

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSWC-80
DA Number	DA20/0262
LGA	Penrith City Council
Proposed Development	Resource Recovery Facility for Processing a Maximum of 95,000 Tonnes Per Year of Construction & Demolition (C&D) & Commercial & Industrial (C&I) Waste including Conversion of Existing Dwelling to Office, Internal Driveways, Car & Truck Parking Areas & Associated Infrastructure
Street Address	344 Park Road, WALLACIA NSW 2745
Applicant/Owner	E A Barikhan
Date of DA lodgement	14 May 2020
Total number of Submissions Number of Unique Objections	<ul style="list-style-type: none"> • 1008 • 83 + 3 petitions
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	<ul style="list-style-type: none"> • Schedule 7(5) Private infrastructure and community facilities over \$5 million • In addition, the proposal is Designated Development.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • Environmental Planning and Assessment Regulation 2000 • Biodiversity Conservation Act 2016 • Protection of the Environment Operations Act 1997 • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No. 55 - Remediation of Land • Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River • Draft State Environmental Planning Policy (Western Sydney Corridors) • Penrith Local Environmental Plan 2010 • Penrith Development Control Plan 2014
List all documents submitted with this report for the Panel's consideration	<p>i.e. any:</p> <ul style="list-style-type: none"> • Amended Environmental Impact Statement • Amended Architectural, Civil and landscape plans and perspectives. • Amended technical reports regarding traffic, noise, air quality, water management, wastewater management, waste management. • Detailed site investigation • Amended Biodiversity Development Assessment Report • Concurrence conditions and General Terms of Approval
Clause 4.6 requests	<ul style="list-style-type: none"> • NA
Summary of key submissions	<ul style="list-style-type: none"> • Amenity impacts on existing rural residential/agricultural uses by way of noise (traffic and operational activities), air quality, light spill and visual impact, • Impacts on scenic and landscape qualities and local character, • Traffic, road and intersection impacts, • Impacts on storm water and overland flow paths, • Impacts on waterways from leachate evaporation basin originally proposed • Impacts on biodiversity values and riparian corridors, • Site contamination and matters for consideration under State Environmental Planning Policy No. 55 - Remediation of Land, • Non-compliant on-site sewage management system, and • Inconsistency with strategic plans
Report prepared by	Lauren van Etten, Senior Development Assessment Planner
Report date	7 December 2021

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)?

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

No

Conditions

Have draft conditions been provided to the applicant for comment?

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

No

SWCPP Ref. No.:	PPSSWC-80
DA No.:	DA20/0262
PROPOSED DEVELOPMENT:	Resource Recovery Facility for Processing a Maximum of 95,000 Tonnes Per Year of Construction & Demolition (C&D) & Commercial & Industrial (C&I) Waste including Conversion of Existing Dwelling to Office, Internal Driveways, Car & Truck Parking Areas & Associated Infrastructure - Lot 5 DP 655046,344 Park Road, WALLACIA NSW 2745
APPLICANT:	E A Barikhan
REPORT BY:	Lauren Van Etten, Senior Development Assessment Planner, Penrith City Council

Assessment Report

Executive Summary

Council is in receipt of a development application for a resource recovery facility at 344 Park Road, Wallacia. The proposal includes the construction of a building which will house the receipt, storage, picking and sorting and general maintenance operations of the facility, external driveways, car and truck parking and hardstand areas, on site detention and sewer management areas, a site office, related site clearing, tree removal, landscaping, a biodiversity stewardship agreement, stormwater works, services installation, a new entry and exit driveway and a new entry intersection with Park Road.

The facility is proposed to process a maximum of 95,000 tonnes per annum of commercial, industrial, construction and demolition waste and is proposed to operate 7am to 10pm, with 24 hour operation for maintenance only, seven days per week.

The proposal is identified as being Designated Development under Part 1, Schedule 3 of the Environmental Planning and Assessment Regulation 2000 (the Regulations) and is best defined as *32 Waste management facilities or works*. In accordance with the requirements of Part 4, Section 4.12(8) of the Environmental Planning and Assessment Act 1979 (EP&A Act), the application was accompanied by an Environmental Impact Statement (EIS) prepared by Benbow Environmental.

In accordance with the requirements of Schedule 2, Part 2 of the Regulation, the applicant has sought and been issued the Secretary's Environmental Assessment Requirements (SEARs) dated 5 July 2018 under SEAR-1227 from the Department of Planning, Infrastructure and Environment (DPIE), as delegate. The development application is not identified as being State Significant Development under State Environmental Planning Policy (State and Regional Development) 2011, as the proposed capacity to be processed does not exceed 100,000 tonnes.

The proposal is best defined as a *resource recovery facility* and *waste or resource transfer facility*, both of which are a *waste or resource management facility* under Penrith Local Environmental Plan 2010 (PLEP). The subject site is zoned RU1 Primary Production under the LEP and the use is not identified as being permitted with consent.

Notwithstanding the above, the proposed use as *resource recovery facility* and *waste or resource transfer facility* is a permissible use in the RU1 Primary Production zone as it is a prescribed zone under section 121 of State Environmental Planning Policy (Infrastructure) 2007, with consent.

Key issues identified and resolved throughout the assessment of the application include:

- Inconsistencies in information regarding proposed capacity and hours of operations given 24/7 operations was initially proposed,
- Amenity impacts on existing rural residential and agricultural uses including by way of noise (traffic and operational activities), air quality, light spill and visual impact,
- Impacts on scenic and landscape qualities and local character,
- Traffic, road and intersection impacts,
- Impacts on storm water and overland flow paths,
- Impacts on waterways given the leachate evaporation basin and potential contamination,
- Impacts on biodiversity values and riparian corridors,
- Site contamination and matters for consideration under State Environmental Planning Policy No. 55 - Remediation of Land,
- Non-compliant on-site sewage management system, and
- Inconsistency with strategic context.

A preliminary review of the proposal identified significant matters requiring resolution. Council issued two letters dated 16 July 2020 and 17 September 2020. A meeting was also held with the applicant, at their request. The applicant was advised by letter and during the meeting to withdraw the development application, however the applicant requested an opportunity to address the matters raised in Council's correspondence which was agreed to by Council officers.

A briefing to the Sydney Western City Planning Panel was held on 17 August 2020. A number of matters for further consideration were raised by the Panel. The Panel asked Council officers to ensure their assessment report addresses the proposed 24-hour operations and any resultant traffic, noise, environmental and amenity impacts. The Panel also noted that the proposal is inconsistent with Penrith City Council's long term vision as expressed in the recently adopted Local Strategy Planning Statement. Biodiversity impacts and relevant legislation is to be detailed, and that Council's assessment should address character impacts, bush fire considerations and effluent management and note that the opinion of the EPA, TfNSW and the Western Sydney Planning Partnership are relevant.

The applicant provided an amended package of material via the ePlanning Portal in October 2020, February and August 2021 which has been referred to Council's internal technical experts and ultimately found to be satisfactory.

Key amendments include:

- Clarification on the hours of operations was provided, noting that nighttime operations (after 10:00pm) are maintenance only, with no operations on Sunday, and trucks are restricted to 7:00am-6:00pm Monday to Saturday. Further restrictions are recommended within this report.
- The number of trucks was clarified and consistent among documents at 55 per day, rather than 14 per day as originally proposed.
- The noise report was updated given the frequency of trucks changed the predicted noise levels.
- The air quality report was also updated with additional detailed specifications regarding the extensive misting systems and operational procedures.
- Additional information was provided regarding the size of trucks, swept paths, revised traffic reports and upgrade intersection treatments to TfNSW requests.
- A revised asset protection zone was incorporated, as per Rural Fire Service advice, and tree impacts detailed.
- An amended Biodiversity Development Assessment Report was provided addressing matters raised by Council's Biodiversity Officer
- A biodiversity stewardship agreement was proposed under the Biodiversity Offsets Scheme regarding the exiting vegetation and riparian corridor within the western and southern portion of the site.
- The leachate containment evaporation pond originally proposed to capture any potentially contaminated

surface runoff from sealed areas adjacent to external storage bunkers has been removed from the application.

- Amendments to the stormwater design, associated infrastructure and civil and water quality reports to effectively detain and treat likely stormwater runoff and demonstrate overland flow paths will not be adversely affected.
- A detailed site investigation was provided demonstrating that the site is not contaminated.
- A revised on-site sewage management system was provided which does not conflict with existing vegetation nor biodiversity commitments.
- The number of staff reduced from 30 to 26.

The application is also identified as Integrated Development under section 4.46 of the EP&A Act and as such, has been referred to NSW Environmental Protection Authority (EPA) as the development constitutes a scheduled activity under the Protection of the Environment Operations Act 1997.

The EPA requested further information which was provided by the applicant and subsequently the EPA have issued their General Terms of Approval in a letter dated 24 September 2021 (File no. DOC21/81767, Notice no. 1612422) subject to conditions which are included in the draft conditions attached to this report. The application was amended during the assessment and was re-referred to the EPA. In the most recent response, the EPA noted that modifications to the original proposal that affect the previously issued GTAs include: changes to the number and timing of truck movements per day, revised calculations for predicted noise impacts based on these predicted truck movements. The EPA considers that an Environment Protection Licence can be issued for the updated proposal.

The application was also referred to Transport for NSW (TfNSW) for concurrence under Section 138 of the Roads Act 1993 and under sections 101 and 104 of State Environmental Planning Policy (Infrastructure) 2007.

Transport for NSW issued two requests for information resulting in a redesign of the entry intersection with Park Road which is an RMS Classified road. TfNSW are now satisfied of the design and have issued their concurrence in a letter dated 28 May 2021, subject to conditions. Conditions include the requirement for changes to the entry and exit vehicular movement intersection arrangements, the requirement to include a rural auxiliary treatment, the requirement to design treatments to TfNSW standards, and a restriction to be imposed which limits the longest vehicle entering the site to be a maximum of 19m.

As the site is located directly adjacent to land which is identified as being impacted (future acquisition) for the planned Outer Sydney Orbital (OSO), the application was also referred to the Corridors team of TfNSW. The corridors team have not objected to the proposal and have recommended in letter dated 10/08/2020 that a condition be imposed which requires that the applicant liaise with the Corridors team throughout the construction and implementation of the project.

The application was also referred NSW RFS under Section 4.14 of the EP&A Act. Concurrence and conditions were provided, dated 15 June 2020. The conditions require a greater Asset Protection Zone than what was proposed, while also requiring all combustible waste materials are to be stored inside the building to prevent the ignition of materials from potential bush fire attack (including ember attack). The revised proposal incorporates all RFS requirements in principle, noting no combustible materials are to be stored within the external storage area proposed.

The application was also referred to Endeavour Energy under Section 45 of SEPP Infrastructure with no objections raised, subject to conditions in a letter dated 26 August 2021. Canopy trees within the landscape plan shall be setback from existing wires and a recommended condition is provided in this regard.

The application was also initially referred to the Western Sydney Planning Partnership on 21 July 2020. The subject site is within the Metropolitan Rural Area (MRA) and is very close to the boundary of the Aerotropolis

(300m to the east). The Partnership was concerned about the potential impact of the proposed development on the ability of nearby allotments to fulfil the objectives of the MRA, the Agribusiness precinct and Western Sydney Aerotropolis.

Similarly, the SEARs list "strategic context" first under the key issues heading for the applicant to address in the EIS, stating that the application must demonstrate that the proposal is consistent with all relevant planning strategies, including the Western City District Plan and those related to the Aerotropolis.

Having regard to this strategic context, the proposal, as revised, is considered to adopt satisfactory environmental safeguards to mitigate land use conflict with the surrounding agricultural uses, preserve amenity and preserve and improve biodiversity across the majority of the site. This allows for the preservation of character, habitat connectivity and riparian connections to the Aerotropolis Agribusiness zone which is consistent with the open space framework in the draft Agribusiness precinct plan. Further regarding future character, the built form is not dissimilar from what is anticipated within the height and built form framework in the draft agribusiness precinct plan. However, it is recommended that the hours of operations are further restricted to 7:00am to 6:00pm, Monday to Friday, and 8:00am to 1:00pm on Saturdays to preserve rural amenity. Subject to these conditions, the revised proposal is not considered contrary to the broader strategic planning objectives for the MRA or the Western Sydney Aerotropolis.

The application has been notified to adjoining properties and was exhibited and advertised between 1 June and 1 July 2020 in accordance with relevant legislation. Council received 1008 submissions, including at least 3 petitions and 83 unique submissions. The submissions raise issues including negative impacts on local character, the environment, public health, existing amenity and traffic impacts. A number of submissions also raise that the development will impact on existing agriculture and future agribusiness in the locality. These submissions are considered and addressed throughout this report.

This application is to be determined by the Sydney Western City Planning Panel as the proposed resource recovery facility is Designated Development and has a Capital Investment Value (CIV) of \$10,040,571.37.

An assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to recommended conditions.

Site & Surrounds

The subject site is legally described as Lot 5 in DP 655046 and is known as 344 Park Road, Wallacia. The site is a 20.02Ha allotment located on the southern side of Park Road and consists largely of vegetation with cleared areas closer to the road frontage to Park Road. The site currently contains an older style dwelling house which is no longer in use and ancillary structures. The site also contains several areas where stockpiles of material have been deposited.

A small swale containing water is located at the northern end of the site, forward of the existing dwelling. A series of local dams are attached to a mapped waterway which traverses the southern third of the site. The site is located in the Duncan Creek catchment with creek forming the south boundary of the lot site. Existing local overland flow travel across the subject site towards the north western boundary to Mulgoa Creek catchment.

The Biodiversity Development Assessment Report provide confirms the site contains mapped threatened ecological communities including Cumberland Plains Woodland and Shale Gravel Transition Forest. The site is also identified as containing mapped biodiversity on the NSW Government's Biodiversity Values Map and Threshold Tool. The whole site is also bush fire prone land.

The site shares its immediate western boundary with 334 Park Road, Wallacia which is largely vegetated except for the northern frontage of the site to Park Road, which is cleared and contains a large style rural dwelling with

pool and ancillary structures and is used for large lot residential purposes.

The site shares its immediate eastern boundary with 364 Park Road, Luddenham which contains a dwelling house, pool and ancillary out buildings and is used for rural residential uses.

It is noted that the land at 364 Park Road, Wallacia is identified by TfNSW for investigation as part of a future Outer Sydney Orbital (OSO) roadway. Land for the OSO has not been acquired and there is no time line for the commencement of investigations and no Environmental Impact Statement has been exhibited.

The NSW Government's plan for the Outer Sydney Orbital is currently at consultation stage with properties effected notified. The OSO corridor is approximately 80kms long spans from Box Hill in the north to Menangle in the south of Sydney, where it is proposed to connect to the Hume Highway. A total of 612 properties are impacted. Transport for NSW (TfNSW) have released a map for consultation purposes. The OSO motorway and freight rail line corridor is between 200m and 300m in some locations. The width of the corridor includes environmental treatments including although not limited to stormwater treatment basins and swales, noise walls, fauna crossings, and other elements.

Timing for the future OSO is not yet known however TfNSW state in the Outer Sydney - Orbital Corridor Study - Strategic Environmental Assessment - Draft for Consultation document, that it is likely to be built in stages to complement demand and/or as part of different projects. Proposed interchange/junction locations in the vicinity, include the intersection with the Northern Road, and at Greendale Road. Park Road is currently proposed to bridge over the OSO at Luddenham (OSO Section 3). The TfNSW document identifies (Figure 16, p.79.) the subject site as being part of a strategic ecological communities Regional corridor containing Threatened Ecological Communities.

Number 380 and 384 Park Road further to the east are used for market gardens and agricultural uses and contain agricultural lands, storage dams, rural dwellings, out buildings and rural sheds. Number 380 Park Road has an approval to operate poultry sheds, a review of Council's satellite mapping imagery indicates that there are two x 140m long poultry sheds in operation.

Opposite the subject site to the north are numbers 343-351 Park Road Wallacia, 353-361 Park Road Wallacia and 363 Park Road Luddenham. Number 353-361 Park Road Wallacia and 363 Park Road Luddenham contain rural residential dwellings, ancillary outbuildings and market gardens, dams and agricultural sheds. Number 343-351 contains a rural residential dwelling and out buildings and contains area of stockpiled and scattered material.

The character of the local area is large lot rural residential and agricultural uses.

Holy Family Catholic School and Holy Family Church are located approximately 740m to the east of the site's southern boundary. Luddenham Village centre is located approximately 1.2kms east of the subject site.

Entry to the site is via an unformed single domestic driveway to Park Road which is a two lane Classified road. Park Road spans from Wallacia Village centre approximately 3.5kms to the west, to The Northern Road approximately 1km to the east.

The site is located approximately 13.7kms south of Penrith city centre and is approximately 2.4kms to the north west of lands set aside for the future Western Sydney 'Nancy Bird Walton' Airport.

Council records indicate that two related compliance matters have historically been associated with the subject site and include the unauthorised use of the site to receive and dispose of timber pallets (through mulching); and activities related to the receipt and storage of fill materials, including unclassified materials and soil. These matters were closed out prior to the lodgement of this development application (on 13 May 2020). Council's Compliance Officer has indicated that no further regulatory action would be taken as the unauthorised use of the

premises has ceased.

Proposal

The proposal (as amended) involves the following key elements:

Building Works

- Erection and fit out of an industrial building (5800m² and 11.36m in height) including a maintenance workshop, internal storage bays, a separation, crusher and screener area, an office/amenities building, a reception area, a meeting room and lunchroom.
- Internal storage bays will be constructed of steel frame and plate push walls of formed concrete up to 2.5 m high.
- Installation of an Resource Recovery and Transfer Facility (RRTF) within the building, including a control room, shredder, infeed hopper, conveyor belt, ferrous magnet, waste screens, picking station, air separator and bounce separator.
- The workshop within the building is proposed for routine maintenance activities for the on-site vehicles, RRTF equipment and associated systems, including minor repairs, welding and storage of minor quantities of chemicals such as oils.
- Two internal weighbridges.
- External storage bays along the outer western wall of the building are for aggregates and soil only and will be constructed with 2.5m concrete side walls and covered by an awning.
- 32 car parking spaces and 11 truck parking spaces, noting heavy rigid vehicles will not park onsite.
- A 10,000 litre self-bunded diesel tank is external to the building for refuelling of on-site vehicles such as forklifts, front end loaders and excavators, kerbed and bunded with pump out sump pit.
- Fit out of the existing dwelling to contain another office and amenities
- A concrete 7m wide entry sealed driveway and 5.9m wide exit driveway for one way access, and concrete/asphalt underneath the entire development area.
- Water misting system installed for the building, awning areas and for external storage bays for minimisation of dust generation.
- 5-10m landscaping along the eastern boundary of the site, and security 1.8m high fencing along the boundaries of the construction area with the exception of a gate at the entry/exit. It is noted this exclusion fencing shall not include barbed wire to prevent mortality to flying foxes and bats.
- Wildlife friendly fencing is proposed to the boundaries of the subject site, beyond the development area.
- Installation of an Aerated waste water treatment system (AWTS), associated with the proposed office/amenities building, noting no on-site industrial process will generate wastewater.
- Decommissioning of the existing septic system.
- Installation of rainwater tanks to capture roof water for reuse in the office and amenities or for dust suppression.
- Stormwater infrastructure including pits that contain gross pollutant traps to direct runoff to bioretention filter media areas prior to a sediment detention basin where water monitoring would be undertaken.
- A culvert has been provided under the access driveway (Road 1) to accommodate the existing overland flowpath at the front of the site,
- Tanks supplied by mains water for emergency firefighting purposes.
- Earthworks to establish required levels for the build. The depth of both the cut and fill reaches up to 2 metres.
- Construction and excavation will be restricted to approximately 25% of the total site area (50,000m²). This area would be fenced accordingly with the remainder of the site signposted as "No Go Zones" for biodiversity protection and vegetation management. The revised proposal has been designed to retain the existing vegetation outside the already disturbed areas of the site

Further Details on the Procedural Nature of Use

It is proposed to operate a 'resource recovery facility' that sorts, processes and recycles the following:

- Construction & Demolition Waste including, wood, gyprock – plaster board, concrete, brick, aggregates, roadbase or ballast, asphalt and steel (7:00am to 5:00pm)
- Commercial & Industrial Waste including paper and cardboard, plastic, steel, aluminium, and wood (5:00pm to 10:00pm).

The facility would receive and process up to 95,000 tonnes of the specified waste types per annum. The expected ratio of C&D to C&I is expected to be 7:3.

All waste would be received in covered trucks, unloaded, processed and loaded within the enclosed building. The materials will be sorted through the plant in separate runs, the C&I and C&D will not be mixed to maximise the recovery of recyclables. There would be a storage bunker provided inside the building for the receipt of C&I waste during the day as trucks would not be permitted on site after 6:00pm.

The process includes:

- Any waste is received by the weighbridge, and visually inspected by site manager to inspect for any abnormal contamination.
- The conforming materials are then weighed on the weighbridge and directed further inside the building. If hazardous or non-conforming wastes are found in the unloaded materials, the site manager will segregate the load via the turning bay adjacent to the weighbridge, and arrange for the material to be removed from site immediately.
- The conforming C&I material would be unloaded in a designated storage bunker for processing during the night shift. Loads of C&D material are to be unloaded in the pre-sorting area inside the building for initial separation, followed by crushing and screening works.
- A front end loader would transfer the pre-sorted material to the infeed hopper/shredder at the start of the process or to the appropriate storage bunker.
- The material would be fed into the system and conveyed to an electrical magnet for the removal of steel. Any ferrous material would be separated at this point and fall into a storage bin.
- The waste stream would then be conveyed through a waste screen where aggregates would be removed and further screened into varying sizes and then directed to external storage bunkers via the conveyor system.
- The waste stream would be directed to the manual picking station where it is separated into paper/cardboard, wood, plastic and other waste. Paper and cardboard is transferred to the paper baling area for baling. Bales are stored in a designated area within the building.
- The remaining waste stream is conveyed where it is further separated into recyclables and non-recyclables once unloaded and transported to lawfully licenced recycling facilities and landfill respectively.

The proposed operations have 26 employees.

The proposed works will involve 110 truck movements per day (55 in and 55 out).

The hours of operation of the facility will be as follows:

- Monday to Sunday 24 hours per day with C&D activities between 7:00am and 5:00pm, C&I activities between 5:00pm and 10:00pm and maintenance only between 10:00pm and 7:00am.
- Truck movements and external use of mobile equipment will be limited to 7am to 6pm Monday to Saturday. Gates would be locked at night and no deliveries permitted.
- Sunday would be for maintenance only, if required.

The Proponent will enter into a Biodiversity Stewardship Agreement that will improve and maintain the vegetation within the residual area of the subject site. Refer to Section 1.7 of this report for further details.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Major Infrastructure Corridors) 2020
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Vegetation in non-rural areas) 2017
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy No 33—Hazardous and Offensive Development
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

• **Section 1.7 - Application of Part 7 of Biodiversity Conservation Act 2016**

The development has been assessed in accordance with the matters for consideration under Section 1.7 of the Environmental Planning and Assessment Act 1979 having specific regard to the Biodiversity Conservation Act 2016.

Biodiversity requirements were included in SEAR 1227, including:

- "accurate predictions of any vegetation clearing on site or for any road upgrades",
- "an assessment of the proposal in accordance with the Biodiversity Assessment Method (BAM) including an assessment of any potential impacts on aquatic and riparian vegetation and groundwater dependent ecosystems".

Given some of the land on the property is located on the Biodiversity Values Map, a Biodiversity Development Assessment Report (BDAR) was required according to the BAM

Initially Council's Biodiversity Officer noted there was inadequate information to ascertain the impacts. The plans/maps did not clearly identify the full extent of vegetation removal associated with the development and the boundaries of the asset protection zone were not clear. A plan was subsequently provided in this regard and the likely tree removal within the development footprint, relative to the APZ requirements, was considered negligible. A condition will require a detailed tree retention and removal plan detailing each individual tree and ensure tree preservation where possible.

In relation to the submitted BDAR, there was also concerns with the use of the streamlined assessment process and inadequate justification for the exclusion of candidate species. There was evidence available of several of the listed species located in close association with this site. An amended BDAR was required given the development area indicate that boundaries overlap with the Biodiversity Values Mapped (BVM) area, and the review of all submitted documentation indicates prescribed impacts on the BVM area.

An amended thorough BDAR was then provided by Narla Environmental, dated August 2021, and addressed the concerns raised. Targeted surveys of the threatened species and additional impact assessments for serious and irreversible impacts (SAIL) entities was undertaken. The BDAR concludes that :

"The proponent has selected an area with the least biodiversity values, and has chosen to avoid higher quality bushland in the western and southern portions of the Subject Property. The proposed development is expected to impact one (1) Plant Community Type (PCT): PCT 724 - Broad-leaved Ironbark - Grey Box - Melaleuca decora grassy open forest on clay/gravel soils of the Cumberland Plain, Sydney Basin Bioregion.

This PCT conforms to the Endangered Ecological Community (EEC) Shale Gravel Transition Forest in the Sydney Basin Bioregion. Four (4) ecosystem credits for PCT 724 are to be offset in order to mitigate the impacts upon biodiversity as a result of the proposed development. In order to avoid and minimise potential impacts of the proposal on local biodiversity values, a series of mitigation and management measures have been identified, which are to be implemented as part of any Construction Environmental Management Plan (CEMP) produced for the site. This includes assigning a Project Ecologist to undertake an extensive pre-clearing survey, and to supervise the clearing of all vegetation in relation to the proposed development. The proponent will enter the majority of the undeveloped portion of the Subject Property into a Biodiversity Stewardship Agreement, which will conserve the two threatened ecological communities surrounding the Subject Land"

Council's Biodiversity Officer is satisfied that the 'avoid and minimise' requirements (prior to offsetting) of the Biodiversity Offset Scheme have been adequately addressed. Council's Biodiversity Officer supported the revised BDAR and its recommendations, subject to conditions requiring a Biodiversity Management Plan to be provided relative to the area to be developed. This plan will specify and require implementation of controls to limit the potential for impacts on the residual portion of the land. In addition, Council's officer noted that the site overall, particularly the residual portion, has strong biodiversity values. The impacts zone from the proposed construction footprint is not increasing exponentially with 0.3ha of vegetation to be removed on a site of 20ha. The proposal can adequately offset the ongoing impacts with protection of the remaining vegetation in perpetuity via either an 88b restriction (which will then be managed according to a Vegetation Management Plan, in perpetuity), or a Stewardship Agreement or a Voluntary Conservation Agreement with the Biodiversity Conservation Trust (which will require the residual portion of the land be secured and managed for its improvement, in perpetuity).

A meeting was held on 28 July to discuss the options to secure the biodiversity values of the residual portion of the site and the applicant proposed to enter into a stewardship agreement to conserve the two threatened ecological communities surrounding the subject site. Stewardship agreements are a voluntary application to the Biodiversity Conservation Trust (BCT) under the Biodiversity Offsets scheme. If the BCT approves the application, then the site is managed to improve the condition and the integrity of the biodiversity values of the site. The BCT governs the process for the application and the sites management into the future. Should the Biodiversity Conservation Trust not agree a recommended condition will require the applicant to provide an 88B restriction as an alternative. As previously noted, both options are considered appropriate mitigation efforts to offset impacts.

Overall, mitigation efforts, management of potential impacts through the Biodiversity Management Plan, the retirement of the credit obligation and securing the residual portion of the land to preserve and improve its biodiversity values in perpetuity, are considered appropriate measures to adequately offset the likely biodiversity impacts.

- **Section 2.12 – Sydney Western City Planning Panel (SWCPP)**

The Sydney Western City Planning Panel is the consent authority by virtue of Section 4.5(b) of the *Environmental Planning and Assessment Act 1979*, which states that a regional planning panel is the consent authority for development that is declared by an environmental planning instrument as '*regionally significant development*'. Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011 contains the triggers for development that constitutes '*regionally significant development*'. The development falls within the category of '*regionally significant development*'.

The proposed development meets the category requirements for '*private infrastructure and community facilities over \$5 million*', which includes a waste or resource management facility. The proposed cost of works is greater than \$10 million thus taking the proposal above the \$5 million threshold.

In addition, the proposal is Designated Development. A second category in Clause 7 of Schedule 7 of the

SEPP (State and Regional Development) is '*particular designated development*', which includes waste management facilities or works which meet the requirements for Designated Development. The triggers for Designated Development are contained in Clause 32 of Schedule 3 of the Environmental Planning and Assessment Regulations. Refer to the regulations section of this report for further detail.

- **Section 4.14 - Bushfire prone land assessment**

The development has been assessed in accordance with the matters for consideration under Section 4.14 (Consultation and development consent—certain bush fire prone land) of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following points are made.

The site is mapped as being bush fire prone. The application was submitted with a Bushfire Protection Assessment, prepared by Bushfire Consulting Services, dated 20 April 2020. The document states that the bushfire risk posed to the buildings will be reduced to an acceptable level of risk through an appropriate combination of bushfire protection measures including asset protection zones, and regarding water supply, access, electricity and gas services, storage of hazardous materials, and emergency evacuation planning.

The application was referred to the Rural Fire Service (RFS) for advice given the scale of the proposal. The RFS has raised no objections, subject to conditions as set out in its advice letter dated 15 June 2020 (DA20200529001898-Original-1).

It is noted that the RFS required that all combustible waste materials are to be stored inside the building to prevent the ignition of materials from potential bush fire attack (including ember attack). The proposal originally included areas of open storage which was contrary to these requirements. The applicant subsequently confirmed that the types of material/classification of aggregates and soil which are proposed to be stored in the outdoor bunkers are non-combustible. The maximum storage capacity and waste type for each bunker was shown on the updated site plans.

In addition, the RFS conditions included an inner protection area (IPA) of various distances between 21 and 100m around the facility which is to be maintained in perpetuity, that property access roads comply with Table 7.4a of Planning for Bush Fire Protection 2019, and that the construction quality of the facility and ancillary office building is to achieve certain Bush Fire Attack Level (BAL) ratings, to specified Australian Standards.

A response to the conditions was requested which explains how compliance with the RFS requirements may alter or impact the design of the development or proposed operations. The response was requested to provide detail in particular with regard to impacts on trees and other vegetation and was to include input from the relevant consultants as it was not clear if the full extent of the inner protection area (IPA) and asset protection zones (APZ) had been included in the assessed area by the ecological consultant.

Additional information confirmed that the RFS have determined the APZ to correlate with the existing clearings so as to best protect the development, existing and proposed, as a mechanism to retain the area in its current form into the future, as they were concerned about the storage on site of combustible waste materials. They advised that the extent of the large APZ combined with the construction requirements and other items in their letter provided for a satisfactory performance solution.

In addition, it was confirmed in the revised BDAR that there would be negligible additional impacts on trees and other vegetation as a result of the RFS requirements noting that an Inner Protection Area (IPA) can retain 15% tree canopy cover to certain requirements and the area of canopy cover currently comprises approximately 5.5%. Further, the BDAR anticipates the native groundcovers and grasses are also viable despite the IPA trimming/slashing requirements. The APZ considered in the BDAR covers the entire extent required by RFS. Therefore, the proposed development complies with the Asset Protection Zones required by the RFS.

Should consent be granted, a condition of consent is recommended to be included to require compliance with the RFS conditions.

In accordance with Section 4.14(1)(a) and (b) of the Act, the consent authority can be satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the Regulations) of the document entitled Planning for Bushfire Protection, that are relevant to the development.

- **Section 4.15 - Evaluation**

The proposed development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration.

- **Section 4.46 - Integrated development**

The proposed development has been assessed in accordance with the matters for consideration under Section 4.46 of the Environmental Planning and Assessment Act 1979.

The application was lodged as Integrated Development in accordance with Section 4.46 of the Act as it includes a number of scheduled activities as defined by clauses 34 and 42 under the Protection of the Environment Operations Act 1997. Specifically, the proposal involves processing more than 6,000 tonnes of waste per year and storing more than 1,000 tonnes of waste on site at any one time. This constitutes integrated development and requires an Environment Protection Licence (EPL).

Initially, the EPA raised some concerns regarding air quality, given the proximity of the site to surrounding existing low-density residential development and requested further information in relation to a number of matters. The assessment was then updated to include a full inventory to enable the EPA to re-calculate each emission rate, the wind rose plots for the referenced local meteorological station were updated to demonstrate local wind trends and potential air quality impacts on surrounding sensitive receivers. The summarised "All Seasons" wind rose plot was amended, and now satisfactorily reflects a combination of each of the wind rose plots for the individual seasons. Furthermore, adequate justification was provided as to why the year 2015 has been selected as the representative meteorological year of reference for assessing meteorology and local air quality.

Clarification was also sought and provided that an Operational Environmental Management Plan (OEMP) is proposed in addition to a Construction Environmental Management Plan (CEMP), which will include an air quality control procedure, including dust mitigation measures.

The EPA also requested further information in the form of detailed cut and fill plans and detail regarding the existing stockpiles on the site and their intended use. It was confirmed that all excavated material would be retained on site for the purposes of cut and fill. The stockpiles of soil would also be used for levelling purposes. This stockpiled material has been sampled and tested and has been found to be suitable for reuse on site.

It was understood that a recovered aggregate stockpile meets all chemical and other material requirements for recovered aggregate under the NSW EPA Recovered Aggregate Order 2014 ('the Aggregate Order' and will be reused on site.

Further, it was confirmed that two stockpiles of wood waste intended to be sorted, screened, shredded and used as mulch on future gardens on site.

A stockpile of building and demolition waste at the premises is also intended to be kept on site and processed through the facility should the development application be approved. Appropriate measures should

be put in place to prevent environmental impacts from the stockpile whilst it is stored on site. The EPA also notes that this stockpile would be included as part of the authorised amount if it were to be processed through the licensed facility.

The EPA has reviewed the information provided and has determined that it is able to issue a licence for the proposal, subject to conditions, and thus issued their General Terms of Approval (GTAs).

- **Section 7.12 - Developer Contributions**

In accordance with Penrith City Section 7.12 Citywide Development Contributions Plan For Non-Residential Development the proposed industrial development generates the following development contribution.

Estimated cost of work \$10,040,571.37 x 1% = \$100,406

A recommended condition of consent will ensure the development contribution is paid prior to the issue of a Construction Certificate.

Section 4.15(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy (Infrastructure) 2007

2 Aim of Policy

"The aim of this Policy is to facilitate the effective delivery of infrastructure across the State by—

- (a) improving regulatory certainty and efficiency through a consistent planning regime for infrastructure and the provision of services, and*
- (b) providing greater flexibility in the location of infrastructure and service facilities, and*
- (c) allowing for the efficient development, redevelopment or disposal of surplus government owned land, and*
- (d) identifying the environmental assessment category into which different types of infrastructure and services development fall (including identifying certain development of minimal environmental impact as exempt development), and*
- (e) identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development, and*
- (f) providing for consultation with relevant public authorities about certain development during the assessment process or prior to development commencing, and*
- (g) providing opportunities for infrastructure to demonstrate good design outcomes."*

The proposal will recover valuable materials from waste streams and divert these from landfill in accordance with the principles of sustainability and the circular economy. In particular, the aims including providing *"greater flexibility in the location of infrastructure and service facilities"* i.e. a resource management facility. The proposal is considered consistent with the aims of this Policy.

Part 3, Division 5, Subdivision 2 Development likely to affect an electricity transmission or distribution network

State Environmental Planning Policy (Infrastructure) 2007, Clause 45(1)(b)(iii), applies to any development carried out within 5m of an exposed overhead electricity power line. Clause 45(2) states that written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, shall be given before determining a development application and the consent authority must take into consideration any response to the notice.

Endeavour Energy provided comment on 26 August, 2021 advising no objection was raised to the proposal

subject to certain recommendations and comments, particularly requiring amendment to the landscape plan to ensure no canopy trees are inappropriately placed relative to the power lines. A condition will ensure the landscape plan is amended accordingly.

Part 3, Division 17, Subdivision 2 Development in or adjacent to road corridors and road reservations

Park Road is a Classified road and as such, the proposed development was referred to TfNSW for their concurrence under the provisions of State Environmental Planning Policy (Infrastructure) 2007 in addition to Section 138 of the Roads Act 1993.

The development application proposes alterations to an existing driveway from Park Road, the addition of a new access driveway and intersection treatments to Park Road. The driveway, road and intersection works include:

Entry/exit intersection

- The installation of a rural auxiliary left turn treatment to Park Road,
- Alterations to the overall width and alignment of Park Road in this location, including driveway access, and shoulder widening.

Property access alterations

- The proposed road and intersection works will alter existing vehicle access and egress availability for vehicle movements to and from the residential development at 353 – 361 Park Road.

Clause 101 Development with frontage to classified road

The objectives of this clause are:

- (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads, and*
- (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

The clause includes at (2) that 'The consent authority must not grant consent to development on land that has frontage to a classified road unless it is satisfied that -

- (a) where practical and safe, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of-*
 - (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*
- (c) 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'.*

The proposal was referred to TfNSW in May 2020. In its response dated September 8 2020, TfNSW requested additional information related to various aspects of the proposal to which the applicant provided a response.

In a subsequent letter dated 3 December 2020, TfNSW requested further additional information related to

inconsistencies regarding the largest vehicles included and truck delivery capacity, inadequate swept paths, inadequate assessment of the impacts of sight distances at the proposed access point on Park Road, and unsatisfactory proposed access arrangements and intersection treatments at the entry to the site from Park Road.

Additional information was provided confirming that truck deliveries and despatches would be restricted to the hours of 7am to 6pm Monday to Saturday and the largest vehicle to access the site is to be restricted to 19 metres. A basic right turn and basic left turn were proposed. Swept paths were provided to show how simultaneous entry/exit can be achieved at the access. A revised Traffic and Parking Impact Assessment Report was provided including an assessment regarding the intersection treatments required at the entry to the site from Park Road.

The Access intersection treatment was designed by Stanbury Traffic Planning in consultation with TfNSW. A concept design in accordance with relevant AUSROADS requirements was prepared and indicated the extent of the pavement widening required on both sides of Park Road.

Further, shoulder widening and a driveway splay was incorporated, demonstrating how conflicting traffic movements will be managed at this location given the access is opposite an existing access to the property on the other side of Park Road.

TfNSW raised no objections on 28 May, 2021, subject to their recommended conditions. However, TfNSW did note that the intended use for the site will generate heavy vehicle movements. With the access located on a downhill gradient, with one lane for through traffic and a speed limit of 80km/h, a formalized left turn auxiliary lane will be required to adequately remove slowing vehicles from the through traffic.

An assessment has been undertaken of the proposed development having regard to the clause objectives and the matters under clause 101 and it is assessed that the proposal complies with the objective and the matters for consideration in this subdivision of the Policy.

Clause 104 Traffic generating development

The proposal is identified as being traffic generating development under Schedule 3 of the Policy. As detailed above, the proposal was referred to TfNSW and concurrence has been granted.

Part 3, Division 23 Waste or Resource Management Facilities

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

Clause 121 provides for the development of a 'waste or resource management facility' to be carried out by person with consent on land in a prescribed zone. In this case, the RU1 Primary Production zone is considered a prescribed zone and the proposed waste or resource management facility is permissible with consent.

There are no other provisions of this policy relevant to the proposed development. The application is considered to be satisfactory having regard to the relevant provisions of this Policy.

State Environmental Planning Policy (Major Infrastructure Corridors) 2020

The subject site is not identified as being subject to the Policy and the site is not located in close proximity to any Major Infrastructure Corridors identified in the Policy maps.

State Environmental Planning Policy (State and Regional Development) 2011

In accordance with Section 2.12 of the Environmental Planning and Assessment Act 1979, the Sydney Western City Planning Panel (SWCPP) is the determining authority for this application as the proposal is identified a regionally significant development under the provisions of State Environmental Planning Policy (State and Regional Development) 2011.

Documents submitted with the application identify that the proposal has a combined Capital Investment Value of \$10,040,571.37.

As previously detailed, the application will have a CIV > \$5 million and thus meets the category requirements for 'Private infrastructure and community facilities over \$5 million' under Schedule 7 Regionally significant development under State Environmental Planning Policy (State and Regional Development) 2011.

State Environmental Planning Policy (Vegetation in non-rural areas) 2017

The aims of the Policy included under clause 3 include:

*(a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State and
(b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.*

The SEPP is applicable to the Penrith LGA but does not apply to the subject site and proposed development, pursuant to clause 5(b), to RU1 –Primary Production land.

State Environmental Planning Policy (Western Sydney Aerotropolis) 2020

An assessment of the development proposal has been undertaken against State Environmental Planning Policy (Western Sydney Aerotropolis) 2020.

The subject site is not identified as being within the Aerotropolis boundary and is located to the west of the Agribusiness precinct within the greater Metropolitan Rural Area (MRA). Although the subject site is outside the Aerotropolis boundary, clauses under Part 3 *Development controls - Airport safeguards* apply to lands outside the Aerotropolis boundary. The development controls under Part 3 include controls related to aircraft noise impacts, wind shear and turbulence, wildlife hazards, wind turbines, lighting, air space operations and public safety.

Notwithstanding the above, the saving provisions at clause 53 clarify that a development application for development on land to which this Policy applies that was lodged and not finally determined before the commencement of this Policy is to be determined as if this Policy has not commenced. State Environmental Planning Policy (Western Sydney Aerotropolis) 2020 was made on 1 October 2020. As the application was lodged on 14 May 2020 (before the commencement of the Aerotropolis SEPP) it qualifies for this savings provision. The subject Development Application is to be determined as if the Aerotropolis SEPP had not commenced. The SEPP is not a consideration for assessment.

State Environmental Planning Policy No 33—Hazardous and Offensive Development

State Environmental Planning Policy No. 33 – Hazardous and Offensive Development (SEPP 33) aims to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact.

A preliminary risk screening of the proposed development has been undertaken, as detailed within the Environmental Impact Statement. In brief, the site will store minor quantities of chemicals and/or dangerous goods. One (1) self-bunded 10,000 L diesel tank will be located on site for refuelling vehicles and machinery. LPG cylinders will be used on forklifts. Other stored chemicals will mostly be used for maintenance purposes and include degreasers, oils and lubricants as well as welding gases. These chemicals will be stored in designated areas within the main building.

The quantities of dangerous goods do not exceed the threshold quantities for applying SEPP 33. Council's Environmental Management Officer reviewed the proposal and raised no objection or requests in this regard.

As the facility is not classified as potentially hazardous, it is not necessary to prepare a Preliminary Hazard Analysis for the facility and SEPP 33 does not apply

State Environmental Planning Policy No 55—Remediation of Land

An assessment has been undertaken of the proposal against relevant criteria within State Environmental Planning Policy No. 55—Remediation of Land.

This SEPP requires that the consent authority is satisfied that the site is either suitable for the proposed use in its current state, or, can be made suitable after remediation.

Council's Environmental Management Officer reviewed the revised proposal and raised no objection, subject to recommended conditions, noting several key aspects, as outlined below.

Initially, the Limited Phase II Environmental Site Assessment prepared by Benbow Environmental, dated 7 May 2020, ref 131918_PhaseII_Rev3), contained an inadequate number of sampling locations to adequately characterize the entire footprint of the proposed development, including samples taken from the various piles of unidentified materials located along the western portion of the proposed development footprint. In accordance with the NSW EPA Contaminated Sites - Sampling Design Guidelines, for a development footprint with an approximate size of 3.9 hectares, a total number of 45-50 sampling locations are recommended. This was requested by Council to test for appropriate parameters to determine whether or not the subject property is in a suitable state for the proposed development.

In addition, a Detailed Phase II Investigation was requested to be provided in particular owing to past unauthorised activities and the known importation of fill and waste materials. This was to be prepared by a suitably qualified environmental consultant, and was to consider the relevant NSW Environment Protection Authority Guidelines and the National Environment Protection (Assessment of Site Contamination) Measure.

Following on from meetings with the applicant, a Phase II Detailed Site Assessment prepared by Benbow Environmental (dated 6 august 2021, ref 191318_03_DSI) was submitted to Council for review. The Assessment provides an adequate review of the site history, as well as an appropriate number of samples, with appropriate coverage locations to investigate the specific areas of concern as raised by the Environment Team. The Detailed Site Investigation has concluded that soils in the three (3) areas of concern are not contaminated and the site is considered suitable for the proposed use.

In addition, in relation to the EPA's requests regarding the existing stockpiles the following summary is noted. The 7 samples taken from existing stockpiles of material to be classified on the property, the Limited Phase II Environmental Site Assessment prepared by Benbow Environmental (dated 7 May 2020, ref 191318_phaseII_Rev 3) summarises that "results of 7 soil samples conducted on the stockpiles materials from the eastern perimeter were well under the Excavated Natural Material Order (2014) criteria. However, due to the presence of sulfidic ores fractionally above the limit of reporting, these materials cannot be classified as Excavated Natural Material (ENM). This material is likely to comply with the NSW EPA The Recovered Aggregate Order (2014). Additional testing was required to determine whether the material satisfies the requirements under the recovered aggregate order can be used for purposes listed under the corresponding exemption". An additional document prepared by Benbow Environmental (dated 31 July 2020, ref 191318_AGG Analysis_Rev1) was provided which shows that additional sampling has been undertaken on these subject stockpiles. The sample results indicate that the material meets the requirements of the NSW EPA The Recovered Aggregate Order (2014). Therefore, the material is suitable for re-use on the subject property for road making activities, building, landscaping and construction works in line with Section 7 of the NSW EPA The Recovered Aggregate Order (2014).

Having regard to the above, it is considered that the site is suitable for the proposed development in accordance with Clause 7 of SEPP 55.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the proposal against the relevant provisions of Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No. 2—1997) as detailed below.

Aims of the Plan

The aim of the plan under clause 3 of the Policy is *'to protect the environment of the Hawkesbury Nepean River system by ensuring that the impacts of future land uses are considered in a regional context'*.

A number of mapped watercourses occur within the 1500m buffer surrounding the subject site, including a mapped 2nd order stream within the south of the subject site, more than 80m south of the proposed development area. The watercourses within the 1500m buffer are tributaries that form part of the Hawkesbury-Nepean Catchment.

It is assessed that the impacts on waterways resulting from the development proposal, and which relate to its construction and ongoing use, can be managed satisfactorily through the imposition of conditions of consent and by the proposed stormwater works, water sensitive urban design plan and strategy and through the civil works.

Information has been provided in relation to the existence of ground water and in relation to flooding. Documents and plans indicate that the development area will be located in areas which will not be impacted by a 1 in 100 year flood and will not affect or be affected by overland flow paths. Further, no groundwater was identified by the getoech report investigations. Stormwater can be managed in an acceptable manner and Council's development engineer has not raised objections to the development proposal in this regard.

Refer to discussions elsewhere in this report in relation to biodiversity and site contamination.

Clause 4 and 5 - Considerations

Clause 4 of the Policy states that *'The general planning consideration set out in clause 5, and the specific planning policies and related recommended strategies set out in clause 6 which are applicable to the proposed development, must be taken into consideration:*

(a) by a consent authority determining an application for consent to the carrying out of development on land to which this plan applies.

Clause 5 of the Policy contains the general planning considerations which are:

(a) the aim of this plan,

(b) the strategies listed in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy [Action plan], and

(c) whether there are any feasible alternatives to the development or other proposal concerned, and

(d) the relationship between the different impacts of the development or other proposal and the environment, and how those impacts will be addressed and monitored.

In relation to the matters listed above, the following is noted:

- In relation to sub-clause 5(a), the proposed development is assessed to be compatible with the aims of the Policy, as detailed above.

- In relation to sub-clause 5(b), the Action Plan notes that the Hawkesbury-Nepean catchment is of national significance and that its catchment supplies 97% of the reticulated water for 4.13 million people

living in Sydney (2001). The Action Plan notes that groundwater is an important resource as part of the catchment and that vegetation management and re-vegetation play important roles in waterway health. Section 6 of the Plan relates to biodiversity and states that *'conservation and restoration of native biodiversity needs to be actively encouraged and supported across the landscape as a whole, as an integral element of all property planning'*. As the development proposes to protect, maintain and improve vegetation on the site, including mapped waterways, the proposal is considered to support the strategies of the action plan.

- In relation to sub-clause 5(c), it is considered that alternatives have been explored by the applicant through their liaison with Council, and the modified plans and biodiversity commitments are the applicant's final response to environmental impacts raised thus far and in response to the identified constraints of the site.

- In relation to sub-clause 5(d), it is assessed that should the proposal be supported, the impacts on waterways of the various parts of the development could be managed through the imposition of conditions of consent.

Clause 6 Specific planning policies and recommendations

Clause 6 sets out the specific planning policies and recommended strategies for the Plan, some of which relate to the proposal, i.e. strategies regarding environmentally sensitive areas, water quality, water quantity and flora and fauna, among others.

The proposal and accompanying technical reports have been assessed against the above matters and the proposal is acceptable in this regard as detailed elsewhere within this report.

Clause 11(18) Waste Management Facility

Development for the purpose of waste management facilities or works described in Schedule 3 (Designated Development) to the Environmental Planning and Assessment Regulation 1994 requires consent and consideration of the following additional matters:

- (a) Any potential for groundwater contamination.
- (b) The adequacy of the proposed leachate management system and surface water controls.

As previously stated, the geotech report found no groundwater in the boreholes drilled. In addition, as detailed elsewhere within this report, stormwater is to be managed via on-site detention basins and bioretention filter media. Water monitoring will be undertaken at the outlet of these basins and this will be conditioned. Further, operations are either taking place within the building or an external area that is sealed. The diesel storage area is bunded. The waste type to be received and processed is inert and solid and the leachate pond has been removed from the application.

The application is considered to be satisfactory having regard to the Policy.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies - See discussion
Clause 2.3 Permissibility	Does not comply - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 2.7 Demolition requires development consent	Complies
Clause 4.3 Height of buildings	N/A
Clause 4.4 Floor Space Ratio	N/A
Clause 7.1 Earthworks	Complies - See discussion
Clause 7.3 Development on natural resources sensitive land	Complies - See discussion
Clause 7.4 Sustainable development	Complies - See discussion
Clause 7.5 Protection of scenic character and landscape values	Complies - See discussion
Clause 7.6 Salinity	Complies
Clause 7.7 Servicing	Complies - See discussion
Clause 7.9 Development of land in the flight paths of the site reserved for the proposed	Complies - See discussion
Clause 7.18 Mulgoa valley	N/A
Clause 7.19 Villages of Mulgoa and Wallacia	N/A

Clause 1.2 Aims of the plan

1.2 Aims of Plan

(1) This Plan aims to make local environmental planning provisions for land in Penrith in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.

(2) The particular aims of this Plan are as follows—

(aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,

(a) to provide the mechanism and planning framework for the management, orderly and economic development, and conservation of land in Penrith,

(b) to promote development that is consistent with the Council's vision for Penrith, namely, one of a sustainable and prosperous region with harmony of urban and rural qualities and with a strong commitment to healthy and safe communities and environmental protection and enhancement,

(c) to accommodate and support Penrith's future population growth by providing a diversity of housing types, in areas well located with regard to services, facilities and transport, that meet the current and emerging needs of Penrith's communities and safeguard residential amenity,

(d) to foster viable employment, transport, education, agricultural production and future investment opportunities and recreational activities that are suitable for the needs and skills of residents, the workforce and visitors, allowing Penrith to fulfil its role as a regional city in the Sydney Metropolitan Region,

(e) to reinforce Penrith's urban growth limits by allowing rural living opportunities where they will promote the intrinsic rural values and functions of Penrith's rural lands and the social well-being of its rural communities,

(f) to protect and enhance the environmental values and heritage of Penrith, including places of historical, aesthetic, architectural, natural, cultural, visual and Aboriginal significance,

(g) to minimise the risk to the community in areas subject to environmental hazards, particularly flooding and bushfire, by managing development in sensitive areas,

(h) to ensure that development incorporates the principles of sustainable development through the delivery of balanced social, economic and environmental outcomes, and that development is designed in a way that assists in reducing and adapting to the likely impacts of climate change.

The proposal is not considered inconsistent with the objectives above, noting that SEPP (Infrastructure) is the policy that provides permissibility for the proposal.

Detailed environmental assessments regarding air quality, noise, stormwater and overland flows, contamination, wastewater, waste, biodiversity and bushfire have been provided to support the revised application, along with a Construction Environmental Management Plan and Operational EMP measures within the Environmental Impact Statement. The design of the development, coupled with the mitigation measures and proposed conditions, would manage environmental risk and mitigate unacceptable potential amenity impacts upon neighbours and the public realm.

The proposal is considered to balance environmental and economics outcomes with the biodiversity stewardship agreement proposed over the residual land on the site which has strong biodiversity values and affords habitat connectivity. Given such a commitment involves both maintaining and improving existing vegetation, including threatened ecological communities, the proposal is considered to protect and enhance the environmental values of Penrith.

Clause 2.3 Permissibility

The subject site is zoned RU1 Primary Production Zone under *Penrith Local Environmental Plan 2010*. The proposed development is defined as a 'waste management facility' and is a prohibited land use in the zone.

Notwithstanding, the development relies on the provisions within *State Environmental Planning Policy (Infrastructure) 2007* for permissibility which provides that development for the purpose of waste or resource management facilities may be carried out by any person with consent on land in a prescribed zone. The subject zone, RU1 Primary Production, is defined as a prescribed zone and so the proposed development is permissible with consent. The SEPP prevails to the extent of any inconsistencies with the LEP and therefore the development is a permissible land use in the zone.

Clause 2.3 Zone objectives

Zone RU1 Primary Production

1 Objectives of zone

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To protect and enhance the existing agricultural landscape character of the land.*
- *To ensure development is compatible with the environmental capabilities of the land and does not unreasonably increase the demand for public services or public facilities.*
- *To preserve and improve natural resources through appropriate land management practices.*

The proposal does not fragment resource lands.

Specific measures have been incorporated into the design of the facility and the operational aspects to mitigate potential environmental, amenity and character impacts, and thus also minimise land use conflict with agricultural uses.

Council's Environmental Management Officer raised no objection with the recommended mitigation measures in relation to the proposed noise attenuation measures proposed, dust suppression, and water management design. Further, the on-site waste water system proposed is compliant with Council's Policy.

A Construction Environmental Management Plan was provided and satisfactorily addresses environmental concerns associated with the construction phase of the proposed development.

The proposed setbacks, siting and design, coupled with existing and proposed vegetation, minimises impacts on scenic and landscape qualities and local character from adjoining properties and from the public realm, while also providing bushfire protection.

Sufficient information has been provided in relation to land contamination, biodiversity and impacts on trees and vegetation, all of which does not compromise the environmental capabilities of the land.

The development does not significantly increase demand for public services or facilities and is within the capacity of the local road network given the additional access/intersection treatments proposed with concurrence from Transport for NSW.

Gross pollutant traps, on-site detention, bioretention and water testing is proposed to mitigate impacts on stormwater and overland flow paths while also preventing ground water pollution.

The development area is proposed to be limited to approximately 5ha of the 20ha site and will preserve and improve natural resources given the retention and enhancement of the existing vegetation and watercourse with biodiversity values, west and south of the proposed facility.

The proposal is not considered inconsistent with the objectives of the RU1 zone.

Clause 7.1 Earthworks

Clause 7.1 stipulates that prior to granting development consent for earthworks, Council must consider matters such as impacts on existing drainage patterns, environmental functions and processes, existing and likely amenity of adjoining properties and future land uses. The proposed resource recovery facility will generate earthworks associated with the build.

The site falls evenly from RL 80m AHD at the eastern boundary of the site to RL 78m AHD on the western boundary. While the facility is to be flush with natural ground level along the eastern side, as viewed from the streetscape, there is approximately 1-2m cut and fill proposed to accommodate a level building pad, along with the associated access and parking areas. It is noted that 1m of fill is typical in a rural context as per the controls within D1 Rural Development within Penrith Development Control Plan 2014. However, given the substantial setback of the building and manoeuvring areas (230m from Park Road) the visual impact of this level difference is internalised, being viewed from within the site rather than from neighbouring properties or Park Road.

In addition, it is noted that Council's Development Engineer reviewed the revised architectural and civil plans and raised no objections to the earthworks proposed, noting the stormwater plans can effectively manage both the quantity and quality of stormwater anticipated without adverse impacts upon adjoining properties.

The proposal is not inconsistent with the objectives of this clause as the earthworks are not considered detrimental to environmental functions and processes or neighbouring uses within the area.

Clause 7.3 Development on natural resources sensitive land

The land is not identified on the 'Natural Resources Sensitivity' land map. The rear (southern) site boundary appears to abut 'Environmentally Significant Land' mapped as part of Liverpool Local Environmental Plan 2008 (sheet ESL-001). The proposed development does not adversely affect this land as has been addressed within the Biodiversity Development Assessment Report. Refer to Section 1.7 of this report for further details.

Clause 7.4 Sustainable development

The Penrith LEP requires under clause 7.4 *Sustainable development*, that *'in deciding whether to grant development consent for development, the consent authority must have regard to the principles of sustainable development as they relate to the development on a "whole of building" approach by considering each of the following -*

- (a) conserving energy and reducing carbon dioxide emissions,*
- (b) embodied energy in materials and building processes,*
- (c) building design and orientation,*
- (d) passive solar design and day lighting,*
- (e) natural ventilation,*
- (f) energy efficiency and conservation,*
- (g) water conservation and water reuse,*
- (h) waste minimisation and recycling,*
- (i) reduction of vehicle dependence,*
- (j) potential for adaptive reuse.'*

The main environmental safeguards to be implemented in order to minimise environmental harm, in line with the principles of sustainable development include:

- Stormwater pollution control, including bunding of chemicals, spill kits, sealed surfaces, pollution control devices for stormwater pits, on-site detention basins, bioretention filter media areas, and a water monitoring program;
- Fire protection services; Storage and handling of hazardous chemicals including hardstand/bunded area, integrity management and maintenance of dangerous goods storage area;
- Waste management and stringent procedures to manage the incoming and outgoing waste;
- Rainwater tanks and water re-use measures,
- Solar panels.
- Waste minimization and recycling.

Lastly, of considerable note in relation to sustainability is the proposed biodiversity stewardship agreement that applies to approximately 75% of the site. This measure, coupled with a well managed resource facility, will retain and improve existing vegetation and thus conserve energy and reduce carbon dioxide emissions while also combating heat island impacts.

Clause 7.5 Protection of scenic character and landscape values

The subject site is identified on Council's Protection of Scenic Character and Landscape Values map under PLEP and as such clause 7.5 of the LEP applies.

Objectives under subclause (1) of the clause include:

- (a) to identify and protect areas that have particular scenic value either from major roads, identified heritage items or other public places,*
- (b) to ensure development in these areas is located and designed to minimise its visual impact.*

Subclause (3) states that *'Development consent must not be granted for any development on land to which this clause applies unless the consent authority is satisfied that measures will be taken, including in relation to the location and design of the development, to minimise the visual impact of the development from major roads and other public places'.*

The proposed development is not inconsistent with the objectives of the clause as adequate measures have been taken, including in relation to the location and design of the development, to minimise the visual impact of the development from Park Road.

The main building would be set back approximately 230 metres from the frontage to Park Road and would be located behind the existing dwelling. The proposed building takes the form of a large rural shed with a low roof profile and standard Colorbond wall and roof cladding with a wall height of 9 metres and height to the apex of the roof of 11 metres. The scale and configuration is not dissimilar to other rural buildings that accommodate agricultural businesses. Standard green and brown non-reflective Colorbond material is proposed to complement the colours of the natural vegetation and background of the property. The narrow dimension of the building also faces the street to reduce the visual impact.

In addition, given the 230m setback there is ample room for landscaping. Driving eastbound these landscape embellishments are fortified by the retention of the existing dense vegetation to be preserved. Driving westbound, upon approach there is a variable landscape setback along the eastern boundary, ranging from 4 to 15 metres. Further, while the parking area is forward of the main building, landscaping is proposed around it and it is still substantially setback behind 130m of grassland and trees which provides an adequate screen from Park Road.

Council's Landscape Architect has confirmed the setbacks offer adequate width to provide both lower level screening and canopy cover height relative to the height of the building proposed. A recommended condition will require additional landscape embellishment to ensure appropriate species are provided, appropriately located and landscape opportunities are maximized within the constraints imposed by the Asset Protection Zone requirements. Refer to the appendix of this report for further details.

A photomontage of what will be visible from Park Road has been provided to satisfy Council that views and vistas to Park Road will not be poorly impacted.

Overall, the locations of landscaping elements and tree retention, coupled with recommended conditions, will effectively screen and soften the apparent scale as viewed from Park Road, thus softening the impact upon scenic quality.

Refer also to the discussions within the appendix of this report for further details regarding rural character and impacts to adjoining properties.

Clause 7.7 Servicing

Clause 7.7 of PLEP states at (2) that *'Before granting development consent for development on any land to which this plan applies, the consent authority must be satisfied that -*

- (a) the development will be connected to a reticulated water supply, if required by the consent authority, and*
- (b) the development will have adequate facilities for the removal and disposal of sewage,*
- (c) if the development is for seniors housing, the development can be connected to a reticulated sewage system, and*
- (d) the need for the public amenities or public services has been or will be met.'*

The applicant has included information on how the site will be serviced and in particular how wastewater servicing is being provided for via a private on-site wastewater management system. Sydney Water has confirmed (letter dated 7 July 2020) that they have no objections. However they recommended the proponent lodge a Feasibility study with Sydney Water for the proposal.

The applicant noted that the Feasibility Study with Sydney Water is required as part of the construction certificate and this will be prepared by a Sydney Water approved sub-contractor and will be submitted to Sydney Water in due course.

As such Council is satisfied in relation to Clause 7.7(a), (b) and (d) as they relate to the development proposal.

Clause 7.9 Development of land in the flight paths of the site reserved for the proposed

- (1) The objective of this clause is to ensure that development in the vicinity of the proposed Badgery's Creek airport site—*
 - (a) has regard to the use or potential future use of the site as an airport, and*
 - (b) does not hinder or have any other adverse impact on the development or operation of an airport on that site.*
- (3) Before determining a development application for development to which this clause applies, the consent authority—*
 - (a) must consider whether the development will result in an increase in the number of dwellings or people affected by aircraft noise, and*
 - (b) must consider the location of the development in relation to the criteria set out in Table 2.1 (Building Site Acceptability Based on ANEF Zones) in AS 2021—2000, and*
 - (c) must be satisfied that the development will meet AS 2021—2000 with respect to interior noise levels for the purposes of—*
 - (i) if the development will be in an ANEF contour of 20 or greater—centre-based child care facilities, educational establishments, entertainment facilities, hospitals, places of public worship, public administration buildings or residential accommodation, and*
 - (ii) if the development will be in an ANEF contour of 25 or greater—commercial premises, hostels or hotel or motel accommodation.*

While Clause 7.9 applies to the subject site, the proposal is not considered likely to be adversely affected by aircraft noise given the nature of the use. Further, the proposed development is not considered to hinder the operation of the airport given the height of the use.

Section 4.15(1)(a)(ii) The provisions of any draft environmental planning instrument

Draft Environment State Environmental Planning Policy

The Draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. This consolidated SEPP

proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

Changes proposed include consolidating a total of seven existing SEPPs being:

- *State Environmental Planning Policy No. 19 – Bushland in Urban Areas*
- *State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011*
- *State Environmental Planning Policy No. 50 – Canal Estate Development*
- *Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment*
- *Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No. 2 - 1997)*
- *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005*
- *Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property*

It is noted that the proposed changes to State Environmental Planning Policy No. 19 – Bushland in Urban Areas (SEPP 19) are not considered to impact the proposed development. In addition, the amendments to Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No. 2 - 1997) do not impact the proposed development. In this regard, the proposal is not inconsistent with the provisions of this draft instrument.

Draft Remediation of Land SEPP

The Department of Planning and Environment has announced a Draft Remediation of Land SEPP, which will repeal and replace the current State Environmental Planning Policy No. 55—Remediation of Land. The proposed new land remediation SEPP will:

- Provide a state-wide planning framework for the remediation of land,
- Maintain the objectives and reinforce those aspects of the existing framework that have worked well,
- Require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land,
- Clearly list the remediation works that require development consent, and
- Introduce certification and operational requirements for remediation works that can be undertaken without development consent.

It is also proposed that it will transfer the requirements to consider contamination when rezoning land to a direction under Section 9.1 of the Environmental Planning and Assessment Act 1979. The proposal is not inconsistent with the provisions of this draft instrument. Refer to SEPP 55 discussion.

Draft State Environmental Planning Policy (Western Sydney Corridors)

The proposed SEPP will identify land required for the future delivery of major infrastructure projects in Western Sydney and reserve that land for a public purpose, under clause 26(1)(c) of the Act.

In 2018, Transport for NSW consulted on a recommended corridor of land for the Outer Sydney Orbital for a possible future motorway and freight rail line. TfNSW is reviewing the submissions and considering further refinements to the exhibited corridor prior to consideration by Government. Further information regarding the OSO corridor is available at <https://www.transport.nsw.gov.au/corridors>. Once the corridors are finalised by Transport for NSW and the SEPP is made, land will be rezoned to SP2 Infrastructure – Reserved Infrastructure Corridor and new planning controls will apply. This will ensure that new development does not inhibit the delivery of the major infrastructure required in the future.

The application has been referred to the corridors team at TfNSW given the site is adjacent the recommended corridor. TfNSW have confirmed that the proposal is not expected to impact the delivery of the future transport infrastructure. TfNSW advised that, if Council approves the application, it is recommended that a general condition be imposed that requires the applicant to continue to liaise with the TfNSW Outer Sydney Orbital project team during the construction and operational phases of the development.

Section 4.15(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
DCP Principles	Complies
C1 Site Planning and Design Principles	Complies
C2 Vegetation Management	Complies
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies
C5 Waste Management	Complies - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies - see Appendix - Development Control Plan Compliance
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	N/A
C12 Noise and Vibration	Complies - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies - see Appendix - Development Control Plan Compliance
D1.1. Rural Character	Does not comply - see Appendix - Development Control Plan Compliance
D1.2. Rural Dwellings and Outbuildings	Does not comply - see Appendix - Development Control Plan Compliance
D1.3. Farm buildings	Does not comply - see Appendix - Development Control Plan Compliance
D1.4 Agricultural Development	N/A
D1.5. Non-Agricultural Development	Does not comply - see Appendix - Development Control Plan Compliance

Section 4.15(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements applying to the site or proposal.

Section 4.15(1)(a)(iv) The provisions of the regulations

Designated Development

The proposal is defined as designated development as it is captured by Clause 32(1)(b)(iii), 32(1)(c) and partly 32(1)(d) of Schedule 3 of the Regulations, being a waste management facility with an intended capacity of more than 30,000 tonnes per year, that recovers more than 5,000 tonnes per year of solid

organic material, that is located within 100 metres of a natural waterbody and is within 250 metres of a dwelling not associated with the development. An Environmental Impact Statement (EIS) accompanied the application and was revised to reflect the final amended package.

The application has been processed in accordance with the requirements for Designated Development in the Regulations. In particular, the Department of Planning, Industry and Environment has been informed of the submissions received during the public exhibition period.

Fire Safety

In accordance with Clause 143 of the Environmental Planning and Assessment Regulation 2000, an assessment of the fire protection and structural capacity of the proposal is necessary. The application, including the EIS which discusses fire safety measures, has been referred to Council's Building Surveyor who has not raised any objections, subject to recommended conditions of consent.

Public Participation

The proposal has been notified and exhibited in accordance with the requirements of the Regulations. Refer to the submissions section of this report for details.

Clause 77 Notice of development applications- designated development

Clause 77 (1)(b)(i) states that the consent authority must give notice of the application to the public authorities (other than relevant concurrence authorities or approval bodies) that, in the opinion of the consent authority, may have an interest in the determination of the application.

In this regard, a copy of the development application was forwarded to the RFS, who has given their advice and conditions. Refer to Section 4.14 of this report for further details.

In accordance with clause 77(1)(b)(i), the environmental impact statement was also forward to DPIE. In response, DPIE noted that they are not required to provide concurrence and will not be providing formal comments on this matter. The Department did, however request that the assessment of the development application proceed, that consultation be undertaken with the Western Sydney Planning Partnership as the site may form part of the Western Sydney Aerotropolis and is adjacent the Agribusiness Precinct. This consultation should seek further guidance regarding planning of the Aerotropolis and the future SEPP as well as consideration of airport safeguarding.

Western Sydney Planning Partnership

Subsequently, the application was referred to the Western Sydney Planning Partnership on 21 July 2020. The following comments were provided and Council's response is provided after each comment.

1. The subject site (Lot 5, DP 655046) is not located within the boundaries of the Western Sydney Aerotropolis, noting the site is approximately 300 metres from the western boundary of the Aerotropolis and the Agribusiness Precinct.'

- Noted and considered

2. The subject site adjoins the proposed Outer Sydney Orbital (OSO) corridor and has the potential to impact on the delivery of this important project. It is recommended that the proposed development application be referred to Transport for NSW for comment.

- TfNSW were consulted and provided their support in this regard.

"3. Whilst the subject site is outside of the Aerotropolis, there is a need to ensure airport safeguarding controls are applied to areas outside of the Aerotropolis, including the subject site. Such controls take a precautionary approach to land use planning around the Western Sydney International (Nancy-Bird Walton) Airport. The subject site is within the 3km Wildlife Buffer Zone and has the potential to attract wildlife and impact on safe airport operations. The NASF identifies organic waste and putrescible waste facilities as a high wildlife attraction risk and are considered incompatible within 3km of an airport. Whilst the proposed development seeks to handle only non-putrescible waste, there is still a risk of wildlife attraction and wildlife strike to aircraft. A recent report commissioned by the Partnership and undertaken by Avisure classes a 'non-putrescible waste facility - transfer station' as a low to moderate risk of wildlife attraction and notes that "Waste management, particularly putrescible waste, close to airports can be one of the biggest contributors to an airport's wildlife strike risk... even transfer facilities". The Partnership is concerned that the proposed resource recovery facility has not adequately considered the potential impact of the facility in managing wildlife attraction. It is therefore recommended that the applicant undertake a wildlife attraction risk assessment."

- As detailed against the SEPP Aerotropolis section of this report, the SEPP is not applicable to the subject site due to savings provisions therein. Notwithstanding this, consideration has been given to these concerns above and the types of waste to be processed are non-putrescible. In addition, the unloading, handling and processing of waste is enclosed within a building, with limited external storage areas proposed, which are also sealed, walled and covered by an awning
- Lastly, the proposal will be managed by the EPA given the proposal is subject to the provisions of the *Protection of the Environment Operations Act 1997*. Refer to the likely impacts section of this report for further detail regarding the Aerotropolis strategic intentions.

"4. The subject site is within the Metropolitan Rural Area (MRA) and is very close to the boundary of the Aerotropolis. The Partnership is concerned about the potential impact of the proposed development on the ability of nearby allotments to fulfil the objectives of the MRA, Agribusiness precinct and Western Sydney Aerotropolis. Objective 29 of the Western City District Plan states that councils and other planning authorities are to "Maintain or enhance the values of the Metropolitan Rural Area using place-based planning to deliver targeted environmental, social and economic outcomes" (Action 78). The proposed development is not consistent with the broader strategic planning objectives for the MRA or the Western Sydney Aerotropolis. It should also be noted that Waste and Resource Management Facilities are prohibited in the proposed Agribusiness zone under the proposed Aerotropolis State Environmental Planning Policy"

- The proposal has been revised since it was first referred to the Planning Partnership, as has been detailed elsewhere within this report. In brief, further details and restrictions on capacity and operational hours, along with additional safeguards, are proposed to mitigate likely environmental impacts and impacts on any adjoining uses, while a biodiversity stewardship application has also been proposed to protect the biodiversity values on-site. The preservation and enhancement of the biodiversity and riparian corridor will protect the Metropolitan Rural Area as it is, and it is also conducive to the intent for the Aerotropolis Agribusiness zone to connect riparian corridors. Refer to the likely impacts section for further details.

Section 4.15(1)(b) The likely impacts of the development

Existing Rural Amenity, Scenic Character and Landscape Values

As detailed in the appendix to this report, the rural design of the building, coupled with the existing vegetation and proposed landscape setbacks, is not considered incompatible with the scenic values of the site's context.

The scale of the built form is substantially non-compliant with both the ground floor footprint and dimension

controls for rural buildings. However, it is located on a cleared portion of the site thereby allowing for the preservation of the existing significant vegetation across approximately 75% of the site. Vegetation is a crucial component of rural character which is preserved by the proposal. The vegetation will also screen the proposal given the generous 230m setback and the height of the building being relative to the height of existing canopy cover.

However, Council's Landscape Architect has also recommended amendments to maximise additional landscape screening around the building as appropriate to the landscape character. It is noted landscape buffers are also provided to an extent between the shed and the side boundaries and around the parking area to minimise the visual impacts. Further, reasonable separation between the resource recovery activities and the neighbouring properties is also provided for amenity reasons. Overall, the development application has demonstrated that the impacts of the development on views and scenic quality can be mitigated satisfactorily.

Future Character/Strategic Context and Intentions

1. A Metropolis of Three Cities - Western City District Plan - Better managing rural areas, Planning Priority W17

(a) Objective 29 of the Priority states that 'Environmental, social and economic values in rural areas are protected and enhanced'. The Planning Priority makes clear that 'maintaining and enhancing the distinctive character of each rural and bush land town and village is a high priority' and that 'Design-led place-based planning in the Metropolitan Rural Area (MRA), in which the subject site is located, will help manage environmental, social and economic values, maximise the productive use of rural areas, and incentivise biodiversity protection for remnant bushland vegetation'. Council has confirmed through its Local Strategic Planning Statement, its commitment to support the Metropolitan Rural Area.

The site contains significant remnant bushland and is located in an area of active and productive agricultural rural land. The use of the site as a resource recovery facility of the intensity originally proposed was considered to adversely affect the viability of nearby agricultural land. In particular, there were concerns regarding the leachate ponds and potential contamination, inadequate biodiversity protection and incompatible visual impacts and lightspill, in addition to the other environmental impacts aforementioned in this section i.e. noise and air quality impacts.

However, the proposal was then revised to remove the leachate pond, incorporate a biodiversity stewardship agreement and additional details and commitments were provided to ensure a modern management facility is proposed and predominantly enclosed with reduced hours of operations. The proposal now supports the priority to protect remnant bushland vegetation while also preserving a key component of the rural landscape.

Detailed environmental assessments relating to contamination, air quality, noise, stormwater, biodiversity and bushfire have been provided to support the revised application and demonstrate the design coupled with the mitigation measures would ensure areas outside the development boundary are not negatively impacted by the proposed site activities.

Notwithstanding the above, it is recommended the hours of operations are restricted further to ensure the operational hours are commensurate with the hours of activity that are typical within a rural context. Therefore, a recommended condition will require operational activities to cease at 6pm Monday to Saturday and trucks shall not deliver loads on the weekends. This is considered necessary given the existing values of the surrounding area and the hours can always change as the character of the area changes, particularly with the M9 orbital and/or Agribusiness development. This condition will further reduce likely impacts relative to traffic, noise, air quality and lightspill.

The revised proposal, coupled with the recommended conditions, is not considered to be contrary to the objectives and priorities for the MRA.

2. Aerotropolis

(a) Western Sydney Aerotropolis Summary document

The subject site is located in close proximity to land proposed to be zoned Agribusiness (an initial precinct) under the Draft SEPP Aerotropolis. In addition, the most western boundary of the Agribusiness zone will align with land identified for the future Outer Sydney Orbital road network, immediately east of the subject site. The NSW Government's Western Sydney Aerotropolis Summary of Key Planning document, states that the Agribusiness Precinct is proposed to skirt the Airport edge and '...support the long-term retention and growth of agribusiness and intensive plant-based agriculture in the Aerotropolis'.

The document includes that the Precinct will act as a catalyst for agricultural exports from the region and support its existing rural landscape, and includes that 'the development of agribusiness so close to the Airport requires design controls to ensure land uses are compatible with Airport operations'.

(b) Western Sydney Aerotropolis Plan

The subject site is identified as being within the Metropolitan Rural Area (MRA). The Plan states that (1.3.3) for the Aerotropolis and adjoining areas, planning will complement that of other focus areas in Western Sydney. Importantly, the Plan emphasises that the Agribusiness Precinct will build on existing agricultural operations and natural landscape character.

Desirable land uses in the Precinct are agribusiness, agriculture, food production, food innovation technology and research, food produce markets, ancillary rural residential and the like. Although Waste or Resource Management Facilities are permissible in the subject zoning under SEPP Infrastructure, the land use is prohibited in the Agribusiness zone under the Western Sydney Aerotropolis Discussion Paper on the Proposed State Environmental Planning Policy.

Strategic outcomes of the precinct include to: support and add value to the effective ongoing agricultural industry operations and viability; address any potential for land use conflict between adjoining land uses; and early protection of transport corridors to minimise possible land use conflict with adjacent areas.

Implementation strategies include to:

- address the interface between the proposed Outer Sydney Orbital and The Northern Road..
- to ensure the Agribusiness Precinct retains connection through with the rural land and Biostrategic Agricultural Land to the west
- to enable an interconnected relationship between the Agribusiness Precinct and the MRA and their requirements, and
- to prevent conflict with adjoining land uses as a result of future development, by restricting incompatible land uses.

c) Overview of the Agribusiness Precinct Plan and Agribusiness Urban Design and Landscape Report

Key precinct elements include:

- An open space framework which identifies connectivity to the riparian corridor and vegetation within the south and western portion of the subject site.
- The planned OSO corridor will consider critical landscape, active and vehicular crossings along its length.
- Waterways will be maintained in a natural state and form a spine to linear open space networks.
- A 20m height is proposed on the sites closest to the subject site to allow the density and population targets to be achieved where appropriate.
- The agribusiness edge, adjacent the OSO is deemed the appropriate location for a 20m height and dense development given the strategic views are from the north south predominant ridgeline through the centre of

the precinct, rather than to the west along Park Road.

3. Council's Local Strategic Planning Statement (LSPS)

Planning Priority 11 of the Penrith LSPS includes Council's commitment to 'support the planning of the Western Sydney Aerotropolis' and in doing so, 'will work to minimise impacts and maximise benefits'. The impacts of the proposed land use are not understood to support the aims and strategic objectives outlined within the Aerotropolis precinct, or Greater Sydney Commission's Western District Plan.

4. Consideration of points 2 and 3 above

It is considered that the scale and nature of the revised proposal will not detrimentally impact on the ability of nearby allotments to fulfill the objectives of the Agribusiness zone and those of the MRA. A sufficient buffer is provided between the site and productive rural and agricultural land uses and to land identified as being strategic to the planned Outer Sydney Orbital and in this respect, the proposal is supportable.

The revised proposal has been designed to setback requirements under the DCP, namely 10m to buildings. In regard to distances between the site and productive rural and agricultural land uses, the eastern boundary setback is the closest to adjoining uses. The setback of the building is 25 metres from the boundary. There is a 4 to 15 metre landscaped area proposed at this boundary. These buffer distances are considered adequate for the existing and proposed land uses to the east. Further, as previously discussed the satisfactory environmental controls for the facility are not considered to adversely affect nearby allotments to fulfil the objectives of the Agribusiness Zone.

While the precinct plan for Agribusiness is not yet finalised, the exhibited draft indicates riparian connectivity from Luddenham village to the southern half of the subject site. The biodiversity stewardship agreement proposed with this application will ensure the riparian corridor within the subject site connects to the Agribusiness precinct thus preserving habitat and riparian connectivity. Further, the height and built form proposed is not dissimilar to the 20m height and form prescribed within the agribusiness lots adjacent the subject site. The proposal is thus considered conducive to the intentions for the Agribusiness zone.

The application was also referred to the Corridors team of TfNSW. The corridors team have not objected to the proposal and have recommended that a condition be imposed which requires that the applicant liaise with the Corridors team throughout the construction and implementation of the project. In addition, it is noted that the draft exhibited Agribusiness precinct documents have been designed with the orbital within this location.

Overall, the revised proposal is not considered contrary to the broader strategic planning objectives for the MRA, the Western Sydney Aerotropolis or the LSPS.

Access, Parking and Traffic

As detailed in the SEPP Infrastructure section of this report, road and intersection works are satisfactory in their design on safety and access grounds and will accommodate the anticipated traffic flows. Transport for NSW and Council's Engineer support the proposed works including the impacts on access arrangements to neighbouring private properties.

As detailed in the appendix to this report, the proposed on-site parking provision is considered satisfactory on merit. The dimensions of the parking bays, aisle widths and entry/exit driveways will comply with Australian Standards.

The application was accompanied by a revised Traffic and Parking Impact Assessment which found that

the volumes of traffic to be generated by the development is unlikely to result in any considerable impacts on the local road network. Council's Traffic Engineer has reviewed the proposal and supporting documentation and raised no objections.

Stormwater and Overland Flow Impacts

As detailed further within the appendix to this report, an on-site stormwater detention basin has been provided to limit stormwater discharge during large storm events and therefore minimise any scouring or erosion on downstream properties. The OSD system, coupled with the bioretention system will ensure there are no adverse impacts on adjoining properties in relation to stormwater quantity or quality. In addition, the applicant has proposed water monitoring and a condition is recommended in this regard. Council's Development Engineer and Waterways Officer reviewed the proposal, as amended, and raised no objections in this regard.

As detailed against Clause 5.21 of the LEP section of this report, the proposal will not affect the existing overland flow paths within the site. Refer to this clause for more details.

Wastewater Impacts

As detailed in the appendix to this report, Council's Environmental Management Officer is satisfied that wastewater from the development can be satisfactorily managed on the site, subject to recommended consent conditions.

Contamination

The proposal has demonstrated that the site is suitable and thus satisfied the provisions of Clause 7 of State Environmental Planning Policy No. 55 - Remediation of Land.

Air Quality/Odour

Initially Council's Environmental Management Officer sought further information regarding how the extensive water misting system will reduce dust impacts, as well as clarification on why external storage is proposed and whether limitations to dust emitting activities are proposed to this area. Demonstration was also required that the recommended measures comply with the established air quality criteria.

An amended Air Quality Impact Assessment was then provided, along with additional statements surrounding the proposed 'Coolfog' system to be used to mitigate dust impacts as a result of the operational phase of the proposed development. Further, the proposed misting system has been factored into the current Air Quality Impact Assessment criteria. A copy of the system specifications for the misting system was also provided. The reports demonstrate that levels of particulate matter at nearest sensitive receptors the proposed activities will not produce any additional 'impact' on top of the existing background levels.

Council's Environmental Management Officer raised no objection and noted that adequate information has been submitted which elaborates how the misting system will reduce dust impacts, subject to conditions of consent.

The air quality mitigation measures (for dust control) included in the air dispersion model and proposed development are:

- Dust generating activities including unloading, screening, crushing and sorting of materials are conducted within a building;
- Water misting system focused at local point of dust emissions, as well as applied throughout

- the entire inside plant;
- Water misting system in roof of outside storage and loading bunkers; and
- Water misting system on front end loaders

It is also noted that an odour assessment was not undertaken as it was not considered that there will be any adverse odour impacts generated as a result of the proposed development operations.

Noise Impacts

As detailed in the appendix to this report, the application was accompanied by a revised Acoustic Impact Assessment. This report concludes that the noise emissions associated with the proposed development to the surrounding nearest residential receivers will comply with the relevant criteria, subject to the implementation of a range of construction and operational management controls, including auto-closing roller shutters, double corrugated steel cladding, roof cladding, and acoustic louvres. All loading and unloading of waste, demolition materials and recovered waste recyclables is to be conducted inside the approved building and doors/shutters are to be kept closed after vehicles have entered or departed the building. These recommendations form a recommended condition of consent. The development is not considered likely to have adverse noise impacts on the surrounding locality.

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

The site is considered to be suitable for the development proposed for the following reasons:

- The subject site includes a cleared area for the proposed operations without adversely affecting the majority of the site's vegetation and riparian corridor.
- The development is a permitted use with consent under the Infrastructure SEPP.
- Existing transport routes are nearby and the site is located adjacent to the Outer Sydney Orbital, a preserved corridor for the future M9 motorway and freight rail.
- The site has sufficient room for on-site detention, on-site sewage management, on-site parking, truck manoeuvring and adequate landscaped setbacks within an area that is already cleared.
- The bushfire risk can be managed through asset protection zones without adversely affecting the majority of the site's vegetation.
- The site is not affected by mainstream flooding.
- The detailed site investigation concluded the site is not contaminated.
- No groundwater was found through the goetech report's investigations.
- The proposed facility does not adversely affect existing overland flow paths within the site.
- The site can accommodate the proposed processing capacity, having regard to the scope of the operations and its environmental impacts, relevant mitigation measures and recommended conditions.

Section 4.15(1)(d) Any Submissions

Community Consultation

The application was advertised, notified and publicly exhibited in accordance with the requirements for Designated Development, between 1 June and 1 July 2020. This includes notifying the Department of Planning, Infrastructure and Environment of the public submissions.

A total of 1008 submissions were received, including 83 individual submissions and three (3) separate pro-forma style submissions totaling 925 submissions.

Submissions in opposition to the proposal include submissions from the Luddenham Progress Association, Wallacia Progress Association, the Mulgoa Valley Landcare Group and Friends of Fernhill and Mulgoa Valley Incorporated.

A summary of submissions and responses are provided below. The matters raised have been considered in the assessment of the development proposal.

Submission Matter Raised	Council Officer Response
<p>Traffic, Parking and Access</p> <ul style="list-style-type: none"> - The narrow road, and the state of the road, is not suitable to support the level of heavy vehicle traffic anticipated. - Congestion and parking impacts generally. Decreasing traffic flow and increasing potential accidents. - Headlight glare amenity impacts - The traffic report contains inconsistencies between tonnage and truck delivery capacity. - Cumulative impact on Park Road of other developments not considered (i.e. the raising of Warragamaba Dam, Silverdale, the cemetery construction and the Aerotropolis. - Park Road is dangerous as there are many tipper trucks that use the road, Street lighting is poor and there's an inadequate shoulder width to pull over. - The decision to limit the hours of deliveries will serve to increase the frequency and intensity of heavy vehicle access during the hours of operation. - Question regarding consultation with Transport for NSW regarding the capacity of relevant surrounding roads, signage, signals and lighting to safely accommodate the additional traffic. - Query as to whether adequate parking is provided for 30 staff. - Swept path issues and danger to Park Road when turning into the site. 	<p>Throughout the assessment, concerns were raised by Council's traffic engineer and TfNSW in relation to:</p> <ul style="list-style-type: none"> • inconsistencies regarding the largest vehicles included and truck delivery capacity, • inadequate swept paths provided, • inadequate assessment of the impacts of traffic volumes on Park Road, • inadequate access arrangement/intersection treatments, and • insufficient information regarding the traffic count and SIDRA results not taking into consideration future developments surrounding the site. <p>Additional information and amended plans and traffic reports were provided. Council's Traffic Engineer and TfNSW raised no objection, however the following commentary is provided in response to the concerns raised.</p> <p>It was confirmed that truck deliveries and dispatches would be restricted to the hours of 7am to 6pm Monday to Friday and the largest vehicle to access the site is to be restricted to 19 metres. A condition is recommended for the title to have an 88B restriction that limits access to vehicles in this regard. However, HRVs will not use the small truck parking area; only trucks owned by the facility will be parked on site (hooklift and skip loaders).</p> <p>The swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. TfNSW provided in principle support to the design conditioning that a detailed plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.</p> <p>TfNSW noted that the intended use for the site will generate heavy vehicle movements. With the access located on a downhill gradient, with one lane for through traffic and a speed limit of 80km/h, a formalized left turn auxiliary lane (AUL) will be required to adequately remove slowing vehicles from the through traffic. In this regard the design is to be updated to include an AUL treatment via a condition.</p> <p>Further, shoulder widening and a driveway splay was incorporated, demonstrating how conflicting traffic movements are managed at this location given the access is opposite an existing access to the property on the other side of Park Road.</p>

- Entry and exit truck turn movements significantly affect the access availability for the neighbouring property. It is not evident from the plans and vehicle turn templates supplied that there is sufficient room for trucks to access the facility, in particular to enter by reversing.

The driveway access, shoulder widening and left turn auxiliary lane along Park Road shall be designed to meet TfNSW requirements, and endorsed by a suitably qualified practitioner. The design requirements shall be in accordance with AUSTROADS and other Australian Codes of Practice.

The Traffic and Parking Impact Assessment Report was amended to include an assessment regarding the intersection treatments required at the entry to the site from Park Road to facilitate auxiliary lanes in accordance with Austroads. A condition will limit the number of trucks per day and per hour.

A condition is recommended requiring the provision of street lighting in Park Road at the driveway and intersection in Park Road in accordance with Council Public Domain Lighting Policy, AS 1158 and as set out in Street Lighting Design Brief to be obtained from Council and included in the Access Driveway / Park Road design.

Staff numbers are nominated at 26 staff (including 14 on day shift and 8 at night shift) and the 32 car parking spaces are proposed to cater for the staff.

Biodiversity Impacts

<ul style="list-style-type: none"> - Cumulative impacts of CPW and biodiversity values in Mulgoa Valley, including impacts on CPW and environmental impacts of the airport. - Connectivity should not be an excuse to divert wildlife elsewhere. - Credits won't conserve biodiversity values in the vicinity of the site. - Concern that the streamlined BDAR is not comprehensive. - The BDAR does not assess the full range of fauna on site. - Impacts on nocturnal species from night time operations which BDAR didn't consider. - Impacts on species from air pollution. - Artificial light impact on wildlife. - Further tree removal will contribute to heat impacts on fauna. - Tree removal will result in habitat loss. - Tree removal impacts from leachate pond, effluent irrigation areas, and asset protection zone requirements are unclear. - Inconsistency with the Western City District Plan priority W6 "Better managing rural areas": Objective 29 states "Environmental, social and economic values in rural areas are protected and enhanced". 	<p>The applicant has submitted several versions of a Biodiversity Development Assessment Report. A comprehensive BDAR was submitted, upon request, which considered the range of species. The ultimate iteration was supported by Council's Biodiversity Officer for the following reasons.</p> <p>A stewardship program has been proposed. This is a voluntary action under the biodiversity conservation offsets scheme, which is under the Biodiversity Conservation Act. It is considered an appropriate mitigation effort to offset impacts.</p> <p>The stewardship scheme has to achieve improvement of the land. While credits are paid for the vegetation lost this loss is small in comparison to what they will maintain and improve. The biodiversity is of a high value. The impacts zone isn't increasing exponentially and will be well controlled.</p> <p>The leachate pond was removed from the application and additional plans and detail confirmed the impact from the effluent irrigation area and asset protection zone requirements will not alter the residual portion of land, which is approximately three-quarters of the site area.</p> <p>While a tree retention/removal plan was provided it didn't nominate individual trees to be removed/retained. However, this can be conditioned because it is evident that the majority of vegetation is outside of the construction footprint and some of that within can still be retained given compliance is possible with the Asset Protection Zone requirements.</p> <p>Night time operations will be contained inside thus limiting the impacts on nocturnal species, while also restricted via a condition regarding hours of operation. The Biodiversity Management Plan will also include lighting requirements.</p> <p>Any vegetation within the developed portion of the site will be managed under a comprehensive Biodiversity Management Plan which must be submitted for review and approval by way of condition and includes monitoring and evaluation with an adaptive management strategy.</p> <p>Refer to the air quality section of this table regarding air pollution impacts.</p> <p>The application is satisfactory in relation to biodiversity values. Refer to the discussion under the Section 1.7 heading of this report for further details regarding the issues that were raised throughout the assessment by Council's Biodiversity Officer.</p>
<p>Acoustic Impacts</p> <ul style="list-style-type: none"> - The quiet rural landscape will be affected by noise from the 	<p>Council's Environmental Management Officer reviewed the revised information and noted the amended Noise Impact</p>

proposed facility, the proposed M9 motorway and increased road traffic on Park Road. Operating 24/7, the level of noise pollution throughout the night from the facility, as well as heavy vehicle traffic (proposed to continue until 10pm each night), is likely to greatly impact on the quality of life of residents.

- This accumulative noise will have an effect on daily life of the community, including Holy Family Luddenham school, residents, churches, domestic animals, and the showground/markets.

- Noise impacts to farm animals, including a poultry farm, the nearby wildlife retreat and dog boarding kennels.

- Was noise considered from the nearby BP service station?

- The noise modelling shows compliance however the location of the ambient noise recorder was close to Park Road which would have had the effect of increasing the ambient or background noise, this makes it easier for the development to comply with noise increases.

Assessment satisfactorily addresses potential noise and vibration impacts which may arise from the construction phase of the proposed development, as well as traffic which may be generated as a result of the proposed development.

Furthermore, the duration of the acoustic monitoring is deemed to be satisfactory, as well as the surrounding potential sensitive receivers which have been identified. The amended assessment also includes truck movements and hours of operation which accurately reflect other documentation submitted to Council for review. The report shows that noise impacts at nearest sensitive receptors are expected to comply with the relevant environmental criteria, which is below the occupational exposure limits. Provided that the recommendations in the assessment are adhered to, there should be no offensive noise generated as a result of the proposed development, subject to conditions of consent.

In response to specific submissions, it is also noted that:

- Truck movements cease at 6pm, not 10pm.
- Regarding the school and church, the noise is expected to comply with relevant environmental criteria given the attenuation measures proposed - i.e. auto-closing roller shutters, double corrugated steel cladding, roof cladding, and acoustic louvres.
- Noise from BP service station is not applicable to this DA.
- The noise meter is close to the road for reference as the proposed development involves increased road traffic noise. This has been suitably justified in the acoustic report.
- The cumulative impact of the development is assessed when establishing the criteria for operational, construction and road traffic impacts in the Noise Impact Assessment (Appendix 6). All relevant noise criteria were satisfied at nearest residential receivers in all time period
- A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the submitted acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
- The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

Refer to the appendix of this report for further details regarding the matters considered by Council's Environmental Management Officer regarding noise throughout the assessment of the application.

In addition, as previously detailed, it is considered necessary to further restrict the hours of operations to 6pm, not 10pm, to preserve rural amenity in keeping with the intentions for the Metropolitan Rural Area. Therefore, the above likely impacts will be further reduced with Council's recommended conditions.

Air Quality Impacts

- This would affect the surrounding air quality, natural ground health, including Holy Family Luddenham school, residents, churches, farms, domestic animals, and the showground/markets.

- This is an area of frequent, dense fog which will become smog if the proposal proceed.

- As a geographical basin, some days there is no way polluted air can blow away, the pollution just accumulates. Temperature inversions "locking in" air and the air quality during the recent bush fires and burning off days. We can't cope with more toxins in our air.

- Waste will come in many forms including chemically treated, some containing dangerous hazardous fibres or other toxic substances, fossil fuel derivatives, all which will pollute the air.

- Chemical fires and spillage will lead to air bone contamination as will the spread of contaminated water mist from the water misting system.

Stockpiling will lead to dangerous off-gassing.

- The maximum predicted impacts for 24-hour averaging periods for PM10 and PM2.5 exceeded the relevant criteria. The background concentrations for PM10 and PM2.5 for 24-hour averaging periods are considered elevated, with levels of at 24.96 µg/m³ and 62.42 µg/m³ respectively in comparison to the Approved Methods criteria of 25 µg/m³ and 50 µg/m³. Surely with these elevated background levels and dust as a product of the resource recovery, air

Council's Environmental Management Officer raised no objection to the revised Air Quality Impact Assessment (AQIA) and noted that adequate information has been submitted which clarifies how the misting system will reduce dust impacts, subject to conditions of consent.

Refer to the likely impacts section of this report for further details of the matters considered by Council's Environmental Management Officer regarding air quality throughout the assessment of the application.

In response to specific submissions, it is also noted that:

- The development area would consist of sealed surfaces as all processing operations occur within an enclosed building and all waste is stored either within designated storage bunkers in the building or within designated covered and walled external storage bunkers.
- The nearby school and church air quality shall be retained as is, subject to proposed mitigation measures which includes water misting system focused at local point of dust emissions, as well as applied throughout the entire inside plant, water misting system in roof of outside storage and loading bunkers, and water misting system on front end loaders
- It is noted again that the EPA have issued a licence to this development.
- Regarding fog and basin air quality comments, the final iteration of the air quality assessment report submitted addresses weather and atmospheric conditions.
- No liquid waste is proposed on site, nor is the burning of materials. Notwithstanding, a Spill Response Plan is in place for chemical spills or fire.
- Regarding the background air quality levels, the AQIA suitably justifies no added impacts are expected to the already exceeded criteria.
- Odour is not assessed as the AQIA does not anticipate levels of dust that require an odour assessment.
- Recommendations made in the AQIA have been addressed through recommended conditions, including confirming and certifying that all mitigation measures are implemented.
- A certificate is to be obtained from a qualified air quality consultant certifying that the building has been constructed to meet the air quality criteria in accordance with the submitted Air Quality Impact Assessment).
- Operations are to be carried out generally in accordance with the Air Quality Impact Assessment.
- The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive emissions.

In addition, as previously detailed, it is considered necessary to further restrict the hours of operation to preserve rural

<p>quality in the area will decline further?</p> <ul style="list-style-type: none"> - Concerns raised regarding the adequacy and feasibility of mitigation measures. - The produce of existing farms surrounding the property will be adversely affected by dust, let alone other air pollution. - The site is adjacent to the Agribusiness precinct and will have a detrimental impact on any food produced within this area. - Dust and odours will affect the health of the neighbourhood and in particular the school children. - Odour has not been assessed or tested including cumulative impact of odour, design of facility to prevent odours from being released and odour from fumes of stockpiling, disposal of water and leachate settlement, ponding, machinery and chemical spills. 	<p>amenity in keeping with the intentions for the Metropolitan Rural Area. Therefore, the above likely impacts will be further reduced given Council's recommendation is to restrict operations to 6pm rather than 10pm.</p>
<p>Rural Character Impacts</p> <ul style="list-style-type: none"> - The land surrounding the proposed site has a scenic rural landscape with an agricultural setting, schools and rural-residential development - The proposal would be visible from Park Road and the property on the eastern side of the site. Earth mounds and hardstand truck and staff parking areas would adversely affect the visual amenity and scenic quality of the area. - This is part of the gateway to Wallacia. - Inconsistency with the Local Strategic Planning Statement (LSPS) which commits to a Planning Priority to protect Metropolitan Rural Lands. - Inconsistency with the 	<p>The proposal as originally lodged was considered to adversely affect the viability of nearby agricultural land - in opposition to the objectives and priorities for the Metropolitan Rural Area (MRA). In particular, there were concerns regarding the leachate ponds and potential contamination, inadequate biodiversity protection and incompatible visual impacts and light spill, in addition to the other environmental impacts aforementioned in this section - i.e. noise and air quality.</p> <p>However, the proposal was then revised to remove the leachate pond, incorporate a biodiversity stewardship agreement and additional details and commitments were provided to ensure a modern management facility is proposed, with reduced hours for all operations. The proposal supports the protection of significant remnant vegetation as detailed in the revised BDAR and therefore supports the priority to protect remnant bushland vegetation while also protecting the rural landscape.</p> <p>Detailed environmental assessments relating to contamination, air quality, noise, stormwater, biodiversity and bushfire have been provided to support the revised application and demonstrate the development as designed and based on the</p>

Greater Sydney Commission's Western City Plan as Objective 29 states "Environmental, social and economic values in rural areas are protected and enhanced".

- The site is identified as having scenic and landscape values under Clause 6.5 of Penrith LEP 2010. Also, the Draft Penrith Scenic & Cultural Landscapes Study (2019) includes this area within "4.4.1 Highly visually sensitive landscapes". The proposed facility is inconsistent with preservation of the documented landscape values.

- Inconsistency with RU1 zone objectives for primary production

- The facility will occupy approximately 50,000 square metres where the Penrith DCP imposes a control of a maximum ground floor footprint of 500 square metres. This means the site will be 100 times (10,000%) larger than any other permitted structure in the RU1 zone.

best practice mitigation measures to be implemented, that areas outside the development boundary will not be negatively impacted by the proposed site activities. Notwithstanding, Council recommends further restrictions on the hours of operations to ensure they are contextually appropriate to the rural character of the area. This will further reduce likely impacts relative to noise, air quality and light spill.

The proposal includes appropriate setbacks and is designed with rural features as can be demonstrated in the 3D visual representations of the site that were provided with the amended application. Council's Landscape Architect has recommended amendments to maximise landscape screening around the building as appropriate to the landscape character.

The development application has adequately demonstrated that the impacts of the development on views and scenic quality can be mitigated satisfactorily.

In light of the above, the proposal is not considered inconsistent with Planning Priority W17 and Objective 29.

Regarding future character, it is also noted the scale is not dissimilar from what will be anticipated within the adjacent Agribusiness zone in light of the draft Agribusiness precinct plan overview (i.e. 10-20m height controls to ensure buildings are within tree canopy heights).

Impacts on Aerotropolis

- This development type is not conducive to the intended agribusiness use for the area to support the new Airport.
- The location of the Outer Sydney Orbital is not yet finalised and it would be premature to assume its location directly east of the proposal. If the orbital location moves, this facility at 344 Park Road will be isolated from the orbital and not complement existing agricultural activities.

While the land is not located within the agribusiness precinct, Council staff considered the original proposal to be of a scale and nature that would detrimentally impact on the ability of nearby allotments to fulfill the objectives of the Agribusiness zone. In addition, it was not clear from the plans whether there was a sufficient buffer provided between the site and productive rural and agricultural land uses, and to land identified as being strategic to the planned Outer Sydney Orbital. In this respect, the proposal was not originally supportable.

However, the facility, as revised, incorporates appropriate environmental controls to manage environmental risk and minimise unacceptable potential amenity impacts on neighbours and the public realm. The proposal is not considered to detrimentally affect on the ability of nearby allotments to fulfill the objectives of the Agribusiness Zone

The revised proposal has been designed to setback requirements under the DCP, namely 10m to buildings. In regard to distances between the site and productive rural and agricultural land uses, the eastern boundary is of relevance as the neighbouring allotment houses a poultry shed and other rural uses. The setback of the building is 25 metres from the boundary. There is a 4 to 15 metre landscaped area to the driveway proposed alongside this boundary. These buffer distances are considered adequate for the existing and proposed land uses to the east.

While the precinct plan for Agribusiness is not yet finalised, the exhibited draft indicates that the precinct will be designed around the creek lines for biodiversity and habitat corridors, riparian parklands and open space networks, including connections to the subject site's riparian corridor within the southern half of the property. The biodiversity stewardship agreement proposed will ensure the riparian corridor within the subject site connects to the Agribusiness precinct, albeit downslope of the precinct, preserving habitat connectivity. The proposal is thus considered conducive to the intentions for the Agribusiness zone.

The application was also referred to the Corridors team of TfNSW. The corridors team have not objected to the proposal and have recommended that a condition be imposed which requires that the applicant liaise with the Corridors team throughout the construction and implementation of the project. In addition, it is noted that the draft exhibited Agribusiness precinct overview documents continue to design around the orbital within this location.

CEMP and EMP

<p>No CEMP was submitted despite the complexity of the proposed development and the need to review the details on the environmental practices and controls to be implemented on the site.</p>	<p>It is noted that Council required a CEMP throughout the assessment of the application.</p> <p>A Construction Environmental Management Plan prepared by Benbow Environmental (dated 6 August 2021, ref 191318-03_CEMP_Rev 2) has been provided to Council for review. The Environmental Management Plan satisfactorily covers the following environmental concerns associated with the construction phase of the proposed development:</p> <ul style="list-style-type: none"> • Water quality management, • Soil management (including Unexpected Finds Protocol), • Wastewater management, • Stormwater management and drainage, • Noise control and hours of operation, • Erosion and sediment control, • Air quality including odour and dust control, and • Chemical and fuel storage. <p>While an EMP was not submitted as a separate document, the EIS includes matters to be covered in an EMP - i.e. hazards and fire safety, in addition to the numerous technical reports relating to acoustics, air quality, waste management, wastewater, water management, bushfire and biodiversity. Council's Environmental Management Officer raised no objections in this regard, subject to a condition that all activities on the site are to be implemented and carried out in accordance with the Environmental Impact Statement prepared by Benbow Environmental (dated 6 August 2021, ref 191318_EIS_Rev 3).</p>
<p>Staged Development</p> <p>- This is Stage 1 of a broader plan for this site however Stage 2 should be considered now.</p>	<p>Future stages are not proposed as part of this DA.</p>
<p>Bushfire Impacts</p>	

<p>- Concern is raised regarding the fire danger presented by the materials that are stored on the site (up to 9.5% of the annual waste intake is to be stored on site at any one time). The site is surrounded by farming and bushland, all of which is vulnerable to the threat of bushfire.</p> <p>-The site also intends to store 10,000 litres of diesel on site. There is poor water supply and water is intended to be provided for firefighting via a 20,000 litre storage tank. Again this will rely on the operation and management of the facility to ensure that water supply for fire services and fire fighting on site is always available.</p>	<p>In accordance with Clause 143 of the Environmental Planning and Assessment Regulation 2000, an assessment of the fire protection and structural capacity of the proposal is necessary. The application was referred to Council's Building Surveyor who has not raised any objections, subject to recommended conditions of consent.</p> <p>The facility will require firefighting equipment to be installed including a building sprinkler system, fire hydrants with monitors, hose reels and extinguishers in accordance with the Building Code of Australia, NSW Fire and Rescue requirements and Fire Safety in Waste Facilities guidelines. This aspect of the operations will be subject to ongoing regulation. It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/statement for the building.</p> <p>A recommended condition will ensure compliance with the Fire and Rescue NSW Fire safety guideline: Fire management in waste facilities 2020. The EPA notes that this has been considered as part of the EIS and should be included in the site management plans.</p> <p>Regarding bushfire risk, the Rural Fire Service provided conditions including that all combustible waste materials shall be stored inside the resource recovery facility building to prevent the ignition of materials from potential bush fire attack (including ember attack). The storage of combustible materials in the open air or exposed to bush fire attack is strictly prohibited. The proposal includes areas of open storage which was originally contrary to these requirements. The applicant subsequently confirmed the types of material/classification of aggregates and soil which are proposed to be stored in the semi-outdoor bunkers are non-combustible. The maximum storage capacity and waste type for each bunker was shown on the updated site plans.</p> <p>Water storage tanks would be connected to the mains and used for emergency firefighting purposes.</p>
<p>Impact on Property Values</p>	
<p>- Environmental impacts will decrease the value of properties in Wallacia.</p>	<p>No evidence has been provided from a property valuer in this regard.</p>
<p>Cumulative Impacts of Waste Facilities</p>	

<ul style="list-style-type: none"> - There is another proposal for a Resource Recovery Facility proposed for Bents Basin Road, Wallacia which is located 5 minutes from the subject site. No investigations have been done on the feasibility of having both facilities operational nor have any investigations been done into potential accumulative impacts from both proposals. Is it really necessary to have two of the same facility located so close to each other? - There is Suez (Kemps Creek), Cleanaway (Eastern Creek), Brandows (Cecil Hill), Bingo Industries (Eastern Creek) and Hooper Environment (Blue Mountains and Arndell Park). How many more do we need? 	<p>The proposal is permissible and proximity to other similar facilities within the region is not a consideration under the relevant statutory provisions.</p>
<p>Flooding Issues and Proximity to Nepean River</p> <ul style="list-style-type: none"> - The close proximity to Nepean River should be a cause for concern. -The site is proposed to be filled by approximately 10,000m³. It is noted in the EIS that the site is located partially within the PMF and 1% AEP flood extents, but no assessment of the reduction of flood storage or flood behaviour has been done. - Wallacia is the closest flood area to Warragamba Dam. -Reports do not address flooding from Warragamba Dam. 	<p>Council's Development Engineer has assessed the proposal and has not raised any objections to the proposal on flooding grounds. Refer to the Clause 5.21 and SREP No. 20 sections of this report for further details.</p>
<p>Types of Waste</p>	

<p>- There are inconsistencies within the documents regarding the percentage of waste processed that is construction and demolition waste.</p>	<p>The EPA licence GTAs confirm the authorised amount of waste permitted on the premises at any one time - L2.4 A maximum of 95,000 tonnes of waste is permitted to be received at the premises in a 12 month period. This includes building and demolition waste (bricks, concrete, metal, plasterboard), aggregates, roadbase or ballast, paper or cardboard, plastic and metal, asphalt waste (including asphalt resulting from road construction and waterproofing works) and wood waste.</p>
<p>Ground Water Contamination and Health Risks</p> <p>-Since the property has a long history of contamination, the minimum requirement will have to be a comprehensive Stage 2: Detailed Site Investigation to determine the extent of contamination horizontally and vertically as well as the types of contaminants. Despite this, only limited geotechnical testing was conducted by the proponent. Further comprehensive assessment on the contents of the land fill and its adverse effects on the environment and water flow is required.</p> <p>- The site is flood prone and contains water courses which flow to the Nepean River - there is a risk of harm to human health and the environment including recycled products leaching into soil, surface water and groundwater, livestock, farming land, crops and residences located on neighbouring properties.</p> <p>- Potential contamination to Sydney's drinking water supplies via airborne particles and also the potential for ground water contamination given Warragamba Dam proximity (8km).</p> <p>- The EIS for the recycling facility does not, but should, include:</p> <ul style="list-style-type: none"> • details of how surface water 	<p>As previously stated, the submitted technical reports indicate that the site is outside the 1 in 100 year flood areas.</p> <p>A Phase II Detailed Site Assessment prepared by Benbow Environmental (dated 6 august 2021, ref 191318_03_DSI) was submitted on request from Council. The assessment provides an adequate review of the site history, as well as an appropriate number and coverage of sample locations to investigate the specific areas of concern as raised by Council's Environmental Management Officer. The assessment has determined that the site is considered suitable for the proposed use.</p> <p>The development area would be fully sealed including bunded diesel storage tank, stormwater drains discharging to bio-retention filter media basins and segregated, designated and covered waste storage bunkers, including external bunkers with walls and an awning on a sealed surface. No waste is to be stored in stockpiles outside bunker areas.</p> <p>The revised stormwater report and associated plans demonstrate how stormwater will be managed and directed across the site. Through the use of gross pollutant traps, on-site detention and bioretention basins, water will be both detained and treated to ensure the quantity and quality does not adversely affect neighbouring uses. Council's Development and Waterways Engineers raised no concerns with the revised detailed design.</p> <p>It is noted Council's Environmental Management Officer also raised no concerns to any of the revised environmental reports, including the water management report, noting the diesel tank is self bunded, trucks only unload inside the building, the development area is sealed and only low-risk chemicals are to be stored on site and stored appropriately to prevent spillages into the stormwater drainage system.</p> <p>The plan detailing spill prevention, contingency and emergency clean-up procedures found in the Environmental Impact Statement prepared by Benbow Environmental (dated 6 August 2021, ref 191318_EIS_Rev 3) shall be implemented in the event of a spill or emergency.</p>

flows across the site and locations of any drains or storage tanks for stormwater or waste contaminated water,

- how much water is required daily for dust suppression and washdown of hard surfaces,
- how adequate soils are at the site to hold this quantity of water,
- potential for groundwater contamination,
- what the effect will be of increased soil saturation levels on the endangered vegetation on the site (large quantities of groundwater from damping down dust and washing down hard surfaces could affect the health of trees of the Critically Endangered Ecological Communities on the site),
- the geotech report is inaccurate in stating there are no boreholes located within 500m of 344 Park Road,
- what level of surveillance/oversight would be provided with regard to what was actually being dumped on-site?
- unclear whether the resource recovery facility is fully enclosed and what risk it poses if it is not.

The geotech report conclusions are based exclusively off the boreholes that were drilled as part of the subject application, noting no groundwater was found.

Lastly, given the EPA have issued a licence GTAs, they will manage the facility. It is noted their licence GTAs include conditions regarding waste types and quantities, among many other environmental matters including:

"The licensee must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the Protection of the Environment Operations Act 1997.

It is recommended that the Applicant prepare a surface water management plan for the premises. The plan should include, but is not limited to, a water monitoring program, as referred to in the EIS".

Other Hazards to Health

<p>- There will be an increased hazardous and dangerous goods impact. Gas storage on-site, diesel/engine and hydraulic oil storage on-site increase the risk from hazards for neighbouring properties. Asbestos handling, separation, storage and removal processes need to be defined clearly as asbestos will slip through among demolition waste.</p>	<p>Refer to the SEPP 33 section of this report for further details.</p> <p>Recommended conditions will ensure only low risk chemicals are to be stored on site. These chemicals are to be stored appropriately to prevent spillages into the stormwater drainage system.</p> <p>All works and storage areas where spillages are likely to occur will be bunded. The size of the area to be bunded is calculated as being equal to 10% of the total volume of containers stored, or 110% of the largest container stored, whichever is the greater. All bunded areas will be graded to a blind sump so as to facilitate emptying and cleaning.</p> <p>The facility will not accept liquid wastes, hazardous wastes, special waste including asbestos and waste tyres, nor restricted solid waste. A procedure to deal with any unauthorized waste types inadvertently delivered to the site is provided in Section 5 of the waste management report. Inspection by a suitably qualified person and possible laboratory testing will be undertaken to determine the nature of the material and any action required. The incoming waste procedure will be implemented from the first load accepted at the facility. The staff would need to be trained in this and all other environmental procedures in accordance with the Draft Protocol for managing asbestos during resource recovery of construction and demolition waste.</p>
<p>Lack of Consultation from Developer</p> <p>We have not received any correspondence, despite the application stating a community information sheet was posted to surrounding residents.</p>	<p>The application was notified and exhibited by Council in accordance with the Regulations.</p>

Past Unauthorised Uses

Council records indicate that two related compliance matters have historically been associated with the subject site and include the unauthorised use of the site to receive and dispose of timber pallets (through mulching) and activities related to the receipt and storage of fill materials, including unclassified materials and soil. These matters were however closed out on 13 May 2020. Council's letter of this date indicated that no further action would be taken as the use of the premises for a transport and trucking depot had ceased.

The proponent has addressed potential contamination of the site and also in relation to the imported material and the sampling and testing carried out has indicated that these materials are not contaminated. Additional sampling and testing was provided throughout the assessment process on request from the EPA. The EPA issued their general terms of approval for the project with conditions related to these issues.

Referrals

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

Referral Body	Comments Received
Building Surveyor	No objections
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	Not supported, however conditions provided
Environmental - Waterways	No objections - subject to conditions
Environmental - Biodiversity	No objections - subject to conditions
Traffic Engineer	No objection subject to conditions

Environmental - Environmental management

Council's Environmental Management Officer found that the revised technical reports are satisfactory in relation to noise, air quality, water, waste, and wastewater management and contamination. The basis of the non-support is solely due to certain inconsistencies that remain within one of the supporting reports, as detailed below.

It is identified in recent documentation submitted to Council for review that leachate is no longer anticipated to be generated as a result of the proposed development, however in Section 2.3 *Site Facilities* of the Construction Environmental Management Plan (CEMP) there is reference to a proposed leachate containment pond. The CEMP shall be amended accordingly to reflect the proposal. This can be addressed through conditions of consent.

Furthermore, upon reviewing the Noise and Vibration Management Section of the Construction Environmental Management Plan, it is noted that there is no reference made to the amended Noise Impact Assessment submitted to Council. Although the proposed mitigation measures made in the Noise Impact Assessment may have been transferred to the Construction Environmental Management Plan, it is recommended that the Environmental Management Plan be amended to reference the Noise Impact Assessment to ensure consistency between these documents in terms of noise and vibration management during the construction phase. This amended documentation can be requested through conditions of consent.

Section 4.15(1)(e)The public interest

The proposal is considered to be in the public interest for the following reasons:

- The proposal will reduce the quantity of construction, demolition, commercial and industrial wastes in landfill;
- The biodiversity stewardship agreement requires the proponent to maintain and improve the site's biodiversity, which supports ecologically sustainable development, habitat connectivity and riparian corridor connectivity;
- The building, site layout, storage areas and site processes have been designed to ensure there are no significant impacts likely to the existing vegetation and the rural landscape, while also providing bushfire protection, maintaining overland flow paths, adequately managing stormwater quality and quantity and providing satisfactory landscape buffers to Park Road and adjoining properties;
- The operational environmental safeguards proposed, coupled with the recommended conditions of consent, will minimise potential environmental, character and amenity impacts and the proposal is supported by Council's technical experts;
- The EPA has issued their General Terms of Approval and will regulate the use of the site given the provisions of the Protection of the Environment Operations Act 1997 apply;
- The proposed access treatments will support the proposed traffic movements while also improving Park Road and is supported by TfNSW; and
- Subject to Council's recommended hours, the proposal is not considered inconsistent with the existing and future character of the area.

Conclusion

The development application has been assessed against the Biodiversity Conservation Act 2016, the Environmental Planning and Assessment Act 1979, and the applicable environmental planning instruments, including State Environmental Planning Policy (Infrastructure) 2007, State Environmental Planning Policy No. 55 - Remediation of Land and Penrith Local Environmental Plan 2010 and against the relevant plans and policies. It is considered that the proposal is not inconsistent with the aims, objectives and specific provisions of these plans and policies.

A thorough review has been undertaken of all the submissions received being against the proposal and the matters raised within have been taken into consideration in the assessment of the proposal.

The proposal, in its revised form, is considered satisfactory in relation to air quality, noise impacts, the management of waste, wastewater and water and hazards associated with storage. Further, conditions can ensure more conservative hours are required to respect and retain the existing rural amenity and further reduce likely environmental impacts.

Landscaping embellishment opportunities exist and can be further maximized through recommended conditions, while also complying with the Rural Fire Service's requirements.

The proposal can minimise impacts on surrounding scenic and landscape values and the character of the area. Specifically, the preservation of existing vegetation, the proposed setbacks and the general design is not incompatible with local character as defined by Council's LEP and DCP and is representative of the future desired character of the area, noting the nearby Aerotropolis agribusiness zone and the M9 corridor directly adjacent the site to the east. The reduced hours will also reduce light spill impacts and is considered satisfactory.

In relation to traffic, access, parking and works proposed on Park Road, being a Classified road, the concurrence of Transport for NSW has been obtained and the scale of the development and its subsequent traffic generation can be supported given the access treatments proposed.

In relation to stormwater, overland flow and waterways, Council's Development Engineer and Waterways Officers supported the proposal noting it will not affect the existing overland flow paths within the site and stormwater can be adequately detained and treated.

Council's Biodiversity Officer supports the applicant's proposed stewardship agreement under the biodiversity offsets scheme to maintain and improve the biodiversity values of the site.

It is noted that data gaps in the contamination assessment and inconsistencies in reports have been resolved through design amendments and additional information.

It is for the above reasoning that the development application can be supported and is in the public interest.

Recommendation

1. That DA20/0262 for a Resource Recovery Facility for Processing a Maximum of 95,000 Tonnes Per Year of Construction & Demolition (C&D) & Commercial & Industrial (C&I) Waste including Conversion of Existing Dwelling to Office, Internal Driveways, Car & Truck Parking Areas & Associated Infrastructure at 344 Park Road, Wallacia, be approved subject to the recommended conditions of consent; and
2. That those making submissions and State agencies providing concurrence, are notified of the determination.

CONDITIONS

General

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

Drawing Title	Prepared By	Drawing No.	Revision	Date
Architectural Plans				
Cover Sheet	Carlo Ranieri & Associates	A00	C	08/06/21
Overall Site Plan	Carlo Ranieri & Associates	A01	E	08/06/21
Part Site Plan & Site Analysis	Carlo Ranieri & Associates	A02	H	08/06/21
Process Building Floor Plan	Carlo Ranieri & Associates	A03	E	08/06/21
Elevations	Carlo Ranieri & Associates	A04	D	08/06/21
Elevations		A05	D	08/06/21
Process Building Sections	Carlo Ranieri & Associates	A06	C	08/06/21
Production Office	Carlo Ranieri & Associates	A07	D	08/06/21
Materials & Finishes Schedule	Carlo Ranieri & Associates	A08	C	08/06/21
Existing Office & Access Plan	Carlo Ranieri & Associates	A09	A	08/06/21
Car Park Plan	Carlo Ranieri & Associates	A10	A	08/06/21
Process Building Roof Plan	Carlo Ranieri & Associates	A11	A	08/06/21
Tree and Vegetation Disturbance Plan	Carlo Ranieri & Associates	A12	A	08/06/21
Civil Plans, as amended by the plans that will be submitted prior to CC in accordance with the requirements of TFNSW				
Cover Sheet	Indesco	7410-DA-000		
General Notes & Legend	Indesco	7410-DA-001	B	22/09/20
General Arrangement Plan Sheet 1	Indesco	7410-DA-002	B	05/08/21
General Arrangement Plan Sheet 2	Indesco	7410-DA-003	B	05/08/21

Erosion & Sediment Controls & Details	Indesco	7410-DA-020	B	22/09/20
Erosion & Sediment Control Plan	Indesco	7410-DA-021	C	05/08/21
Earthworks Plan	Indesco	7410-DA-050	B	22/09/20
Site Sections	Indesco	7410-DA-051	C	05/08/21
Grading Plan Sheet 1 of 2	Indesco	7410-DA-060	B	05/08/21
Grading Plan Sheet 2	Indesco	7410-DA-061	B	05/08/21
Stormwater Plan Sheet 1	Indesco	7410-DA-100	C	05/08/21
Stormwater Plan Sheet 2	Indesco	7410-DA-101	C	05/08/21
Chainage Plan Sheet 1	Indesco	7410-DA-200	C	05/08/21
Chainage Plan Sheet 2	Indesco	7410-DA-201	C	05/08/21
Road Cross Sections Sheet 1	Indesco	7410-DA-205	B	22/09/20
Road Cross Sections Sheet 2	Indesco	7410-DA-206	B	22/09/20
Road Longitudinal Sections Sheet 1	Indesco	7410-DA-210	B	22/09/20
Road Longitudinal Sections Sheet 2	Indesco	7410-DA-211	B	22/09/20
Road Longitudinal Sections 3	Indesco	7410-DA-212	B	22/09/20
Road 1 Cross Sections Sheet 1	Indesco	7410-DA-215	A	04/08/20
Road 1 Cross Sections Sheet 2	Indesco	7410-DA-216	A	04/08/20
Road 2 Cross Sections Sheet 1	Indesco	7410-DA-217	A	04/08/20
Road 2 Cross Sections Sheet 2	Indesco	7410-DA-218	A	04/08/20
Cross Sections	Indesco	7410-DA-219	A	04/08/20
Cross Sections	Indesco	7410-DA-220	A	04/08/20
Catchment Plan Pre Development	Indesco	7410-DA-300	B	22/09/20
Catchment Plan Post Development	Indesco	7410-DA-301	C	05/08/21
Catchment Plan External	Indesco	7410-DA-302	A	22/09/20
Music Catchment Plan & Schedule	Indesco	7410-DA-303	C	05/08/21
Onsite Detention Details Sheet 1	Indesco	7410-DA-405	C	05/08/21
Onsite Detention Details Sheet 2	Indesco	7410-DA-406	C	05/08/21
Culvert Details	Indesco	7410-DA-407	C	05/08/21
Internal Driveway Access Plan & Details	Indesco	7410-DA-420	C	05/08/21

Supporting Documents:

- Biodiversity Conditions - Appendix A
- Biodiversity Conditions - Appendix B
- Construction Environmental Management Plan prepared by Benbow Environmental (dated 6 August 2021, ref. 191318-03_CEMP_Rev 2)
- Draft Operational Management Plan, prepared by Carlo Ranieri, dated 13 May, 2020
- Noise Impact Assessment prepared by Benbow Environmental (dated 15 June 2021, ref. 191318_NIA_Rev 2)

- Air Quality Impact Assessment prepared by Benbow Environmental (dated 14 August 2020, ref. 191318_AQIA_Rev2)
- Waste Management Plan prepared by Benbow Environmental (dated 6 August 2021, ref. 191318_Waste_Rev 2)
- Water Cycle and Leachate Management Report prepared by Indesco (dated 28 September 2020, ref. 7410R.1)
- Wastewater Report prepared by Strategic Environmental & Engineering Consulting (dated 19 October 2020, ref. 20000086-WW-02)
- Phase II Detailed Site Assessment prepared by Benbow Environmental (dated 6 August 2021, ref. 191318_03_DSI)
- Biodiversity Development Assessment Report, Version 3, prepared by Narla Environmental, dated August 2021
- Environment Impact Statement, Revision 4, prepared by Benbow Environmental, dated 6 August 2021
- Bushfire Risk Assessment, prepared by Bushfire Consulting Services and dated 20 April, 2020
- Transport Assessment, A201693N (Version 1d), prepared by Motion Traffic Engineers and dated August 2021
- Geotechnical Investigation - Subsurface Soil Profile Classification, prepared by Envirotech, dated 4 April, 2020
- Due Diligence Aboriginal Archaeological Assessment, prepared by Benbow Environmental, dated May 2020
- Access Statement, prepared by Carlo Ranieri, dated 8 May, 2020

- 2 The development shall be constructed and maintained so as to be compliant with the conditions issued by Endeavour Energy under Clause 45 of SEPP Infrastructure 2007 and as outlined in its advice letter dated 26 August 2021 (CNR-8094).

- 3 The development shall be constructed and maintained so as to be compliant with the conditions issued by the NSW Rural Fire Service under Section 4.14 of the Environmental Planning and Assessment Act 1979 and Clause 77 of the associated Regulations and as outlined in its advice letter dated 15 June 2020 (Ref. DA20200529001898; CNR-8094).

- 4 The development shall be constructed and maintained so as to be compliant with the conditions issued by Transport for NSW (TfNSW) under Schedule 3 of SEPP Infrastructure 2007 and Section 138 of the Roads Act 1993 and as outlined in its advice letter dated 28 May 2021 (Ref. SYD20/00933/04; CNR-8094).

Note:

The applicant is to continue to liaise with the TfNSW Outer Sydney Orbital project team during the construction and operational phases of the development.

- 5 The development shall be constructed and maintained so as to be compliant with the general terms of approval (GTAs) issued by the NSW Environment Protection Authority (EPA) under Sections 34 and 42 of the Protection of the Environment Operations Act 1997 and as outlined in its advice letter dated 24 September 2021 (Ref. DOC21/817676; CNR-8094, A-9171).

Prior to the commencement of site operations, an Environmental Protection Licence shall be obtained from the EPA.

- 6 This consent approves the use of the subject site, as is depicted on the stamped approved plans and as is described in this consent, for a waste management and resource recovery facility. No approval is to be assumed or is granted for the disposal or incineration of waste on the site or for the acceptance for contaminated soil, putrescible waste or food and garden waste.

All loading and unloading of waste, demolition materials and recovered waste recyclables is to be conducted inside the approved building and doors/shutters are to be kept closed after vehicles have entered or departed the building. There are to be large bins in each external storage bunker to contain the waste and allow easy transport into the building for loading the outgoing finished product.

The approved hours for the various activities and for deliveries and trucks movements are as follows:

- The approved hours for the receipt and departure of waste, demolition and recovered materials are from 7:00am to 6:00pm, Monday to Friday, and 8:00am to 1:00pm, Saturday;
- There are to be no greater than 55 truck deliveries (110 truck movements) on the site within the limited hours of access for trucks stated above. There is to be no greater than 5 truck deliveries per hour; and
- There are to be no greater than 26 staff on site at any given time.

- 7 **Prior to the issue of an Occupation Certificate**, all existing unapproved signage, pole signs and advertising structures located on the subject site are to be removed. No approval is granted for the erection or installation of any signage as part of this consent.
- 8 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 9 All materials and goods associated with the use shall be contained within the building at all times.
- 10 The finishes of all structures and buildings are to be maintained at all times. Graffiti is to be immediately removed and any vandalised or damaged structures are to be repaired.

- 11 To ensure that the Asset Protection Zone required by the Rural Fire Service and reproduced below is provided and maintained around the resource recovery facility for the term of the development, a 'positive covenant' shall be registered over the land to which the development relates, **prior to the issue of an Occupation Certificate.**

From the start of building works and in perpetuity, the property around the resource recovery facility must be managed as an inner protection area (IPA) as follows:

- North for a distance of 100 metres;
- East for a distance of 25 metres;
- South for a distance of 21 metres; and,
- West for a distance of 49 metres.

During the construction of the development, documentation and associated legal paperwork shall be forwarded to Penrith City Council for consideration and endorsement which notes Council's interest in the positive covenant before the positive covenant is registered with NSW Land Registry Services.

Note:

The Asset Protection Zone is the sum total of the Inner Protection Area and Outer Protection Area.

- 12 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 13 All finishes to the buildings shall be non-reflective to mitigate glare.
- 14 In accordance with the RFS conditions, the external storage bays are for non-combustible material only, particularly recovered aggregates and soil.
- 15 **Prior to the issue of a Construction Certificate and/or an Occupation Certificate, as relevant, the biodiversity conservation requirements outlined within Appendix A and Appendix B to this consent shall be satisfied.**

Demolition

- 16 All demolition works are to be conducted in accordance with AS 2601-2001 - The Demolition of Structures.

SafeWork NSW requirements apply to demolition work and compliance with those requirements, including the SafeWork NSW Code of Practice Demolition Work August 2019, is required.

Prior to demolition, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

- 17 You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site.**

Prior to commencement of demolition works on site, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement", and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting, must be disposed of at a tipping facility licensed by the Environment Protection Authority to receive asbestos wastes.

- 18 Demolition works shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm if inaudible on neighbouring residential premises, otherwise 8am to 1pm
- No demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building, does not involve external walls or the roof, and does not involve the use of equipment that emits noise, then the demolition works are not restricted to the hours stated above.

The provisions of the Protection of the Environment Operations Act 1997 in regulating offensive noise also apply to all construction works.

Heritage/Archaeological relics

- 19 If any archaeological relics are uncovered during the course of the works, no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the Heritage Act, 1977 may be required before any further work can be recommenced in that area of the site.

Environmental Matters

- 20 Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development.

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

- 21 Dust suppression techniques are to be employed during demolition, construction and operation to reduce any potential nuisances to surrounding properties.
- 22 No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to, considered and approved by Council. The Validation Certificate shall:
- state the legal property description of the fill material source site,
 - be prepared by an appropriately qualified person (as defined in Penrith Contaminated Land Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
 - clearly indicate the legal property description of the fill material source site,
 - provide details of the volume of fill material to be used in the filling operations,
 - provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
 - (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

{Note: Penrith Development Control Plan defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.

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

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

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

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

- 25 Noise levels from the premises shall not exceed the relevant noise criteria detailed in the Noise Impact Assessment prepared by Benbow Environmental (dated 15 June 2021, ref. 191318_NIA_Rev 2). The recommendations provided in the above-mentioned Noise Impact Assessment shall be implemented and incorporated into the design and construction of the development, and shall be shown on plans accompanying the Construction Certificate application. A certificate is to be obtained from a qualified acoustic consultant certifying that the building has been constructed to meet the noise criteria in accordance with the approved acoustic report. This certificate is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

The following recommendations made in the above mentioned Noise Impact Assessment are to be adhered to during the operational phase of the development:

- No truck deliveries are to be accepted on to the property during the evening and night time periods (between 6:00pm and 7:00am).
- No front-end loader movements are to occur outside of the facility after 6:00pm.
- Walls of the facility are to be constructed with a minimum Rw of 36dB, and composed of double corrugated steel.
- The roof of the facility is to be constructed with a minimum Rw of 32dB, and composed of corrugated steel with miwo, 120mm thick.
- The conveyor from the internal area of the facility to the external aggregate storage bays must be enclosed so as to ensure noise from inside of the facility cannot propagate through the exit holes of the conveyor.
- The roller shutter doors must be kept closed at all times when not in use.
- The pedestrian doors must be kept closed at all times when not in use.

The recommendations of the approved Construction Noise & Vibration Management Plan within the Noise Impact Assessment prepared by Benbow Environmental (dated 15 June 2021, ref. 191318_NIA_Rev 2) are to be implemented and adhered to during the construction of the development.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

- 26 All mechanical plant and equipment is to comply with the noise criteria outlined in the the Noise Impact Assessment prepared by Benbow Environmental (dated 15 June 2021, ref. 191318_NIA_Rev 2).

Prior to the issue of a Construction Certificate, further details on the type and location of all mechanical plant and equipment associated with the development is to be provided to Council for consideration and approval. Suitable data and information on the noise impacts associated with this plant and equipment is also to be supplied to demonstrate compliance with the established noise criteria.

- 27 Waste oil shall be stored in a covered and bunded area and regularly removed to a waste oil recycle operation.
- 28 All works and storage areas where spillages are likely to occur shall be bunded. The size of the area to be bunded shall be calculated as being equal to 10% of the total volume of containers stored, or 110% of the largest container stored, whichever is the greater. All bunded areas shall be graded to a blind sump so as to facilitate emptying and cleaning. Details are to accompany the application for a Construction Certificate.
- 29 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.
- If mains sewer is not available or if Sydney Water will not allow disposal to the sewer, then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.
- The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.
- 30 Mud and soil from vehicular movements to and from the site during works must not be deposited on the road.
- 31 In the event of Council receiving complaints regarding air emissions, including dust, from the development, the owner and/or occupier of the development may be required by Council to obtain the services of a suitably qualified air quality consultant to undertake an air quality impact assessment of the development to address the concerns of the community. The Air Quality Impact Assessment report is to be prepared and provided to Council within 45 days of being requested. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified.

32 Water quality monitoring of the basins is to occur monthly for the first twelve (12) months of operation, and after every rain event during that twelve (12) month period. A Water Quality Compliance Report is to be prepared by an environmental consultant and submitted to Council:

- within eight months of the commencement of operations and is to provide a summary and assessment of the monthly water quality monitoring undertaken during the first six months; and
- within fourteen (14) months of the commencement of operations and is to provide a summary and assessment of the monthly water quality monitoring undertaken during the 6-12 month period after the commencement of operations.

Water quality monitoring data is to be kept on the premises and is to be made available to Penrith City Council upon request.

Water monitoring is to be conducted to ensure ongoing compliance with ANZECC Guidelines for Fresh and Marine Water Quality criteria. Water that does not comply with ANZECC water quality criteria is to be removed from the site by a lawful waste contractor and disposed of at a lawful waste management facility. Receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

Should the Water Quality Compliance Report identify any non-compliance issues, the Report is to provide suitable recommendations for the mitigation of those issues. These mitigation issues are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified. Dependent upon results of the monitoring, Council may permit, after the twelve month period monitoring at a lesser frequency of quarterly monitoring. This can only be subject to approval in writing from Penrith City Council.

33 The construction and operational phases of the development are not to generate air quality impacts (including dust and odour) that exceed the relevant air quality criteria detailed in the Air Quality Impact Assessment prepared by Benbow Environmental (dated 24 August 2020, ref 191318_AQIA_Rev 2).

The recommendations provided in the above-mentioned Air Quality Impact Assessment shall be implemented and incorporated into the design and construction of the development, including the water misting system. A certificate is to be obtained from a qualified air quality consultant certifying that the building has been constructed to meet the air quality criteria in accordance with the approved Air Quality Impact Assessment prepared by Benbow Environmental (dated 24 August 2020, ref 191318_AQIA_Rev 2). This certificate is to be submitted to Council within sixty (60) days of the date of consent.

Operations are to be carried out generally in accordance with the Air Quality Impact Assessment prepared by Benbow Environmental (dated 24 August 2020, ref 191318_AQIA_Rev 2). The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive emissions.

34 No washing of vehicles or mechanical parts is to be carried out on site. The installation of a wash bay, parts washing station, or truck wheel wash bay will require consent from Penrith City Council.

- 35 All mechanical repairs shall be conducted within the workshop area which shall be provided with suitable pollution control devices that removes grease, oil, petroleum products and grime prior to discharge to the sewer system in accordance with the requirements of Sydney water. Waste oil and waste liquids shall be stored in a covered and bunded area and regularly removed to a waste oil recycle operation.

At no time shall mechanical work be carried out in open driveways or car parking areas.

Spray painting is not permitted on site. No work, including the painting of parts or the preparation of parts for painting such as rubbing back and washing, shall be carried out on the site.

The following details are to be submitted to and approved by Penrith City Council before a Construction Certificate can be issued for the development:

- Proposed pollution control devices in accordance with Sydney Water requirements; and
- Specifications for any parts washing stations or associated plant and equipment.

A Copy of Council's approval of the information submitted for the above matters is to be provided to the Certifying Authority as part of the Construction Certificate application.

- 36 The plan detailing spill prevention, contingency and emergency clean-up procedures found in the Environmental Impact Statement prepared by Benbow Environmental (dated 6 August 2021, ref 191318_EIS_Rev 3) shall be implemented in the event of a spill or emergency.

Only low-risk chemicals are to be stored on site. These chemicals are to be stored appropriately to prevent spillages into the stormwater drainage system.

- 37 All solid and liquid waste must be properly classified, and disposed of or recycled appropriately. Solid waste materials are to be disposed of at a licensed waste facility, or if suitable, recycled. Prior to removal for disposal or recycling, solid and liquid waste materials are to be stored at all times in a designated area within the building.

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

- 38 **Prior to the issue of the Construction Certificate**, an amended Construction Environmental Management Plan is to be submitted to Penrith City Council for approval. If Council is not the certifying authority, a copy of Council's approval is to be provided to the Principal Certifying Authority.

The Construction Environmental Management Plan is to address the environmental aspects of the development and is to include details on the environmental management practices and controls to be implemented on the site. The amended Construction Environmental Management Plan must be prepared by a suitably qualified consultant, and is to address the following:

- The reference to a leachate management pond on page 6 of the Construction Environmental Management Plan is to be removed as there is no longer on-site leachate management proposed; and
- The Construction Environmental Management Plan is to be amended to include the updated information and recommended mitigation measures found in the revised Noise Impact Assessment prepared by Benbow Environmental (dated 15 June 2021, ref 191318_NIA_Rev 2).

All activities on the site during the demolition and construction phase of the development are to be implemented and carried out in accordance with the amended Construction Environmental Management Plan.

- 39 All activities on the site are to be implemented and carried out in accordance with the Environmental Impact Statement prepared by Benbow Environmental (dated 6 August 2021, ref 191318_EIS_Rev 3). Council may request a review and if necessary updating of the Environmental Impact Statement to reflect current environmental standards and legislation. Council must be satisfied with any changes prior to the amendment of the Environmental Impact Statement.
- 40 In the event of ongoing noise complaints relating to the development being received by Council, the owner and/or occupier of the development may be required by Council to obtain the services of a suitably qualified acoustic consultant to undertake a Noise Impact Assessment on the development to address the concerns of the community.

The Noise Impact Assessment report is to be prepared and provided to Council within 45 days of being requested. Any mitigation works are to be undertaken within 30 days from the date of notice from Council, unless otherwise specified.

- 41 **Twelve (12) months after the issue of the Occupation Certificate**, an Acoustic Compliance Report is to be submitted to and approved by Council. The Report is to be prepared by a suitably qualified acoustic consultant and is to address, but is not limited to, all noise generating activities associated with the development on the site and the level of compliance with the noise criteria set within the Noise Impact Assessment prepared by Benbow Environmental (dated 15 June 2021, ref 191318_NIA_Rev 2). It is also to consider the requirements of the NSW Environment Protection Authority's Noise Policy for Industry, other relevant guideline documents and the conditions of this development consent.

Should the Compliance Report identify any non-compliance issues, the Report is to provide suitable recommendations for the mitigation of those issues. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified.

BCA Issues

- 42 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:
- (a) complying with the deemed to satisfy provisions, or
 - (b) formulating an alternative solution which:
 - complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
 - (c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/statement for the building.

Utility Services

- 43 A Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. The application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's website at www.sydneywater.com.au then the "e-developer" icon, or telephone 13 20 92.

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

- 44 Prior to the issue of a Construction Certificate, a written clearance is to be obtained from Endeavour Energy stating that electrical services have been made available to the development or that arrangements have been entered into for the provision of services to the development.

In the event that a pad mounted substation is necessary to service the development, Penrith City Council shall be consulted over the proposed location of the substation before the Construction Certificate for the development is issued as the location of the substation may impact on other services and building, driveway or landscape design already approved by Council.

- 45 **Prior to the issue of a Construction Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:
- The requirements of the Telecommunications Act 1997;
 - For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
 - For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

Prior to the issue of an Occupation Certificate, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with the requirements above and the applicable legislation at the time of construction, must be submitted to the Principal Certifying Authority.

Construction

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

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

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

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

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

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

47 Prior to the commencement of construction works:

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

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

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

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

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

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

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

48 The approved waste management plan must be implemented on-site and adhered to throughout all stages of the development including demolition, with supporting documentation / receipts retained in order to verify the recycling and disposal of materials in accordance with the approved plan.

49 Construction works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm if inaudible on neighbouring residential premises, otherwise 8am to 1pm
- No work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and that do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

The provisions of the Protection of the Environment Operations Act 1997 in regulating offensive noise also apply to all construction works.

Engineering

- 50 All roadworks, stormwater drainage works, signage, linemarking, associated civil works and dedications, required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.
- 51 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Construction Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

- 52 Prior to the issue of any Construction Certificate, a Section 138 Roads Act application, including payment of application and inspection fees together with any applicable bonds, shall be lodged with and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:
- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
 - b) Concrete footpaths and or cycleways
 - c) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
 - d) Road occupancy or road closures
 - e) The placement of hoardings, structures, containers, waste skips, signs etc in the road reserve
 - f) Temporary construction access

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

Note:

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate.
- Separate approval may be required from Transport for NSW for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Occupation Certificate.

- 53 Prior to the issue of any Construction Certificate, the Certifier shall ensure that any applicable application, including the payment of application and inspection fees, has been lodged with and approved by Transport for NSW (TfNSW) for any works within the Park Road road reserve.

A copy of the TfNSW approval shall be submitted to Penrith City Council prior to Penrith City Council issuing any Roads Act approval.

- 54 The stormwater management systems shall be consistent with the stamped approved plans by Indesco, Project No. 7410-DA.

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

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

- 55 Prior to the issue of any Construction Certificate, the Certifier shall ensure that all new floor levels are in accordance with the stamped approved plans with a minimum floor level of RL 81.1m AHD (1% AEP flood level + 0.5m freeboard).

- 56 Prior to the issue of any Construction Certificate, the Certifier shall ensure that any structures below RL 81.1m AHD (1% AEP flood level + 0.5m freeboard) have been detailed with flood compatible building components in accordance with the publication 'Reducing the Vulnerability of Buildings to Flood Damage' produced by the Hawkesbury-Nepean Floodplain Management Steering Committee.

- 57 Prior to the issue of any Construction Certificate, the Certifier shall ensure that all electrical services associated with the proposed building works are adequately flood proofed in accordance with Penrith City Council's Development Control Plan relating to flood liable land. Flood sensitive equipment (including electric motors and switches) shall also be located above the 1% AEP flood level of RL 80.6m AHD.

- 58 Prior to commencement of works sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

- 59 A certificate by a registered surveyor verifying that all new floor levels are at or above RL 81.1m AHD (1% AEP flood level + 0.5m freeboard) shall be submitted upon completion of the building to that level. No further construction of the building is to be carried out until approval to proceed is issued by the Principal Certifier.

- 60 Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge. Kikuyu turf shall not be used in the road reserve being a rural road.
- 61 Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that all works associated with a Section 138 Roads Act approval have been inspected and signed off by Penrith City Council.
- 62 Prior to the issue of an Occupation Certificate, Works As Executed drawings, final operation and maintenance management plans and any other compliance documentation for the stormwater management systems shall be submitted to the Principal Certifier in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, Stormwater Drainage Specification for Building Developments and WSUD Technical Guidelines.

The Draft Operation and Maintenance manual shall include details on the cleaning/maintenance requirements as well as provide an estimation on the annual and lifecycle costs associated with the proposed treatment measure.

An original set of Works As Executed drawings and copies of the final operation and maintenance management plans and compliance documentation shall also be submitted to Penrith City Council with notification of the issue of the Occupation where Penrith City Council is not the Principal Certifier.

- 63 Prior to the issue of any Occupation Certificate, the Principal Certifier shall ensure that the:
- a) Stormwater management systems (including on-site detention and water sensitive urban design)
 - b) Overland flowpath works
 - have been satisfactorily completed in accordance with the approved Construction Certificate and the requirements of this consent;
 - have met the design intent with regard to any construction variations to the approved design, and;
 - any remedial works required to be undertaken have been satisfactorily completed.

Details of the approved and constructed system/s shall be provided as part of the Works As Executed drawings.

- 64 Prior to the issue of any Occupation Certificate, a restriction on the use of land and positive covenant relating to the:
- a) Stormwater management systems (including on-site detention and water sensitive urban design)
 - b) Overland flowpath works

shall be registered on the title of the property. The restriction on the use of land and positive covenant shall be in Penrith City Council's standard wording as detailed in Penrith City Council's Stormwater Drainage Specification for Building Developments - Appendix F.

- 65 Prior to the issue of any Occupation Certificate, entry and exit signage which is clearly visible from the public road shall be placed within the development site at the driveway access to the site.
- 66 Prior to the issue of any Occupation Certificate, directional signage and line marking shall be installed within the development site indicating directional movements and the location of heavy vehicle, staff vehicle and customer parking to the satisfaction of the Principal Certifier.
- 67 The stormwater management systems shall continue to be operated and maintained in perpetuity for the life of the development in accordance with the final operation and maintenance management plan.
- Regular inspection records are required to be maintained and made available to Penrith City Council on request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the stormwater management system.
- 68 Prior to the issue of any Construction Certificate, the Certifier shall ensure that vehicular access, circulation, manoeuvring, pedestrian and parking areas associated with the subject development are in accordance with AS 2890.1, AS 2890.2, AS 2890.6 and Penrith City Council's Development Control Plan.
- 69 Prior to the issue of any Construction Certificate, the Certifying Authority shall ensure that street lighting at the Park Road / Access Driveway intersection is assessed in accord with Council Public Domain Lighting Policy, AS 1158 and as set out in a Council Public Lighting Design Brief that shall be obtained from Council and included in the Access Driveway / Park Road design documentation.
- 70 Prior to the issue of any Occupation Certificate, the Certifying Authority shall ensure that the property title includes a Section 88B restriction that limits access to vehicles that are 19 metres long or less.
- 71 All car spaces and loading areas are to be sealed, line marked and dedicated for the parking of vehicles only and used for the storage of materials, products, waste materials, etc.
- 72 **Prior to the issue of a Construction Certificate**, an Operation and Maintenance Manual shall be provided of for the proposed stormwater treatment measures. The manual should include details on the cleaning and maintenance requirements as well as provide an estimation on the annual and lifecycle costs associated with the proposed treatment measures.

Landscaping

- 73 All landscape works are to be constructed in accordance with the stamped approved plans.

Landscaping shall be maintained:

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

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

- 74 The approved landscaping for the site must be constructed by a suitably qualified and experienced landscape professional.
- 75 On completion of the landscape works associated with the development and prior to the issue of an Occupation Certificate for the development, an Implementation Report must be submitted to the Principal Certifying Authority attesting to the satisfactory completion of the landscaping works for the development. The report is to be prepared by a suitably qualified and experienced landscape professional.

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

- 76 No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.
- 77 **Prior to the commencement of any works**, a project arborist with a minimum AQF (Australian Qualification Framework) Level 5 shall be engaged to prepare a Tree Protection Plan (Specification) and Drawing in accordance with AS 4970 - 2009 to appropriately retain and protect trees identified within the tree retention plan required by this consent.

The completed Tree Protection Plan (Specification) and Drawing is to be provided to the Manager of Development Services for approval prior to the commencement of any works.

The approved plan and its protection measures shall be in place prior to demolition commencing and a copy of the plan shall be retained on site at all times.

- 78 **Prior to the issue of a Construction Certificate**, a Landscape Design Report, a Tree Replacement and Retention Plan and a Fencing Plan shall be submitted to, and approved by, the Manager of Development Services at Penrith City Council.

The Report and Plan are to be prepared by a suitably qualified and experienced landscape professional and must include the retention of trees and an increase in native planting diversity, and address the following matters:

- The replacement and retention plan must identify individual trees and their species;
- Include plant species native to the Shale Gravel Transition Forest vegetation communities;
- Ensure species of trees are located appropriately within both the front setback and side setback, namely large canopy trees shall be re-located, as indicated in red on the stamped plans, within the 10m portion of the side setback and within the front setback, surrounding the car park;
- Smaller trees are required for screening purposes within the narrow portions of the eastern setback;
- Magnolia trees, grevillieas and swamp foxtail grass are to be removed given they are inappropriate relative to the biodiversity in the area;
- Wattle trees, melaleucas, Lilly pillies, bursaria and dodonea are recommended as appropriate shrubs;
- Additional trees surrounding the car park to offset these hardstand areas while also providing additional screening from Park Road;
- Align with the requirements of the Rural Fire Service' conditions regarding inner protection area requirements;
- All trees planted are to be a minimum 45L pot size and are to be planted **prior to the issue of an Occupation Certificate**. They shall comply with NATSPEC "Specifying Trees: A Guide to Assessment of Tree Quality" (2003) or Australian Standard AS 2303 – 2015 Tree Stock for Landscape Use.
- All new plantings shall be located so future growth will not conflict with electricity wires;
- Plans must include details of all perimeter fencing to be installed, noting biodiversity requirements in this regard as per detailed within the biodiversity conditions attached to this consent; and
- The chain wire fencing around the perimeter of the resource recovery facility and associated hardstand areas shall be green to blend with the surroundings.

The revised plans and reports shall be consistent with each other.

79 The Tree Protection Plan (Specification) and Drawing shall:

- identify key stages where monitoring and certification will be required as outlined in AS 4970–2009, Section 5;
- provide a requirement that all contractors and workers on site shall be briefed on the tree protection and management procedures in place as part of their site induction. A written record of the induction process is to be kept on site;
- require the project arborist to supervise any work within or directly adjacent to the Tree Protection Zone;
- nominate whether trunk and branch protection will be required to be installed on the tree and at what stages this may be required;
- permit the project arborist to alter/adjust the Tree Protection Zone or measures providing that reasons for this are clearly documented, justifiable, undertaken under the supervision of the project arborist and that those changes will not cause detriment or damage to the tree;
- require the project arborist to undertake site inspections not less than weekly to ensure that tree protection measures are in place;
- require the project arborist to keep a written record (e.g. field notes and photos) to provide evidence of site attendance and compliance with the approved conditions of consent;
- require the project arborist to forward a copy of the written record of inspection to the Principal Certifying Authority within 1 week of that inspection occurring;
- require the project arborist to identify whether there is a breach of the Tree Protection Plan. If a breach is identified the project arborist must report this to the Principal Certifying Authority and specify any remedial works and the timeframe in which these works must be completed. If an inspection reveals that there has been a significant breach of the Tree Protection Plan (Specification), inspections from then on must be carried out twice weekly;
- the site boundary fence shall remain in place for the duration of approved works to prevent physical damage to the neighbouring trees and ground protection provided as their Tree Protection Zones (TPZs) intrude into the subject site. Protection measures are to be in accordance with AS 4970 - 2009, Protection of Trees on Development Sites, Section 4.3;
- ensuring all trees to be retained and protected shall be clearly shown on all demolition and construction plans;
- providing for weather resistant signage in prominent locations on the tree protection fence that indicates access into the Tree Protection Zone is not permitted. The sign shall be a minimum dimension of 500mm high x 400mm wide of similar design and layout as per Appendix C, AS 4970 - 2009, Protection of Trees on Development Sites;
- ensuring the Tree Protection Zone (TPZ) is maintained as per AS 4970 - 2009, Section 4.6. Access to the TPZ is permitted to undertake necessary maintenance such as mowing, watering and weed control;
- ensuring building materials, site sheds, wash out areas, and similar shall not be located within the fenced Tree Protection Zone or that the Tree Protection Zone is not downstream of any washdown areas;
- providing a contingency should tree roots be exposed during approved works, to permit roots with a diameter less than 25mm to be pruned cleanly using sharp hand tools and not torn or ripped by machinery and require tree roots greater than 25mm in diameter to be assessed by a qualified arborist - minimum Australian Qualification Framework (AQF) Level 5 or equivalent - before any pruning work is undertaken.

80 An arborist with a minimum AQF (Australian Qualification Framework) Level 5 shall be engaged for the duration of the approved works to implement and comply with the measures within the approved Tree Protection Plan (Specification) and Drawing.

Development Contributions

- 81 This condition is imposed in accordance with Penrith City Council's Section 7.12 City-Wide Development Contributions Plan for Non-Residential Development. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$100,406.00 is to be paid to Council prior to a Construction Certificate** being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Contributions Plan.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The Section 7.12 invoice accompanying this consent should accompany the contribution payment. Penrith City Council's Section 7.12 City-Wide Development Contributions Plan for Non-Residential Development may be inspected at Council's Civic Centre, 601 High Street, Penrith.

Note: The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

Certification

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

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

Information to accompany the Notice of Commencement

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

- 83 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation of the building and commencement of the approved use. The Occupation Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding, and/or if the development does not comply with the provisions of the Environmental Planning and Assessment Act and Regulation.

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

Operation of OSSM

84 The on-site sewage management (OSSM) system and effluent management area shall be installed and operated in accordance with:

- The “Environmental and Health Protection Guidelines - On Site Sewage Management for Single Households”,
- Australian Standard AS 1547:2012,
- Council's On-Site Sewage Management and Greywater Reuse Policy,
- current (at the time of installation) NSW Health Accreditation documentation,
- The Wastewater Report and Effluent Management Area Plan (prepared by Strategic Environmental & Engineering Consulting, dated 19 October 2020, ref. 20000086), and
- The conditions of this consent.

Prior to the issue of the ‘Approval to Operate’, a Commissioning Certificate for the OSSM system shall be provided to Penrith City Council for approval. This Certificate shall certify that the aerated wastewater treatment system (AWTS) has been installed and is operating in accordance with the conditions of its NSW Health accreditation documentation.

Prior to the issue of an Occupation Certificate and before the OSSM system can be used, an ‘Approval to Operate’ for the OSSM system is to be sought from and issued by Penrith City Council.

85 All wastewater generated on the site is to be diverted to an Aerated Wastewater Treatment System and be disposed of by way of semi-fixed surface spray irrigation in the approved effluent management area. The effluent management area is to be located in accordance with the stamped approved Effluent Management Area Plan (prepared by Strategic Environmental & Engineering Consulting, dated 19 October 2021, ref. 20000086) and have a minimum area of 1,200m².

The system and effluent management area are to be installed and managed in accordance with:

- The “Environmental and Health Protection Guidelines - On Site Sewage Management for Single Households”,
- Australian Standard AS 1547:2012,
- Council's On-Site Sewage Management and Greywater Reuse Policy,
- The Wastewater Report (prepared by Strategic Environmental & Engineering Consulting, dated 19 October 2021, ref. 20000086), and
- The Effluent Management Area Plan (prepared by Strategic Environmental & Engineering Consulting, dated 19 October 2021, ref. 20000086).

The system is to be utilised for a daily wastewater load of 1,315 litres in accordance with the Wastewater Report (prepared by Strategic Environmental & Engineering Consulting, dated 19 October 2021, ref. 20000086). Any approval on the site for additional wastewater generating facilities or additional staff and/or customer than this may require a new wastewater report for Council's consideration.

- 86 Penrith City Council is both the consent authority and certifying authority for the installation of the On-Site Sewage Management System (OSSM). **It is your responsibility to contact Council's Environmental Health Department to organise all inspections required for the installation of the system.**

In this regard, the septic tank(s) and disposal area(s) will need to be inspected on completion of the system's installation (before backfilling occurs) and prior to its commissioning, to ensure compliance with those conditions specific to the installation of the system.

A copy of the satisfactory inspection reports carried out by Council shall be submitted to the Principal Certifying Authority if Council is not the Principal Certifying Authority.

- 87 The septic tank, drainage and irrigation lines and effluent management area shall not be altered without the prior approval of Council. In addition, the septic tank shall not be buried or covered.
- 88 All drainage and sanitary plumbing shall be carried out in accordance with the requirements of the Plumbing and Drainage Act 2011 and the Plumbing Code of Australia.
- 89 The design of the irrigation system for the effluent management area is to be such that:
- The distribution line is to be buried from the tank to the designated disposal area.
 - The moveable irrigation line and sprinklers (including the plume from the sprinklers) situated within the disposal area can not exceed the designated boundaries of the disposal area.
 - The treated wastewater can be evenly irrigated across the entire designated disposal area, **avoiding the drip line of native trees.**
- 90 All irrigation pipework and fittings shall comply with AS 2698 "Plastic Pipes and Fittings for Irrigation and Rural Applications". In this regard:
- the irrigation system is not to be connected to/not capable of connection to the mains water supply,
 - standard household fittings, soaker hoses, garden sprinklers and standard water hose fittings are not to be used,
 - all distribution lines of the irrigation system to any standpipe shall be buried to a minimum 100mm below finished surface level,
 - spray irrigation equipment connected to distribution lines shall be fixed, and
 - spray irrigation shall only use low pressure, low volume spray heads which are not capable of producing aerosols. The spray shall have a maximum plume height 400mm and a plume radius of not more than 2 metres.
- 91 There shall be no effluent runoff from the subject property to adjoining premises, public places or reserves.
- 92 A minimum of two signs shall be erected within the effluent management area. These signs are to state "RECLAIMED EFFLUENT - NOT FOR DRINKING - AVOID CONTACT". The signage shall be maintained for the term of the development.

93 The owner/occupier shall enter into an annual service contract with the manufacturer, distributor or other person authorised (in writing) by Penrith City Council to service the aerated septic tank(s) every three (3) months from the date of commissioning in the following manner:

i. A three monthly service shall include a check on all mechanical, electrical and functioning parts of the aerated system including:

- the chlorinator,
- replenishment of the disinfectant,
- the UV disinfection unit (if required)
- all pumps and switches,
- the air blower, fan or air venturi,
- the alarm system,
- the effluent disposal area and irrigation spray outlets,
- the slime growth on the filter media, and
- the operation of the sludge returns system.

ii. The following field tests are to be carried out at every service:

- free residual chlorine using DPD colorimetric or photometric method,
- pH from a sample taken from the irrigation chamber,
- dissolved oxygen from a sample taken from the final aeration or stilling chamber (although recommended) is optional.

iii. On the yearly anniversary date of the commissioning of the system, an annual service of the system shall also be carried out which includes a check on the sludge accumulation in the septic tank (primary treatment tank) and the clarifier, where appropriate.

iv. For systems which utilise the sewage treatment principle of activated sludge or contact aeration, a sludge bulking test, known as a SV30 Test, shall also be conducted on an annual basis. This test is to determine whether the accumulated sludge is bulking, indicating that the aeration compartment(s) will require desludging.

v. On completion of each service, a service report sheet is to specify all service items and test results, the amount of chlorine compound provided, parts replaced (if applicable), the date the service was conducted and the technician's name. A copy of the service report is to be:

- given to the property owner and another to the applicant (if not the same), and
- forwarded to Penrith City Council.

Each service agent shall provide a registered business office which, if unattended during business hours, is provided with a telephone answering device or service. A means of reporting a malfunction or breakdown outside normal business hours shall be available. In the event of a breakdown or malfunction, the service agent shall, within 24 hours of the breakdown or malfunction, ensure that temporary repairs are carried out to the aerated system to ensure continued operation of the system. This may necessitate provision of adequate spare parts and temporary replacement blowers and irrigation pumps where repairs cannot be completed on site.

94 The contents of the existing septic tank are to be removed by a licensed waste contractor and deposited to an approved waste facility. The disconnected tank shall be removed, demolished or filled with clean soil and garden lime. Documentation of the collection and disposal of waste are to be retained and provided to Council on request.

- 95 The effluent management area is to be turfed to the satisfaction of Council. Where a specific variety of turf is identified in the approved Wastewater Report that variety is to be installed and maintained.
- 96 No concreting, driveways, vehicles or any other structure or access way is to be located over any portion of the effluent management area.
- 97 All stormwater and seepage shall be diverted away from the septic tank and the disposal area. At no time is stormwater to be directed into the Aerated Wastewater Treatment System or onto the wastewater effluent management area.
- 98 Orchards, vegetable gardens or any other plant species that can be used for the purposes of human consumption are not to be planted within the effluent management area. Effluent from the on-site sewage management system is not to be used on fruit or vegetables grown for human consumption.
- 99 The effluent management area shall be protected from possible stock damage.
- 100 No wastewater associated with the on-site sewage management system is to be applied or irrigated within the drip line of any native trees within the effluent management area. It is the responsibility of the applicant to ensure the ongoing health of the trees in relation to the effluent management area.
- 101 **Prior to the issue of a Construction Certificate**, the NSW Health Accreditation documentation is to be submitted to Council for approval. If Council is not the certifying authority, a copy of Council's written approval is to be provided to the Certifying Authority.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C3 Water Management

Water Quality Treatment

Initially, Council's Waterway Officer advised that Council's Water Sensitive Urban Design (WSUD) Policy had not been addressed. A MUSIC model was required that included a report which clearly identifies catchment breakup, splitting of surface types and all other assumptions that have been made in the model.

An amended MUSIC model was provided identifying the catchment and sub catchment breakup of the site. Two onsite detention basins are proposed, basin 1 is 100m² with basin 2 being 50m².

The development incorporates 4 x 34Kl rainwater tanks and two bio basins. The bio basins cross sections have been provided confirming that the transition layers (filter depths) are in accordance with Council's WSUD Policy. A plant density of 8 plants per 1m² has been confirmed for both bio basins.

A GPT has been provided to treat stormwater entering the bio basins. The GPT will remove gross pollutants and has been incorporated into the MUSIC model.

The amended MUSIC report confirms that the site will achieve 80% non-potable water reuse demand. The water reuse demand has been calculated as 84.3% indicating compliance with Section 3.1 of Council's WSUD Policy.

The amended information indicates compliance with Council's policies. Council's Waterways Officer reviewed the revised information and has no objections to the proposed development subject to conditions.

A Draft Operation and Maintenance Manual was also requested for the proposed stormwater treatment measures. The manual should include details on the cleaning/maintenance requirements as well as provide an estimation on the annual and life cycle costs associated with the proposed treatment measures. A recommended condition has been provided in this regard.

Stormwater Management and Drainage

Initially, a leachate evaporation basin was proposed with an approximate size of 500m². The proposed location of the leachate evaporation basin conflicted with the proposed location of the wastewater effluent disposal area location, which could not be supported. Concern was also raised regarding potential for contaminants to be released into the existing waterway and outside of the subject property boundaries.

The leachate dam was subsequently removed and is not required. Stormwater is to be managed using bio-retention and on-site detention (OSD) basins as detailed in the revised Water Cycle and Management Report. Sources of run-off would be limited to minor quantities potentially generated from sealed areas adjacent to storage bays, noting the diesel tank is self-bunded and the waste storage bunkers are also covered with an awning and walls up to a

certain height. Any run-off would drain to a bio-retention system. A water monitoring program is also recommended during operation of the facility to validate this treatment system for the first 12 months. No objections were raised from Council's Development Engineer and Waterways Officer in this regard, nor from Council's Environmental Management Officer.

Clarification was also provided, on request, that there will be no water run-off from the proposed misters. More specifically, the misting system to be installed would be a Coolfog System or similar whereby the water particles encapsulate and suppress dust particles rendering them too heavy to remain airborne. As the fog-like water particles evaporate within seconds, no leachate would be generated. It was also confirmed that the site will not accept liquid wastes and no processes on site will generate wastewater. A condition has been recommended in this regard.

A Sediment and Erosion Control Plan has been provided with the application, and is regarded as satisfactory, subject to recommended conditions of consent.

It is also noted that there is no truck or wheel-wash facility proposed in the development application. Given the operations are either enclosed or within covered storage bunkers, trucks would remain on a sealed surface for the duration of their visit to the site. No external stockpiling or unsealed surfaces would be included in the proposed development. Therefore a truck wheel wash is not considered warranted and is not included in the development. Council's Environmental Management Officer noted this is satisfactory, and will be addressed through recommended conditions of consent.

There is also a 10,000 litre diesel tank proposed for the subject site. Given the tank is appropriately bunded, this is satisfactory, and will be addressed through appropriate conditions of consent.

Overall, Council's Development Engineer and Council's Environmental Management Officer raised no objections in relation to water management and groundwater is considered protected against pollution and contaminants.

C5 Waste Management

It is noted that an amended Waste Management Plan prepared by Benbow Environmental (dated 6 August 2021, ref 191318_Waste_Rev 2) has been provided along with the application. The Waste Management Plan addresses the demolition, construction and operational phases of the proposed development. The Waste Management Plan also proposes that a maximum storage volume of 9,000 tonnes of waste is to be stored on site at any given time, and specifies the anticipated commercial, industrial, construction and demolition waste types to be accepted. Council's Environmental Management Officer found this satisfactory, subject to conditions of consent.

The purpose of the proposal is to reduce the quantity of wastes going to landfill and recover materials so these can be resources for reuse. Incoming and processed materials would either be stored in bunkers within the building or within external walled and covered storage bunkers adjoining the western wall of the proposed building. Recovered materials would be sent on for further recycling at licensed facilities or for application to land under a resource recovery order and exemption. Waste generated as part of ongoing operations would be minimal. The waste types generated would include general solid waste (non-putrescible). These wastes would be managed on site by storing these wastes within designated waste bins or a designated storage bunker for removal by a licensed waste contractor. Wastewater would not be generated by the processing operations and a trade waste agreement is not required. An aerated wastewater

treatment system would be installed for treatment of wastewater from the office areas.

The maximum storage capacity and waste type for each bunker is shown on site plans. The facility would not accept liquid wastes, hazardous wastes, special waste including asbestos and waste tyres, nor restricted solid waste. A procedure to deal with any unauthorised waste types inadvertently delivered to the site is provided in Section 5 of the waste management report.

C6 Landscape Design

The proposed landscaping arrangement was discussed with Council's Landscape Architect where the following items were raised:

- capability of tree growth within eastern side setback noting the width proposed,
- whether the species are appropriate relative to the biodiversity on site and the character of the area, and
- screening potential of proposed species and visual impacts from nearby sensitive receivers.

A recommended condition will require an amended landscape plan be provided to Council prior to the issue of a Construction Certificate with the following changes.

- Ensure species of trees are located appropriately within both the front setback and side setbacks, namely large canopy trees shall be re-located, as will be indicated in red on the plans, within the 10m portion of the side setback and within the front setback, surrounding the car park.
- Smaller trees are required for screening purposes within the narrow portions of the eastern setback.
- Magnolia trees and certain shrubs (grevillieas) and ground covers (swamp foxtail grass) are to be removed given they are inappropriate relative to the biodiversity in the area.
- Wattles, melaleucas, lilly pillies, bursaria and dodonea are recommended as appropriate shrubs instead.
- Additional trees surrounding the car park will be required to offset these hardstand areas while also providing additional screening from Park Road, noting blister islands are required by the DCP and have not been provided.
- The landscape plan shall consider and align with the requirements of the Rural Fire Service conditions regarding inner protection area requirements.

It is noted there are trees proposed to be retained within the eastern side setback. In this regard, a recommended condition will require a tree protection plan to be prepared by a suitably qualified arborist to provide appropriate tree protection measures during construction. This shall be provided prior to the issue of a Construction Certificate.

Endeavour Energy has noted that the proposed planting of canopy trees near the front boundary is opposed by Endeavour Energy. The landscape plan to be submitted prior to the Construction Certificate being issued shall address this as well. If canopy trees are to be setback further from Park Road, there is ample room for it and this will not affect the likely visual impacts of the proposal.

It is considered that views from Park Road are adequately mitigated through the use of landscaping as discussed elsewhere in this report.

Subject to recommended conditions of consent, the proposal is considered to comply with this DCP section as sufficient boundary setbacks and landscaping are proposed to minimise

impacts on the streetscape and local character.

C10 Transport, Access and Parking

The applicant submitted a traffic study with the application and through the assessment of the proposal, Council and TfNSW requested additional information in relation to the required road and intersection upgrades required to facilitate the development. A new intersection treatment is needed to support the traffic movements of the development, including an auxiliary lane.

The proposed works and Council's assessment of these aspects is detailed under the SEPP Infrastructure section of this report. It is noted that Park Road is a Classified road and that TfNSW have raised no objections to the works, subject to their conditions. Council's traffic engineer is supportive of the proposal for the reasons provided in the aforementioned section and in this respect the proposal is supportable having regard to the objectives and relevant controls of this DCP section.

In addition, Council's Traffic Engineer recommended a condition for the title to have an 88B restriction that limits access to vehicles up to 19m, as is proposed.

Regarding parking, 26 staff are required (14 on day shift and 8 at night shift) and 32 car parking spaces are proposed to cater for this demand. Eleven (11) truck parking spaces (for 12.5m HRVs) are proposed. Council's Traffic Engineer noted the proposal is satisfactory in this regard.

C12 Noise and Vibration

Initially, the Noise Impact Assessment (NIA) did not satisfactorily address certain aspects of the operational phase of the development, regarding the proposed conveyor exit enclosure for the proposed external aggregate storage bays, as well as addressing the dropping and movements of aggregate within the external storage bays.

Additional information was then provided noting the aggregate transfer noise source is stated in Table 7-1 of the NIA with an A-weighted sound power level of 106 dB(A) from the material dropping from the conveyor. This noise source has been addressed in the NIA. The actual conveyor is not a dominant noise source. The purpose of the conveyor enclosure is to minimise the noise from internal noise sources exiting the building. The material the conveyor is to be composed of will be rubber. The angle at which the conveyor is installed will have a negligible impact on the noise results.

Amended architectural plans have also been provided identifying proposed acoustic mitigation measures such as auto-closing roller shutters, double corrugated steel cladding, roof cladding and acoustic louvres.

Council's Environmental Management Officer reviewed the revised information and noted the amended Noise Impact Assessment satisfactorily addresses potential noise and vibration impacts which may arise from the construction phase of the proposed development, as well as traffic which may be generated as a result of the proposed development. Furthermore, the duration of the acoustic monitoring is deemed to be satisfactory, as is the identification of the surrounding potential sensitive receivers. The amended Assessment also includes truck movements and hours of operation which accurately reflects other documentation submitted to Council for review. The report shows that noise impacts to the nearest sensitive receptors are expected to comply with the relevant environmental criteria. Provided that the recommendations in the assessment are adhered to, there should be no offensive noise generated as a result of

the proposed development, subject to recommended conditions of consent.

Notwithstanding, given the character of the area and the strategic intentions for the future metropolitan rural area, the hours of operation are proposed to be further restricted as previously discussed within this report.

C13 Infrastructure and Services

An aerated wastewater treatment system (AWTS) is to be installed for wastewater generated from the main building amenities and existing dwelling to be converted for use as office and amenities. The existing septic tank will be decommissioned. This is addressed through conditions of consent.

In response to initial concerns raised, an amended Wastewater Report prepared by Strategic Environmental & Engineering Consulting (dated 19 October 2020, ref 20000086) was provided to Council for review. Council's Environmental Management Officer is generally satisfied with the proposed sizing and calculations for the proposed effluent disposal area and associated Aerated Wastewater Treatment System. It is also noted within the amended report that a larger effluent disposal area is to be proposed than what has been calculated as necessary, to allow for any unexpected peaks in wastewater loads. Further, the Wastewater Report has calculated a design wastewater load based on a maximum of 35 staff, despite confirming that there are no more than 29 staff anticipated on site at any given time, and 1 customer per day. This is satisfactory and will be addressed through conditions of consent. In addition, all buffer distances comply with Council's On-site Sewage Management and Greywater Reuse Policy.

Furthermore, a letter prepared by Benbow Environmental (dated 8 October 2020, ref 1919518_Let9_Council_Rev1) has clarified that there are no existing trees within the proposed effluent disposal area location, therefore meaning there are no trees proposed for removal. It has also been clarified that there is no longer a leachate management system proposed for the development, so there is no longer an impact on the footprint of the proposed effluent disposal area. Lastly, it has also been clarified that there is adequate fall between the amenities block, proposed Aerated Wastewater Treatment System and proposed effluent disposal area, therefore a Hydraulic Report is not required to be prepared. Council's Environmental Management Officer raised no objections in this regard, subject to conditions.

D1 Rural Land Uses

A merit-based assessment can consider the controls for outbuildings and sheds within Chapter D2 of the DCP given the character of this site from Park Road is rural and rural- residential in nature.

There are numerous objectives and controls that the proposal satisfies. Regarding setbacks, the front setback of 230m well exceeds the adjoining setbacks while the side setback of 25m to the east is also compliant with the 10m setback required to buildings. Further, the proposal does incorporate features to aid in the articulation of the building form, as the DCP requires, including windows, awnings and a range of materials. Regarding colours, the application has proposed neutral shades of green and timber that occur in the background landscape and are unlikely to have a negative visual impact when viewed from either adjoining properties or Park Road. The pitched roof design with gable ends is also considered sympathetic to the character of the area.

While typical features are provided, the scale is substantially greater than typical sheds given the nature of the use and the best practice requirement to enclose such operations. More specifically, the building footprint of 5,800m² presents a substantial non-compliance with the maximum ground floor footprint for rural structures of 600m². The intent of the footprint control is to ensure the size of rural structures is appropriate considering the size of the site and the character of the area. In this instance, the site area is approximately 20 hectares and the proposed built and hardstand areas will occupy less than 14% of the site, with compliant front and side setbacks. In addition, the driveways will occupy 6% of the lot width. Given the proportion of the property being developed, relative to the proportion being preserved as a vegetated area, the intent of the building footprint control is considered to be achieved despite the numeric variation.

The building height also exceeds the 8m height control given the proposal reaches 11.361m. The building height is the minimum necessary required to accommodate the specialized plant and equipment for resource recovery and processing and enclose such operations and minimise associated amenity impacts. The additional height is softened by articulation, the generous 230m setback to Park Road and the existing and proposed landscaping therein, along with a densely vegetated western side setback and proposed landscaping embellishment and tree retention along the eastern side setback. Council's Landscape Architect has reviewed the landscape plan and noted the proposed species can provide a canopy cover relative to the height of the building and complement the rural character in terms of setbacks and landscaping, albeit subject to the RFS requirements.

In addition to views from Park Road, views from the nearest sensitive receptors to the south, west and south-east will be screened via the vegetation to be protected (which comprises approximately 75% of the site). Overall, the majority of viewpoints will remain substantially unaltered. The main change is the visual impacts as viewed from Park Road and the property to the east. These visual impacts are also considered satisfactory given the proposed built form, setbacks and proposed landscaping can integrate the development into the rural surroundings.