- (g) *SP1 Special Activities,*
- (h) *SP2 Infrastructure.*

Provisions of the SEPP override those of the LLEP 2008 and the proposed development is permissible with consent.

(iii) Other LLEP provisions

The LLEP contains a number of provisions which are relevant to the proposal. Assessment of the application against the relative provisions is provided below. The proposal generally demonstrates compliance with the provisions.

Clause	Provision	Comment
Clause 4.3 Height of buildings	15 meters	No building works are proposed. The building height (15m) will not change as a result of this proposal.
Clause 4.4 Floor space ratio	FSR 1:1	The proposal does not seek to enlarge the building.
Clause 5.10 Heritage conservation	Development consent is required any development of the site if the site is heritage listed.	The site is not identified as heritage listed.
Clause 5.11 Bush fire hazard	Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.	The site is not in bush fire prone.
Clause 7.6 Environmenta lly significant land	This clause provides provisions relating to development on environmentally significant land.	No trees are proposed to be removed with this proposal.
Clause 5.21 Flood Planning	This clause contains provisions relating to development on flood prone land.	The site falls within the indicative extend of inundation for 1% AEP flood. This aspect has been reviewed by Council's Floodplain Engineers who have raised no issues. Therefore, no flood related conditions were recommended.

6.2 Section 4.15(1)(a)(ii) – Any Draft Environmental Planning Instrument

There are no draft Environmental Planning Instruments which apply to the development.

6.3 Section 4.15(1)(a)(iii) – Provisions of any Development Control Plan

(a) Liverpool Development Control Plan (LDCP) 2008– Part 1 General Controls for All Development

Development Control	Provision	Comment	Complies
Section 2. Tree Preservation	Controls relating to the preservation of trees	The application does not propose the removal of vegetation.	N/A
Section 3. Landscaping and Incorporation of Existing Trees	Controls relating to landscaping and the incorporation of existing trees.	The application does not propose the landscaping.	N/A
Section 4. Bushland and Fauna Habitat Preservation	Controls relating to bushland and fauna habitat preservation	The area on which development does not contain bushland and fauna habitat.	N/A
Section 5. Bush Fire Risk	Controls relating to development on bushfire prone land	The site is not identified as being bushfire prone land.	N/A
Section 6. Water Cycle Management	Stormwater runoff shall be connected to Council's drainage system by gravity means. A stormwater drainage concept plan is to be submitted.	The application does not propose drainage works.	N/A
Section 7. Development Near a Watercourse	If any works are proposed near a water course, the Water Management Act 2000 may apply, and you may be required to seek controlled activity approval from the NSW Office of Water.	The development site is not within 40m of waterfront land, as confirmed by the NSW Office of Water.	N/A
Section 8. Erosion and Sediment	Erosion and sediment control plan to be submitted.	A Soil and Water Management Plan and a Sediment and Control Plan is submitted with the application.	Yes

Development Control	Provision	Comment	Complies
Control			
Section 9. Flooding Risk	Provisions relating to development on flood prone land.	Council's Floodplain Engineers have reviewed this aspect of the application and have raised no issues.	Yes
Section 10. Contaminated Land Risk	Provisions relating to development on contaminated land.	No significant subsurface disturbance activities are proposed. It is considered that there is an existing facility that was approved and no proposed building work that no further contamination assessment is required.	Yes
Section 11. Salinity Risk	Provisions relating to development on saline land.	The development site is identified as containing low salinity potential by the State Government's Salinity Potential in Western Sydney Map. However, submission of a Salinity Management Response is not warranted.	Yes
Section 12. Acid Sulphate Soils	Provisions relating to development on acid sulphate soils	The site is not identified as containing the potential for acid sulfate soils.	N/A
Section 13. Weeds	Provisions relating to sites containing noxious weeds.	The site is not identified as containing noxious weeds.	N/A
Section 14. Demolition of Existing Development	Provisions relating to demolition works	Demolition works are not proposed.	N/A
Section 15. On Site Sewage Disposal	Provisions relating to OSMS.	The site has access to a reticulated sewerage system.	Yes

Development Control	Provision	Comment	Complies
Section 16. Aboriginal Archaeology	An initial investigation must be carried out to determine if the proposed development or activity occurs on land potentially containing an item of aboriginal archaeology.	The site is not identified as a heritage site or within the immediate vicinity of a heritage item. It is unlikely that the proposed site would contain the potential for aboriginal archaeological as the site has been developed.	N/A
Section 17. Heritage and Archaeological Sites	Provisions relating to heritage sites.	As above	N/A
Section 18. Notification of Applications	Provisions relating to the notification of applications.	The development application was notified. No submissions were received objecting to the application.	Yes
Section 19. Used Clothing Bins	Provisions relating to used clothing bins.	The DA does not propose used clothing bins.	N/A
Section 20. Car Parking and Access	<p>This section contains provisions relating to car parking and access. Chapter 20.3, Table 11 Car Parking, Servicing and Loading Provision requires:</p> <ul style="list-style-type: none"> Materials recycling or recovery centre <p>A Traffic Report to be submitted</p>	<p>A Traffic Impact Assessment was submitted. This was reviewed by Council's Traffic Engineers, who have raised no issues subject to conditions.</p> <p>Prior to the issue of CC, the applicant is to provide a detailed design of the parking provision including formalising the nine (9) informal parking spaces and the additional parking spaces (2) and the disabled parking space as recommended in the TIA.</p> <p>The design is to be accompanied by swept path diagrams using the longest vehicles expected on site.</p> <p>The applicant is also to be requested to prepare a parking management plan prior to the issue of occupation certificate.</p>	Yes

Development Control	Provision	Comment	Complies
Section 21. Subdivision of Land and Buildings	Provisions relating to the subdivision of land.	Subdivision is not proposed.	N/A
Section 22. and Section 23 Water Conservation and Energy Conservation	New dwellings, are to demonstrate compliance with State Environmental Planning Policy – Building Sustainability Index (BASIX).	Water from vacuum trucks will be recycled for use in truck washout and hydro excavation activities. Excess water will be treated to trade waste specifications and discharged to sewer, with prior approval from Sydney Water	Yes
Section 24. Landfill	This section applies to development, which involves cutting and or filling of land. It does not involve land cut and filling in conjunction with a development application for a building(s).	Landfill is not proposed.	N/A
Section 25. Waste Disposal and Re-use Facilities	Provisions relating to waste management during construction and on-going waste.	General waste and recycling bins will be provided for the plant operators, truck drivers, and administrative staff at the site. A waste management plan has been submitted and is found to be satisfactory.	Yes
Section 26 Outdoor Advertising and Signage	Provisions relating to signage.	Signage under this proposal will be unobtrusive and will not be reflective or create glare. Signage will be limited to a business identification sign at the fence boundary to Centenary Avenue, and internal vehicle movement and parking signage. The fence boundary sign will be no more than 10m ² in area, in accordance with clause 26.2 of the Liverpool DCP.	Yes

Development Control	Provision	Comment	Complies
Section 27 Social Impact Assessment	Provisions relating to social impact assessments	The development does not require comment in relation to social impact.	N/A

(b) Consideration of LDCP 2008 – Part 7 Development in Industrial Areas

Control	Requirement	Proposed	Complies
Section 11 – Change of Use of Existing Building	Where a change of use is proposed to an existing development that will result in a significant impact on adjoining or nearby properties or on traffic movements may not be permitted.	No work is proposed on the administration building. The shed use will be converted for the processing of NDD slurry processing and a vehicle maintenance workshop. This involves the installation of Hydro Vac Recycling and Resource Recovery (HVRRR) equipment, excavation for a drainage pit, and operation of part of the site as a truck maintenance area.	Yes
	<u>Building Appearance, Street</u> All buildings on site shall if needed be upgraded to comply with the Building Code of Australia.	The application does not propose any building work	N/A

	<p><u>Car Parking and Access</u></p> <ol style="list-style-type: none"> 1. Where the new use requires more car parking than is currently provided, it shall where possible increase the car parking and loading provisions to meet the requirements of the DCP, subject to compliance with other provisions of the DCP. 2. Where a new use results in additional traffic generation it may be necessary to adjust the access driveways to suit the traffic generation. Refer to Part 1 of the DCP for details on access provisions. 	<p>No changes to car parking arrangements.</p> <p>There is sufficient hardstand within the site to allow a full turning circle for the Hydro-VAC MRVs. All vehicles are able to enter and exit the site in a forward direction. Loading areas for MRVs are located within the shed and are not in direct view of the street.</p> <p>The existing administration building has 6 passenger vehicle car spaces. Additional spaces are proposed as outlined in Section 7.5.</p> <p>This aspect has been reviewed by Council's Traffic Engineers, who have raised no issues subject to conditions.</p>	<p>Yes</p>
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	<p><u>Landscaping and Fencing</u></p> <p>Landscaping shall be provided according to Part 1 of the LDCP 2008.</p>	<p>No changes to the landscaping and fencing. The site has approximately 70m² of landscaping within the site boundary. Additionally, there is a 13m setback from the street with a grassy verge and plantation of three mature trees and some small shrubs.</p> <p>One tree will be added to the landscaped area at the Centenary Avenue frontage to both increase canopy coverage for the site, as well as assist to screen the site from the street.</p> <p>Planted vegetation on the site setback features mature trees and small shrubs. The planted area does not impose on visibility to vehicles entering and exiting the site. An additional tree will be planted with this proposal to increase canopy coverage at the site, as per Council's Pre-DA advice dated 14 July 2020.</p> <p>The site is fenced with 1.2m tall wire mesh fence at the Centenary Ave frontage.</p>	<p>Complies.</p>
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	<p><u>Amenity and Environmental Impact</u></p> <p>Any extension of hours outside the existing hours of operation or outside the hours of 6.00am to 6.00pm shall require consent from Council.</p> <p>The new use shall not compromise the amenity of the locality in any greater different or additional way than the existing use.</p>	<p><u>No processing operations will occur outside of the shed.</u></p> <p><u>The site will be kept tidy.</u></p> <p>Proposed to operate 24 hours 7 days</p>	<p>Considered</p> <p>See discussion below</p>
	<p>A previous development application (DA-607/2004) was approved for "Processing of wastes". In conjunction with this approval the site was operating and processing below 30,000 tonnes per year of waste materials 24 hours seven day, where EPA licensing threshold was 30,000 tonnes to operate without license. On 1/11/2014, the <i>Protection of the Environment Operations (Waste) Regulation 2014</i> was amended, and EPA licensing threshold is reduced to 6000 tonnes, subsequently, require DA approved to obtain license to operate up to 28,000 tonnes.</p> <p>The applicant indicated that since 2014 the site is processing waste up to 6000 tonnes and was not operating 24/7. However the current proposal is to operate 24 hours 7 days.</p> <p>The impact of this operation was assessed extensively and in detail in the EIS including aspects of Air Quality and Odour, Noise and Vibration, Soil and Water, Soils and contamination, Flooding, Traffic and Transport, Visual Impacts, Heritage, Biodiversity and Hazards. It concludes that:</p> <ul style="list-style-type: none"> • The Proposal demonstrates consistency with the relevant planning instruments and addresses the issues identified in the SEARs; • The Site is suitable for the proposed development and land use as it is complimentary to the overall Moorebank industrial area and does not result in any undue impacts; • The Proposal's environmental impacts can be appropriately mitigated <p>In addition, is considered that the amenity of the locality would not be compromised because of following reasons;</p> <ul style="list-style-type: none"> - The site is approximately 100m of a residential zone (to the east) and the application is accomplished with noise assessment report and odour management plan. - These reports were reviewed by EPA and provided General Terms of Approval. - This application was considered by Council's Environmental Health section and supported with conditions. 		

	<u>Site Services</u> Any adjustments required to any Council infrastructure in conjunction with the change of use shall be at no cost to Council.	No changes to the site services	Complies. The established set up is considered satisfactory.
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6.4 Section 4.15(1)(a)(iia) - any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

No offer or draft offer to enter into a voluntary planning agreement has been made.

6.5 Section 4.15(1)(a)(iv) - the regulations

The Environmental Planning and Assessment Regulation 2021 requires the consent authority to consider the provisions of the NCC and the Safety standards for demolition (AS 2601 – 2001). Accordingly, appropriate conditions of consent will be imposed.

6.6 Section 4.15(1)(b) - the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

(a) Natural and Built Environment

The impacts of the development on the natural environment have been assessed and the development is considered to be acceptable and unlikely to cause any adverse impact to the natural environment.

(b) Social Impacts and Economic Impacts

The proposal is unlikely to cause any adverse social impacts in the locality. The site is currently not operational and the proposed development when approved and functioning will provide socio-economic benefit to the local community.

The proposal will provide opportunities for additional employment of up to 28 full-time operational staff members to work at the HVRRR. Proposal operations would also contribute to the distribution of locally sourced aggregate and treated drilling mud for reuse in civil infrastructure projects across the Sydney metropolitan area.

The proposal will generate positive social impacts through increased local, long-term employment and indirect environmental benefits to the community.

6.7 Section 4.15(1)(c) - the suitability of the site for the development

The site is situated within an established industrial precinct at Moorebank. The locality is characterised by similar industrial development of comparable scale – generally consisting of warehouse complexes and small industrial units.

The proposal is generally consistent with all relevant planning strategies, environmental planning instruments and development control plans (DCPs).

As the proposed development is contained within the footprint of the existing warehouse building.

6.8 Section 4.15(1)(d) - any submissions made in relation to the development.

(a) Internal Referrals

The following comments have been received from Council's Internal Departments:

Agency	Response
City economy	Supported
Environmental Health	Supported with conditions
Traffic	Supported with conditions
Flooding	Supported with conditions

(b) External Referrals

The following comments have been received from External Authorities:

Agency	Response
Transport for NSW	No objection
Natural Resources Access Regulator (NRAR)/ DPE (Water	No referral was required
Endeavour Energy	No objection, subject to conditions
Sydney Water	No objection, subject to conditions
NSW EPA	GTA provided with conditions

(c) Notification and Community Consultation

The development application was advertised between 17 June to 20 July 2022 in accordance with the Liverpool Community Participation Plan. No submission was received objecting to the application.

As part of the EIS, an information sheet was prepared by the applicant and distributed to all landowners and occupiers within a 200m radius of the site. Businesses and residences in the designated area were subject to a letter box drop in November 2020 to distribute information regarding the proposal and discuss any issues of potential concern. No responses were received following distribution of flyers from neighbouring businesses or residents.

Consultation with relevant agencies was undertaken in accordance with the requirements set out in the SEARS including Liverpool City Council.

6.9 Section 4.15(1)(e) - the public interest

The proposal is considered to be in the public interest on the basis that it is consistent with development standards in Council's LLEP and presents a positive development outcome. The positive benefits of the proposal are considered to outweigh any potential negative impacts. Overall, it is unlikely that the development would detrimentally impact the environment, or the amenity of the locality and its impacts are considered to be reasonable and acceptable.

As a result of the additional information and amendments to the application made by the applicant in consultation with Council and the various stakeholders discussed in this report, it is considered that the development of the town centre core east is in the public interest.

7. CONCLUSION

In conclusion, the following is noted:

- The subject Development Application has been assessed having regard to the matters of consideration pursuant to Section 4.15 of the Environmental Planning and Assessment Act 1979 and is considered satisfactory.
- The proposed development has addressed the issues identified in the SEARs and prepared an EIS that was reviewed by NSW EPA providing concurrence by issuing a GTA.
- The proposed development complies with the relevant provisions of the Liverpool Local Environmental Plan 2008 and Liverpool Development Control Plan 2008.
- Conditions of consent will be imposed to minimise any potential negative environmental impacts resulting from the development.
- The proposed development is appropriate for the site and approval is in the public interest.

It is for these reasons that the proposed development is considered to be satisfactory and the subject application is recommended to be approved subject to conditions.

8. ATTACHMENTS

- Recommended Conditions of Consent
- Site Plans
- Fire Safety Plan
- Erosion and Sediment Control Plan
- Traffic Report
- Soil and Water Management Plan and Addendum Report
- Environmental Impact Statement
- Air Quality Statement
- Acoustic Report
- Operational Environmental Management Plan
- Incident Response Management Plan