



## Development Assessment Report - Part 1

Panel Reference	PPSSWC89
DA Number	DA0119/20
LGA	Hawkesbury City Council
Proposed Development	Designated Development - Landscaping Material Supplies and Resource Recovery Facility
Street Address	99 Sargents Road EBENEZER NSW 2756
Applicant/Owner	Hala Constructions Mr I Alameddine & Mrs H Alameddine
Date of DA lodgement	21 April 2020
Total number of Submissions Number of Unique Objections	• 69
Recommendation	Deferral
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	<b>Schedule 7 Regionally significant development</b> <b>7 Particular Designated development:</b> Development for the purposes of: (c) <b>waste management facilities or works</b> , which meet the requirements for designated development under clause 32 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Regulation 2000 Clause 32</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy No. 55 (Remediation of Land)</li> <li>• SEPP (Infrastructure) 2007</li> <li>• Deemed State Environmental Planning Policy Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005</li> <li>• Hawkesbury Local Environmental Plan 2012</li> <li>• Hawkesbury Development Control Plan 2002</li> <li>• Flood Policy 2020</li> </ul>
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> <li>• Environmental Impact Statement Ref:181084-EIS_Rev4 dated 3 April 2020</li> <li>• Submitted plans;</li> <li>• Landscape Plan;</li> <li>• Stormwater Concept Plan;</li> <li>• Survey Plan.</li> </ul>
Clause 4.6 requests	<ul style="list-style-type: none"> <li>• Clause 4.3 Building Height – exceeds minimum 10m building height</li> </ul>
Summary of key submissions	<ul style="list-style-type: none"> <li>• Traffic and access concerns from TfNSW;</li> <li>• Environmental Protection Authority concerns;</li> <li>• Biodiversity concerns;</li> <li>• Insufficient information.</li> </ul>
Report prepared by	Natalie Piggott
Report date	4 February 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?

Choose an item.





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**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?

**No**

*e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

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**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?

**Yes**

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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

**Not applicable**

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

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**Conditions**

Have draft conditions been provided to the applicant for comment?

**No**

*Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report*



## Executive Summary

### 1. Executive Summary

The following report is an assessment of a development application for the use of the site as a Landscaping Material Supplies and Resource Recovery Facility and involves the following works:

- Site office with reception, 2 x offices, lunchroom, 2 x toilets (including 1 x accessible toilet), boardroom and internal stairs to main processing building;
- Processing building 40.425m x 50.5m comprising of machinery parking location, 8 material bays (4.85 x 12.875m), 1 x quarantine area (4.85m x 12.875m);
- 1 x wash bay 12.5m x 6.3m;
- Covered stockpile comprising of 8 individually walled areas measuring 13.15m(L) x 4.85(W) x 4m(H) to store 1 x mulch, 3 x topsoil and 4 x aggregate;
- Weighbridge 32m x 6m;
- 27 car parking spaces including 1 accessible space;
- 2 x driveway access, 1 being heavy vehicle access only to processing facility;
- Stormwater management;
- Hard surface area (impervious) for vehicle manoeuvring; and
- Vegetation removal.

The application is subject to Clause 7 of State Environmental Planning Policy (State and Regional Development) 2011 which states:

#### **7 Particular designated development**

*Development for the purposes of—*

- (a) *extractive industries, which meet the requirements for designated development under clause 19 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000, or*
- (b) *marinas or other related land and water shoreline facilities, which meet the requirements for designated development under clause 23 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000, or*
- (c) **waste management facilities or works, which meet the requirements for designated development under clause 32 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000.**

The development has been assessed in respect to the relevant planning framework and consideration by various referral bodies, including Transport for NSW (TfNSW) and EPA, however insufficient information has been provided to enable an assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979.

This information includes:

- Road infrastructure capability and accessibility to and from the site has not been adequately addressed;
- Confirmation of fill and batter as a result of the platform being fully impervious;
- Geotechnical Report required to support fill;
- Clarification of source of fill;
- State Regional Environmental Planning Policy (Hawkesbury-Nepean No. 20) has not been adequately addressed;
- Schedule 3 of State Environmental Planning Policy (Infrastructure) 2007 identifies the proposal as traffic generating development requiring referral to TfNSW for which clause 104 is applicable. The application was referred to TfNSW numerous times and currently the application is not supported due to insufficient information;
- Biodiversity Development Assessment Report review issues to be addressed; and
- Clarification of tree removal is required to be submitted.

Accordingly, the application is unable to be supported and Council is seeking a deferment to enable the applicant to submit amended plans and additional information. In this regard it would be reasonable to provide the applicant 28 days to submit the information required, as identified further in this report.

## 2. Applicant Details

**Name of applicant:** Hala Constructions

**Owner of site:** Mr I Alameddine & Mrs H Alameddine

**Estimated value of works:** \$3,400,000.00

**Disclosures:** No disclosures with respect to the Local Government and Planning Legislation Amendment (Political Donations) Act 2008 have been made by any persons.

## 3. Site Description

The site is legally described as Lot 288 in DP751665 and formally known as 99 Sargents Road Ebenezer. The site is irregular in shape and has a site area of 14.92ha. The site currently has two dwellings, a shed, horse arena, 3 x horse stables and a dam. The site is comprised of cleared paddocks to the north, is partially cleared in the middle and is heavily vegetated to the south, which currently contains an uninhabited dwelling in a dilapidated state. The site has a slope from south the north and east to west.

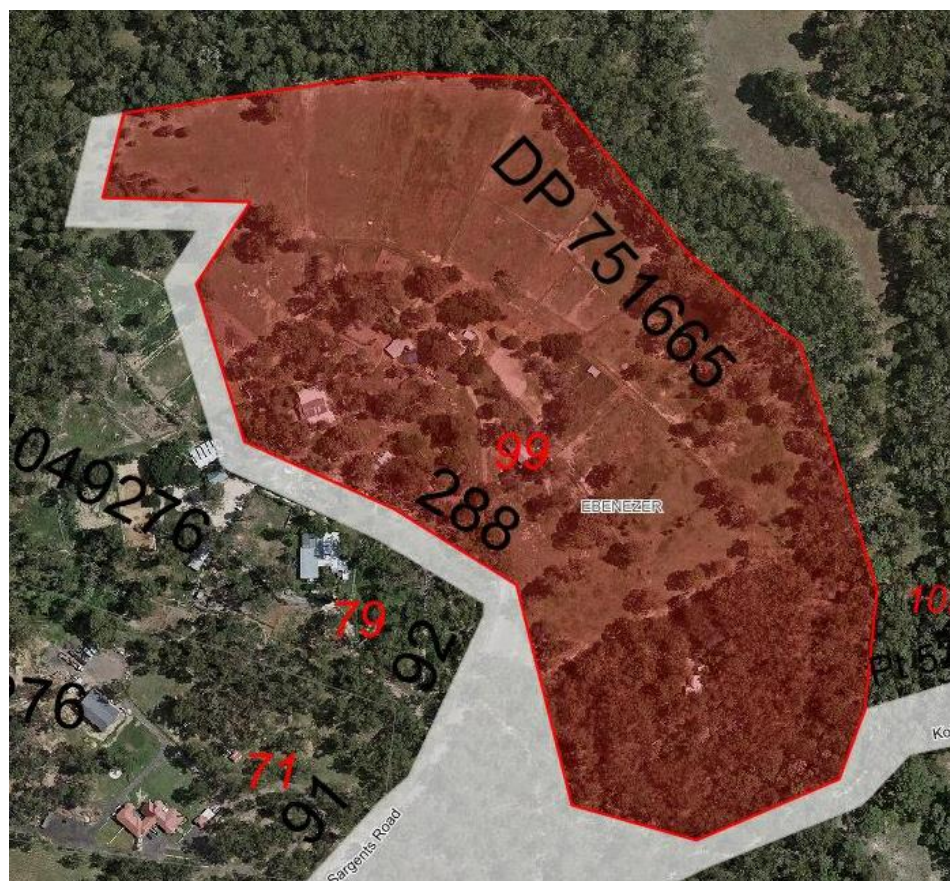


Figure 1: Aerial

## 4. Previous Application History

1983 DA0251/83 Youth Camp

1985 BA1397/85 Hall and Dormitory block



## 5. Proposal

The application proposes to establish a landscape supply business (using VENM) and the construction of a resource recovery facility comprising of:

- Site office with reception, 2 x offices, lunchroom, 2 x toilets (including 1 x accessible toilet), boardroom and internal stairs to main processing building;
- Processing building 40.425m x 50.5m comprising of machinery parking location, 8 material bays (4.85 x 12.875m), 1 x quarantine area (4.85m x 12.875m)'
- 1 x wash bay 12.5m x 6.3m;
- Covered stockpile comprising of 8 individually walled areas measuring 13.15m(L) x 4.85(W) x 4m(H) to store 1 x mulch, 3 x topsoil and 4 x aggregate;
- Weighbridge 32m x 6m;
- 27 car parking spaces including 1 accessible space;
- 2 x driveway access, 1 being heavy vehicle access only to processing facility;
- Stormwater management;
- Hard surface area (impervious) for vehicle manoeuvring; and
- Vegetation removal.

## 6. Application History

21 April 2020	Application lodged with Council.
5 May 2020	Initial Review letter sent to applicant identifying the following issues: <ul style="list-style-type: none"><li>• On-site Waste Water Disposal required to be installed onsite.</li></ul>
6 May 2020	Referrals sent to internal referral officers and external referral agencies.
21 May to 22 June 2020 &	Notification carried in accordance with DCP provisions.
29 July to 12 August 2020	Re-notification to extended area due to public objection and Council resolution to carry out extended notification. A total of 69 unique submissions were received together with signed petition.
25 May 2020	Wastewater disposal assessment submitted.
5 June 2020	Correspondence from EPA received requesting the following additional information: <ul style="list-style-type: none"><li>• External waste storage bays to be covered;</li><li>• Details of the amount of waste to be received, stored and exported from the premises is to be provided including the intended fate of each waste type after processing;</li><li>• Loading of waste area is to be detailed;</li><li>• Quarantine area for non-conforming area is to be provided;</li><li>• Water pollution potential has not been adequately addressed and further information is required for the proposed construction and operation of the proposed development;</li><li>• Erosion and sediment controls to be provided;</li><li>• Stormwater management details, including location of absorption pit, to be provided (Water Management Plan);</li><li>• Potential air impacts not adequately addressed and further information required;</li><li>• Odour assessment to be carried out;</li><li>• Dust suppression details to be provided;</li><li>• Dwellings and equestrian centre not included in the sensitive receptors and clarification required as to where closest sensitive receptors are located and current/future use of the site;</li><li>• Noise impacts have not clearly been addressed and further assessment required;</li></ul>



- Hardstand surface to be of permeable compacted roadbase and additional information is required to demonstrate how the hardstand roadbase will capture contaminants and prevent them from leaving the site;
- Wheel wash has not been provided and justification is required with alternative measures provided;
- Details of the closed loop truck wash system within the facility are unclear and further details are required;
- The weighbridge is in a location that appears to be awkward and it is unclear how incoming and outgoing trucks will be weighed. Further details are required as to how the trucks will be weighted and clarification on the inbound and outbound truck movements at the facility is required;
- Fuel storage details including layout of infrastructure to the tanks and surrounds intended to prevent spills, leaks, impacts and penetrations;
- Details on how the proposal will comply with the '*Standards for managing construction waste in NSW*' is to be provided;
- Fire safety guidelines are to be addressed;
- Site plans for the proposal have not clearly identified:
  - Locations of proposed facility;
  - Traffic flows and directions;
  - Haulage;
  - Materials and waste receipt, processing, storage and loading;
  - Quarantine;
  - Infrastructure for environmental controls including dust, noise, odour and wheel wash;
  - Weighbridges;
  - Site boundaries;
  - Stormwater drainage areas;
  - Unused stabilised areas;
  - Any areas relevant to the Standards;
  - Truck wash bay;
  - Diesel storage area;
  - Other chemical/hazardous waste storage areas;
  - Rainwater tanks; and
  - Processing equipment.

24 & 27 July 2020	Email correspondence with the applicant's consultant regarding EPA comments.
4 August 2020	Site inspection carried out with applicant and Benbow consultants.
13 August 2020	Response from TfNSW requesting the following information: <ol style="list-style-type: none"><li>1. A detailed traffic analysis and modelling of the light and heavy vehicle movements generated by the proposed development and impacts on the wider road network. The traffic modelling should consider the Sackville Road/Stannix Park Road and Putty Road/Stannix Park Road intersections.</li><li>2. The traffic analysis needs to consider trip distribution/routes and provide details of light and heavy vehicle movements (including vehicle type and likely arrival and departure times).</li></ol>
20 August 2020	Biodiversity Development Assessment Report lodged.
8 September 2020	Request to applicant for updated on amended plans and additional information with response received advising information to be lodged by the end of that week.
19 October 2020	Additional information referred to TfNSW.
21 & 24 September 2020	Additional information submitted and referred to EPA.
26 October 2020	Updated Survey plan of entire site provided.



30 October 2020	<p>EPA response received identifying the following summarised issues:</p> <ul style="list-style-type: none"><li>• Noise predictions – clarification sought as to how operational noise levels were calculated at the receivers;</li><li>• Road traffic noise assessment insufficient;</li><li>• Construction noise – worse case construction scenarios requested and not provided;</li><li>• Groundwater – the EIS does not characterise the receiving groundwater environment nor has any instruments or infrastructure been installed to ensure groundwater quality does not and will not change as a result of the proposal;</li><li>• Stormwater infiltration to groundwater – limited information has been provided for the treatment of stormwater prior to infiltration;</li><li>• Truck wash bay to be utilised as a wheel wash bay;</li><li>• Managed overflows – clarification of whether the absorption pit is appropriately designed to manage potential water pollution risks.</li></ul> <p>Comments forwarded to applicant's consultant to address.</p>
3 November 2020	TfNSW correspondence received advising that the information requested on 13 August 2020 has not been adequately provided and this information is to be submitted.
19 November 2020	Additional information provided by applicant's consultant and referred to EPA for assessment.
2 December 2020	Email to applicant's consultant with BDAR assessment and TfNSW correspondence requesting issues raised with BDAR assessment and TfNSW to be addressed.
23 December 2020	EPA General Terms of Approval (GTA) provided.

## 7. Referrals

### External Referrals

#### Environmental Protection Authority (EPA)

The application is integrated development and a referral was sent to the EPA whose general terms of approval (GTAs) were provided on 23 December 2020 and are provided as an attachment to this report.

It should be noted that the EPA's issues raised and requested information on 5 July 2020 was not addressed by the applicant's consultant in the documentation provided on 8 October 2020 which was reiterated by the EPA in their request for further information dated 30 October 2020. The applicant's consultant did not address these issues in their response dated 17 November 2020, therefore the EPA has provided conditions in the GTAs to address the absence of information. Of particular concern are conditions O3.2 and O3.3 which state:

**O3.2** *Prior to the commencement of construction, the Applicant must prepare a Water Management Report that must at a minimum:*

- a) ....
- b) *provide details of the overflow structure and drainage line from the absorption trench to the receiving waterway, demonstrating that these are appropriately designed and constructed to prevent scour consistent with Managing Urban Stormwater, Soils and Construction, Volume 1 (Landcom, 2004) and Managing Urban Stormwater: Soils and Construction, Volume 2B Waste Landfills (DECC, 2008).*

Condition O3.2(b) requires a drainage line to be installed over the adjoining property where the receiving waterway is located. This requires an easement and in order to be satisfied that this would occur, Council requires evidence from the owner of the adjoining property be willing to grant an easement.

## Transport for NSW (TfNSW)

In accordance with Clause 104 and Schedule 3 of SEPP Infrastructure 2007 the application was referred to the TfNSW and comments were received on 13 August 2020 ref SYD19/00639/02 requesting the following further information:

1. *A detailed traffic analysis and modelling of the light and heavy vehicle movements generated by the proposed development and impacts on the wider road network. The traffic modelling should consider the Sackville Road/Stannix Park Road and Putty Road/Stannix Park Road intersections.*
2. *The traffic analysis needs to consider trip distribution/routes and provide details of light and heavy vehicle movements (including vehicle type and likely arrival and departure times).*

**Comment:** Additional information was provided to TfNSW by the applicant's consultant, however TfNSW provided comments on 2 November 2020 advising that the above information was not submitted and remains outstanding. This has been sent to the applicant to address.

The application has not been provided concurrence in accordance with Clause 104 of State Environmental Planning Policy (Infrastructure) 2007.

## Biodiversity

In accordance with the Biodiversity Conservation Act 2016 the application was accompanied by a Biodiversity Development Assessment Report which has been reviewed by Council's ecology consultant. The review has identified a number of issues, listed as follows:

- ☐ *Construction and operational footprints not clearly defined. Table 11 also notes temporary structures required for constructions works could be placed outside the subject land in areas containing no native vegetation. All construction and operational footprints should be contained within the subject land;*
- ☐ *Determination of native vegetation extent and cover within the buffer area has not been clearly documented or mapped, including reporting of percent native vegetation cover. Section 4.3.2 of the BAM details the requirements of assessing native vegetation cover;*
- ☐ *No detail is provided on cleared areas or differences between mapped vegetation extent and aerial imagery. A building appears to be included within the mapped extent of a PCT within the subject land (see Figure 7 of the Narla BDAR);*
- ☐ *Not all landscape features have been documented and mapped in accordance with the BAM and operational manuals;*
- ☐ *A site map and location map in accordance with Section 4.2.1.1 and Section 4.2.1.2 of the BAM, respectively, have not been included. Some information required on these figures is spread across multiple figures;*
- ☐ *Patch size has been mapped incorrectly and not taken into consideration the definition of patch size within BAM Operational Manual Stage 1;*
- ☐ *Adjustments to vegetation attributed for management zone 1.2 have been inadequately described;*
- ☐ *No figure showing plot locations relative to PCTs, or vegetation zones, is provided;*
- ☐ *No figure showing targeted survey locations is provided;*
- ☐ *One species credit species, the Stuttering Frog has been excluded from the assessment for an invalid reason; and*
- ☐ *No figure showing areas.*

A copy of the review has been provided to the applicant to address. This has yet to be received and until such time as the applicant submits a response, this matter remains unresolved.

## Internal Referrals

### Senior Development and Subdivision Engineer

The following comments have been provided by Council's Senior Development and Subdivision Engineer





### **Car parking**

*Based on the proposed gross floor area of 2172 square metres, a minimum of 25 car spaces are required under Council's DCP. The applicant proposes 27 car spaces which exceeds the minimum required car spaces which is acceptable to Council's Development Engineers.*

*Please note that Council's Building surveyors are to advise of the disabled car spaces required based on BCA and/or NCC requirements.*

### **Matters not compliant with Council's DCP**

#### **Stormwater management**

*Reference is made to EPA's General Terms of Approval, specifically the following section.*

**03.2** Prior to the commencement of construction, the Applicant must prepare a Water Management Report that must at a minimum:

- a) demonstrate that the absorption pit is designed to prevent overflows up to the 95 percentile 5-day rainfall event (69.4mm at Wilberforce)
- b) provide details of the overflow structure and drainage line from the absorption trench to the receiving waterway, demonstrating that these are appropriately designed and constructed to prevent scour consistent with Managing Urban Stormwater, Soils and Construction, Volume 1 (Landcom, 2004) and Managing Urban Stormwater: Soils and Construction, Volume 2B Waste Landfills (DECC, 2008).

**03.3** Prior to the commencement of construction, the Applicant must install a groundwater monitoring network and perform baseline groundwater monitoring. Specifically, a monitoring bore targeting groundwater down-gradient of the proposed absorption pit must be installed to identify baseline conditions and observe potential impacts following commencement of operations.

Council's records indicate that no documentation satisfying the above requirement has been submitted to Council for consideration.

No supporting calculation/documentation demonstrating the absorption trench is designed to comply with point a) above can be found in Council's records.

Also, point b) will require the applicant to provide a drainage line to the receiving waterway in the event of the surcharge of the absorption trench. According to Council's records, the nearest receiving water way (creek/river) is located within the adjoining property at 96 Kolora Road EBENEZER. In this regard the applicant is to obtain an easement to drain stormwater through 96 Kolora Road EBENEZER. Council's records indicate no formal agreement from the property owner of 96 Kolora Road EBENEZER to grant an easement to drain stormwater was submitted to Council.

Reference is made to the following General Terms of Approval from EPA:



#### **O4. Stormwater/sediment control - Construction and Operation Phase**

**O4.1** the waste processing shed must have a sealed floor that drains to a leachate collection system and measures to prevent stormwater run-on into the shed.

**O4.2** the waste processing shed must be bunded to prevent run-on or run-off from the shed.

**O4.3** the external (under-awning) stockpile areas must:

a) have perimeter bunding to divert clean water around the material stockpiles and minimise the generation of leachate from rainfall run-on; and

b) be located on a low permeability base, consistent with Environmental Guidelines, Composting and Related Organics Processing Facilities (DEC, 2004).

**O4.4** the absorption pit must only receive stormwater which does not contain pollutants other than 'clean' sediment at non-trivial levels. Stormwater that has been in contact with waste and product stockpiles must be managed as leachate and must not be allowed to drain to the absorption pit.

**O4.5** there must be no discharges to surface waters from the absorption pit except where the discharge occurs solely as a result of rainfall at the premises exceeding a total of 69.4mm over any consecutive five-day period.

**O4.6** the licensee must take all practical measures to avoid or minimise total suspended solids and leachate contained in discharges permitted in accordance with Condition O4.5.

**O4.7** the licensee must install and maintain a rainfall gauge. Rainfall at the premises must be measured and recorded in millimetres per 24-hour period at the same time each day.

**O4.8** the rainfall gauge monitoring data collected in compliance with Condition O4.7 can be used to determine compliance with Condition O4.5.

**O4.9** Any and all leachate generated at the premises must be collected and disposed of to a facility that can lawfully accept that type of waste.

No supporting calculation/documentations demonstrating the absorption trench is designed to comply with point O4.5 above can be found in Council's records.

#### **Access along public roads**

##### Pavement sealing

Reference is made to a pre-lodgement meeting (pp. 692 to 695 of ECM 6921736) with Council where the applicant was advised of the pavement sealing required to Sargents Road to reduce the dust impacts generated by vehicles servicing the development. The applicant proposes to use a method of sealing (pp. 186 of ECM 6921736) that is not in accordance with Council's engineering specifications but will accept Council's decision with respect to the method of sealing.

In this regard, Council will be requiring that Sargents Road will be sealed in accordance with Council's engineering specifications. An appropriate condition will be issued by Development Engineers when all engineering matters are addressed to Council's Development Engineers' satisfaction.

##### Accessibility and intersection upgrading works

It is noted that 19 metre long truck swept paths superimposed on the site layout plans, as detailed in the traffic report, has been provided. However the extent of the existing road pavement in Sargents Road is not clearly shown on these plans and Council's Development Engineers are not able to determine the extent of any works required (if any) within Sargents Road to allow trucks to safely manoeuvre in and out of the development site and along Sargents Road. Minimum road width must conform to Council's engineering specification as follows:

## 6.4.1 Road Alignment

Rural road alignments should conform to the specifications in Table 6.11.

**TABLE 6.11 MINIMUM RURAL ROAD ALIGNMENT AND WIDTHS**

Road Type	Description	Seal width	Shoulder width*	Table Drain Width**	Road Reserve
Collector	potentially 1.5 km or longer	6.1	1.2	1.0	20
Local	potentially less than 1.5 km long	5.5	1.2	1.0	20

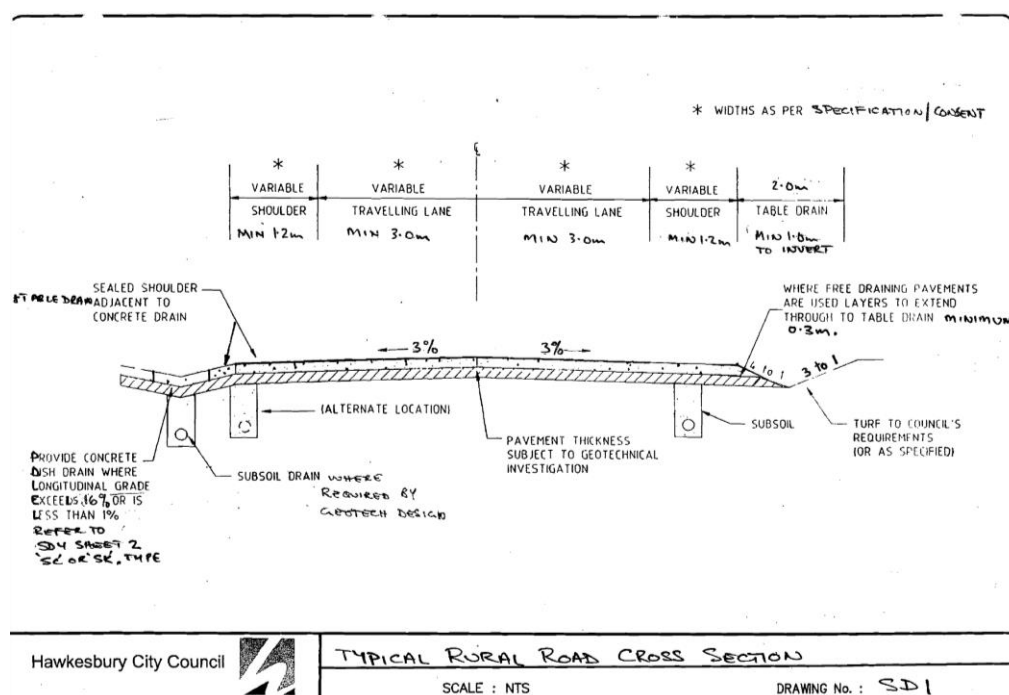
\*Note: Shoulder width includes 0.3m of unsealed pavement on each side of the seal.

\*\*Note: Table drain width is from the outer edge of the shoulder to invert.

\*\*\*Note: Private roads - refer to Section 6.7.

Where existing trees are located within the road reserve, they must be a minimum of 1m from the table drain invert. Trees located within the 1m margin must be removed.

A typical rural road cross section is shown on Standard Drawing No. SD1



No evidence has been submitted to Council's Development Engineers to demonstrate the existing road pavement in Sargents Road is designed to section 6.4.7 of Council's engineering specification for a standard rural road. In this regard, Council's expectation is Sargents Road will be upgraded to meet Council engineering specifications with respect to road dimensions, pavement requirements, and so on, at no cost to Council. Council's Development Engineers will issue the appropriate conditions when the applicant addresses other engineering matters to Council's Development Engineers' satisfaction.

Also no details have been submitted to demonstrate trucks can safely access the Sargents Road / Stannix Park Road intersection. No swept paths of turning trucks are superimposed on the Sargents Road / Stannix Park Road intersection. The traffic report does not include details of sign posting and/or line marking required at this intersection. In this regard Council's Development Engineers are not able to determine the extent of works required within Sargents Road to support the development.



Swept path diagrams for the intersection of Stannix Park Road and Sackville Road show that this intersection requires an upgrade to allow for 19 metre trucks to use this intersection and access the site. The extent of upgrading works required to this intersection is not clearly shown on the plans.

Engineering plans associated with the upgrading works at the Sargents Road / Stannix Park Road and Stannix Park Road / Sackville Road intersections must show the extent of existing road pavement, extent of upgrading works required to make the construction effective, utility services affected by the works, etc. No engineering plans have been submitted to Council's Development Engineers for assessment to date. In this regard, Council's Development Engineers are not able to adequately assess the proposal with respect to access.

### **Conflicting documentations**

There appears to be a conflict with respect to the extent of pavement associated with the proposal, between the engineering plans by Indesco and other plans (architectural and stormwater drainage plans). A circulation roadway is proposed on the Indesco plans whereas a larger portion of the development site is to be impermeable.

The amount of earthworks required for this development is detailed on the Grading Plan prepared by Indesco. This may impact the actual amount of earthworks required for the development and impact on Sargents Road due to truck movements during construction. In this regard the applicant is to coordinate the plans to ensure the proposal is consistent on all plans. Where design pavement levels are amended, the Grading Plan and bulk earthwork volume for both cut and fill are to be revised accordingly.

As a result, the Traffic & Parking Impact Assessment may need to be amended to reflect the above revised plans and to comment on likely impact on design, traffic, pavement levels, etc to the development site and Sargents Road during the construction phase of the development. Comments are to include the number of truck movements required during the earthworks phase of the development, etc.

In summary, Development Engineers cannot support the proposal due to lack of information to address:

- Vehicle access for the development in accordance with Part C, Chapter 2 of the DCP
- Stormwater management for the development in accordance Appendix E, Civil Works Specification of the DCP

**Comment:** Concerns are raised that the amount of cut and fill presented in the Engineering Concept Plan No. 020 Rev C dated 27 March 2020 by Indesco has not been revised to address the entire platform now being proposed as impervious. This may result in additional fill and compaction rates together with additional battering that may be required to support the additional fill. This also may require additional truck movements to and from the site during construction and, as identified above, it has not been demonstrated that the road network is capable of supporting the trucks proposed for the development, let alone the construction vehicles.

The above issues identified will require clarification and further information to enable the application to progress.

### Building Surveyor

No objections subject to recommended draft conditions.

### Sewer Management Facilities Officer

No objections subject to recommended draft conditions.

### Parks Officer

The application proposes the removal of 18 trees and of the 18 trees to be removed five are identified as Category C Low, five are Category B Medium and eight are Category A High. The matrix of determining whether a tree is categorised as A, B or C has not been provided or adequately explained, for example, it is unclear as to why T7 has been given a Category C Low rating when it has been identified as having good health, good form and good



foliage, density, colour and pleasing form. Council's Parks Officer has recommended all the large mature *Eucalyptus punctata* (Grey Gum) specimens are to be retained on the site therefore an assessment of the health, vitality and longevity, retention value and landscape significance on the site, together with the matrix used, and recommendations of what trees should be retained, what amendments to the design layout could be made to facilitate this, and type and location of replacement tree plantings on the landscape plan is required to be provided.

It would appear that trees 4, 5, 6, 7 and 8 may be able to be retained with the relocation of the driveway and redesign of the platform. The retention of these trees would benefit the proposal significantly in terms of amenity.

Further information is therefore required in this instance to determine whether significant trees can be viably retained.

## 8. Planning Assessment

### Matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP & A Act)

In determining the application, Council is required to take into consideration the following matters as are relevant to the development that apply to the land to which the development application relates:

#### a) The provisions (where applicable) of any:

##### i. Environmental Planning Instrument:

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

The proposed development is for a waste management facility. The applicant has nominated the application as designated development under Schedule 7 Regionally significant development Clause 7 Particular Designated development Subparagraph (c) '*waste management facilities or works, which meet the requirements for designated development under clause 32 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000.*'

The proposal has been nominated as designated development as it meets the following highlighted items under Clause 32 of Schedule 3 of the Environmental Planning & Assessment Regulations:

#### **16 Crushing, grinding or separating works**

- (1) *Crushing, grinding or separating works, being works that process materials (such as sand, gravel, rock or minerals) or materials for recycling or reuse (such as slag, road base, concrete, bricks, tiles, bituminous material, metal or timber) by crushing, grinding or separating into different sizes—*
- (a) *that have an intended processing capacity of more than 150 tonnes per day or 30,000 tonnes per year, or*
- (b) *that are located—*
- (i) *within 40 metres of a natural waterbody or wetland, or*
- (ii) *within 250 metres of a residential zone or dwelling not associated with the development.*
- (2) *This clause does not apply to development specifically referred to elsewhere in this Schedule.*

**AND**

#### **32 Waste management facilities or works**

- (1) *Waste management facilities or works that store, treat, purify or dispose of waste or sort, process, recycle, recover, use or reuse material from waste and:*
- (a) *that dispose (by landfilling, incinerating, storing, placing or other means) of solid or liquid waste:*





- (i) *that includes any substance classified in the Australian Dangerous Goods Code or medical, cytotoxic or quarantine waste, or*
- (ii) *that comprises more than 100,000 tonnes of “clean fill” (such as soil, sand, gravel, bricks or other excavated or hard material) in a manner that, in the opinion of the consent authority, is likely to cause significant impacts on drainage or flooding, or*
- (iii) *that comprises more than 1,000 tonnes per year of sludge or effluent, or*
- (iv) *that comprises more than 200 tonnes per year of other waste material, or*
- (b) *that sort, consolidate or temporarily store waste at transfer stations or materials recycling facilities for transfer to another site for final disposal, permanent storage, reprocessing, recycling, use or reuse and:*
  - (i) *that handle substances classified in the Australian Dangerous Goods Code or medical, cytotoxic or quarantine waste, or*
  - (ii) *that have an intended handling capacity of more than 10,000 tonnes per year of waste containing food or livestock, agricultural or food processing industries waste or similar substances, or*
  - (iii) *that have an intended handling capacity of more than 30,000 tonnes per year of waste such as glass, plastic, paper, wood, metal, rubber or **building demolition material**, or*
- (c) *that purify, recover, reprocess or process more than 5,000 tonnes per year of solid or liquid organic materials, or*
- (d) *that are located:*
  - (i) *in or within 100 metres of a natural waterbody, wetland, coastal dune field or environmentally sensitive area, or*
  - (ii) *in an area of high watertable, highly permeable soils, acid sulphate, sodic or saline soils, or*
  - (iii) *within a drinking water catchment, or*
  - (iv) *within a catchment of an estuary where the entrance to the sea is intermittently open, or*
  - (v) *on a floodplain, or*
  - (vi) *within 500 metres of a residential zone or 250 metres of a dwelling not associated with the development and, in the opinion of the consent authority, having regard to topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood by reason of noise, visual impacts, air pollution (including odour, smoke, fumes or dust), vermin or traffic.*

### **State Environmental Planning Policy No. 55 - Remediation of Land**

The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated. The application has included a Phase 1 Preliminary Assessment which has concluded that the site environmental assessment and history of the site has revealed no evidence of contaminating activities to have been carried out onsite.

A review of this Phase 1 Preliminary Assessment has been carried and Council is satisfied that the conclusions and recommendations are acceptable.

## **Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No 2—1997)**

The aim of this Plan 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. The Plan includes strategies for the assessment of development in relation to water quality and quantity, scenic quality, aquaculture, recreation and tourism.

The following assessment under the relevant parts of the SEPP are as follows:

### **Part 2 Clause 6 Specific Planning policies and recommended strategies:**

#### **(3) Water quality**

*Policy: Future development must not prejudice the achievement of the goals of use of the river for primary contact recreation (being recreational activities involving direct water contact, such as swimming) and aquatic ecosystem protection in the river system. If the quality of the receiving waters does not currently allow these uses, the current water quality must be maintained, or improved, so as not to jeopardise the achievement of the goals in the future. When water quality goals are set by the Government these are to be the goals to be achieved under this policy.*

#### **Strategies:**

- (a) *Quantify, and assess the likely impact of, any predicted increase in pollutant loads on receiving waters.*
- (b) *Consider the need to ensure that water quality goals for primary contact recreation and aquatic ecosystem protection are achieved and monitored.*

As detailed above by Council's Development Engineer, issues with stormwater have not been resolved and the above strategy has not been adequately addressed.

### **Part 3 Clause 11 Development Controls:**

The following applicable development controls where additional matters for consideration of the proposed development:

#### **Clause 11(17) Sewerage Systems or Works**

##### **(17) Sewerage systems or works**

##### **Definition:**

*Development for the purpose of any sewerage system or work which stores, treats or disposes of sewage (including domestic on-site disposal systems that are ancillary to development which requires consent) but not including a public utility undertaking.*

##### **Consent required.**

##### **Additional matters for consideration by the consent authority:**

- (a) *Whether the proposed development will be capable of connection to a Sydney Water Corporation Limited or council sewerage system either now or in the future.*
- (b) *The suitability of the site for on-site disposal of effluent or sludge and the ability of the sewerage systems or works to operate over the long-term without causing significant adverse effects on adjoining property.*
- (c) *The likely effect of any on-site disposal area required by the proposed development on:*
  - *any water bodies in the vicinity (including dams, streams and rivers), or*
  - *any mapped wetlands, or*
  - *any groundwater, or*
  - *the floodplain.*
- (d) *The scope for recycling and reusing effluent or sludge on the site.*
- (e) *The adequacy of wet weather storage and the wet weather treatment capacity (if relevant) of the proposed sewerage system or works.*
- (f) *Downstream effects of direct discharge of effluent to watercourses.*
- (g) *The need for ongoing monitoring of the system or work.*

The application proposes a sewer system to manage the office block and this is acceptable. An application for a new on-site sewage management system will be required to be lodged with Council which can be conditioned.



## **Clause 11(18) Waste management facilities or works**

### **(18) Waste management facilities or works**

#### **Definition:**

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

#### **Consent required.**

#### **Additional matters for consideration by the consent authority:**

- (a) *Any potential for groundwater contamination.*
- (b) *The adequacy of the proposed leachate management system and surface water controls.*
- (c) *The long-term stability of the final landform and the adequacy of the site management plan.*
- (d) *If extraction of material is involved in the creation or other development of the waste management site, whether the extractive operation will have an adverse impact on the river system.*

As detailed above, the matters listed in (a) and (b) remain unresolved and the application has failed to carry out an assessment of the matters listed in (c). The resulting landform from the proposed fill to provide the leveled platform has not been adequately addressed in terms of stability as a geotechnical report has not been provided.

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

The proposed application is subject to the requirements of SEPP Infrastructure. The relevant clauses of the SEPP and an assessment against those clauses are provided below:

### **Clause 2: Aims of the policy**

The Aims of the SEPP essentially seek to improve the delivery of infrastructure to the State. The application has been considered against the provisions of this SEPP and is consistent in all relevant respects.

### **Division 17 Road and Traffic:**

## **Clause 104 Traffic-generating development**

Clause 104 Traffic-generating development is applicable as the development is for a waste management facility which is listed in Column 1 of Schedule 3.

The application was referred to TfNSW in accordance with Clause 104(3) and the comments from TfNSW received have indicated that the application is not supported in its current form for reasons outlined under Part 7 Referrals of this report.

## **Hawkesbury LEP 2012**

Under Hawkesbury LEP 2012, the property is zoned RU1 Primary Production. The following is a summary of the clauses under HLEP 2012 applicable to the development.

## **Clause 2.2 Zoning of Land to which Plan applies – Permissibility**

The site is zoned RU1 Primary Production. Waste management facilities are prohibited within the RU1 Primary Production, however a waste management facility under the RU1 Primary Production zone is permissible under Division 23 Part 3, Clause 121 of State Environmental Planning Policy (Infrastructure) 2007, which provides as follows:

### **121 Development permitted with consent**

- (1) *Development for the purpose of waste or resource management facilities, other than development referred to in subclause (2), may be carried out by any person with consent on land in a prescribed zone.*
- (2) *Development for the purposes of a waste or resource transfer station may be carried out by any person with consent on:*
  - (a) *land in a prescribed zone, or....*

**prescribed zone** means any of the following land use zones or a land use zone that is equivalent to any of those zones:



(a) *RU1 Primary Production,....*

The proposed development is therefore permissible within the zone.

### Clause 2.3 – Zone objectives and Land Use Table

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. The objectives for RU1 Primary Production zone are as follows:

*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 encourage agricultural activities that do not rely on highly fertile land.*
- To ensure that development occurs in a way that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as waterways.*
- To promote the conservation and enhancement of local native vegetation including the habitat of threatened species, populations and ecological communities by encouraging development to occur in areas already cleared of vegetation.*
- To ensure that development retains or enhances existing landscape values including a distinctive agricultural component.*
- To ensure that development does not detract from the existing rural character or create unreasonable demands for the provision or extension of public amenities and services.*

The proposed development does not meet the above objectives due to insufficient information being submitted to allow for adequate assessment.

### Clause 4.3 – Height of Buildings

The maximum building height under Clause 4.3 for the site is 10m. The proposal includes a main processing shed, office building and amenities building which have a height as follows:

Proposed	Height	Complies
Main shed	12.8m – 13.5m	No
Storage bays	4m	Yes
Office block	4m	Yes

The proposed main shed does not comply with the maximum building height development standard of 10m and a Clause 4.6 Variation is required. It is noted that the EIS referred to this requirement, however a search of Council's records have found that no written request has been submitted.

The elevation and section plans do not provide any RL spot levels along the existing ground level therefore it is difficult to ascertain the exact amount of breach in the building height the proposal has and these spot RL levels are required to be provided.

The breach of the building height cannot be supported and no Clause 4.6 variation has been submitted with the application. The applicant is to submit a Clause 4.6 Variation for consideration.

### Clause 6.2 Earthworks

The proposed development seeks to carry out earthworks that will result in approximately 28,000m<sup>3</sup> of soil being imported on to the site, at a height of up to 6m, to provide a levelled platform for the shed and allow vehicle manoeuvring to be facilitated.

The objectives of Clause 6.2 are:

- (a) *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,*
- (b) *to allow earthworks of a minor nature without requiring separate development consent.*

Further to the objectives, Clause 6.2(3) requires the consent authority to consider the following matters:

- (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*
- (b) *the effect of the development on the likely future use or redevelopment of the land,*
- (c) *the quality of the fill or the soil to be excavated, or both,*
- (d) *the effect of the development on the existing and likely amenity of adjoining properties,*
- (e) *the source of any fill material and the destination of any excavated material,*
- (f) *the likelihood of disturbing relics,*
- (g) *the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area,*
- (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The application in its current form has not demonstrated how it meets the above objectives as no information has been provided as to where the fill is sourced from and no geotechnical report has been provided detailing how the earthworks will be stabilised.

Given concerns have been raised regarding the conflicting information provided on the engineering plans, clarification concerning the amount of fill and how it will be treated is required, particularly as the fill/batter area will contain both the sewer and stormwater absorption pits and were compaction of this fill be required to support the impervious area, the may impact the functionality and/or operation of these pits.

Additional information is therefore required in this instance.

### **Clause 6.3 Flood planning**

The site is partially affected by flood and Clause 6.3 is applicable in accordance with Clause 6.3(2).

The application must be assessed against Clause 6.3(3) as follows:

- (3) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development—*
  - (a) *is compatible with the flood hazard of the land, and*
  - (b) *is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
  - (c) *incorporates appropriate measures to manage risk to life from flood, and*
  - (d) *is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
  - (e) *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

The applicant has provided a Flood Impact Assessment which has been reviewed by Council's Senior Development and Subdivision Engineer who has provided the following comments:

#### **Flood planning**

*According to Council's records, the predicted 1 in 100 year ARI flood level is RL 13.0m AHD. The extent of the proposed development is restricted to the ground surface levels of RL 13.0m AHD or higher. In this regard, the proposed development will not impact the flooding behaviour for all storms up to and including the 1 in 100 year ARI storm nor the proposed development be affected by the 1 in 100 year ARI flooding. No objections are raised to the proposal by Council's Development Engineers with respect to flood controls only.*



Given the location of the proposal is outside the flood affected portion of the site, Clause 6.3 is considered to be satisfied.

#### **Clause 6.4 Terrestrial Biodiversity**

The land is identified as “Significant vegetation” and Connectivity between significant vegetation; on the Terrestrial Biodiversity Map. Accordingly the application must be assessed against the following requirements of Clause 6.4:

- (3) *Before determining a development application for development on land to which this clause applies, the consent authority must consider—*
  - (a) *whether the development—*
    - (i) *is likely to have any adverse impact on the condition, ecological value and significance of the fauna and flora on the land, and*
    - (ii) *is likely to have any adverse impact on the importance of the vegetation on the land to the habitat and survival of native fauna, and*
    - (iii) *has any potential to fragment, disturb or diminish the biodiversity structure, function and composition of the land, and*
    - (iv) *is likely to have any adverse impact on the habitat elements providing connectivity on the land.*
  - (b) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*
- (4) *Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that—*
  - (a) *the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or*
  - (b) *if that impact cannot be reasonably avoided by adopting feasible alternatives—the development is designed, sited and will be managed to minimise that impact, or*
  - (c) *if that impact cannot be minimised—the development will be managed to mitigate that impact.*

The application provided a Biodiversity Development Assessment Report by Narla Environmental. This assessment has been peer reviewed and issues have been identified which have been provided to the applicant to address. This matter remains outstanding and this clause has not been satisfied.

#### **Clause 6.7 Essential services**

Clause 6.7 requires a consent authority to be satisfied that essential services are available or that adequate arrangements can be made for the provision of these services, which include:

- (a) *the supply of water,*
- (b) *the supply of electricity,*
- (c) *the disposal and management of sewage,*
- (d) *stormwater drainage or on-site conservation,*
- (e) *suitable road access.*

The application has not satisfactorily addressed (d) and (e) above as the issues of stormwater and road access have not been resolved. This matter remains outstanding and this clause has not been satisfied.

- ii. **Any proposed instrument** - (Draft SEPP, Draft LEP or any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4)

#### **Draft State Environmental Planning Policy (Remediation of Land)**

The Explanation of Intended Effect for the above draft SEPP was placed on exhibition from 31 January 2018 to 13 April 2018.



The new SEPP will maintain Category 1 - works that require development consent and Category 2 - works that may be carried out without development consent, however Category 1 is to have new classes of remediation works introduced that require development consent.

The provisions of SEPP 55 to require consent authorities to consider land contamination have been retained within the draft SEPP. The proposed development has been considered under the current SEPP and found to have no potential site contamination that warrants further investigation. Accordingly, the proposal satisfies the requirements of the draft SEPP.

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

The Explanation of Intended Effect for the Environment SEPP was placed on exhibition between 31 October 2017 and 31 January 2018.

The intent of the SEPP is to both simplify the planning rules for environmental areas and consolidate several existing SEPPs to allow simplicity in accessing environmental policies in one accessible location. These existing SEPPs include Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River (No 2—1997) which is applicable to the Hawkesbury. SREP No. 20 will be repealed and replaced with the new Environment SEPP.

SREP No. 20 applies to land within the catchment of the Hawkesbury-Nepean River. The general aim of the plan is to ensure that development and future land uses within the catchment are considered in a regional context. The Plan includes strategies for the assessment of development in relation to water quality and quantity, scenic quality, aquaculture, recreation and tourism.

The Draft SEPP does not remove the requirement for a consent authority to consider the need to protect the environment of the Hawkesbury-Nepean river system.

The proposed development has been considered against the provisions of the existing SREP, provided elsewhere in this report. Accordingly, the requirements of the Draft SEPP have been satisfied.

### **Hawkesbury DCP 2002**

A full assessment of the proposal under DCP 2002 is illustrated in the following compliance table. The Non-compliances identified in the table are assessed below.

<b>DCP 2002</b>		
<b>DCP Control</b>	<b>Proposed</b>	<b>Complies</b>
<b>Part A: Introduction</b>		
<b>3.2 Notification</b>		
<b>3.2.1 Waste or resource management facilities Designated and Integrated Development</b>		
Letters to adjoining occupiers/owners: required	The proposal was notified from 21 May to 22 June 2020 and 29 July to 12 August 202015 March to 15 April 2019	Yes
Site Sign: Required	A site sign was placed on the site.	Yes
Notice in Local Newspaper: Not required	Advertising carried out.  A total of 69 submissions were received and the matters raised in these submissions are discussed in the Community Consultation Section of this report.	Yes
<b>Part C: General Guidelines</b>		
<b>1.2 Landscaping Requirements</b>		
A landscape concept plan is required for most developments in the Hawkesbury. The landscape plan is	A Landscape plan was submitted with the application. The Landscape plan has not depicted all the trees proposed for removal in accordance	No



DCP 2002		
DCP Control	Proposed	Complies
to be prepared by a suitably qualified person.	<p>with the Arborist report. The report recommends 18 trees for removal and only 11 trees are indicated to be removed on the plan and the trees on the landscape plan are not numbered therefore it is unclear which trees are to be removed as part of the development.</p> <p>An amended landscape plan is required to be provided detailing:</p> <ul style="list-style-type: none"><li>• tree number and species identification for all trees to be removed;</li><li>• replacement plantings in accordance with arborist recommendations;</li><li>• any canopy tree plantings to provide dust suppression;</li><li>• landscape treatments to the batter are to include ground covers, shrubs and canopy plantings. This planting is to be in accordance with Planning for Bushfire Protection 2019; and</li><li>• Asset protection zone.</li></ul>	
<b>2.0 Car Parking and Access</b>		
<b>2.5 Rules</b>		
<b>2.5.3 Industrial</b> Industry: 4 spaces per 300m <sup>2</sup> of GFA and 1 space per 90m <sup>2</sup> GFA thereafter. <i>Required:</i> 4 spaces (for 300m <sup>2</sup> ) + (1872/90) = 4 + 20.8 = 25.8 (26) Disable: 1 (1% of total carparking requirement per AS) Total: 27  EIS and Traffic Impact Assessment: Employee: 26 Disable: 1	Employee: 26 Disable: 1 (per AS)	Yes
<b>4.0 Soil Erosion and Sediment Control</b>		
A plan for soil erosion and sediment control was submitted with the application. Appropriate conditions can be applied to manage sediment and erosion for the site were the application to be supported.		
<b>5.0 Bushfire Prone Land</b>		
The application has included a Bushfire Assessment by Bushfire Consulting Services recommending APZ for the site. The proposed development includes earthworks extending throughout the site and the Landscape plan does not indicate where the APZ is on the site.		
<b>7.0 Effluent Disposal</b>		
A new onsite sewer system is required to be applied for and can be conditions appropriately.		
<b>8.0 Management of Construction and Demolition Waste</b>		
Waste management plan in accordance with 8.7 shall be submitted with any application.	A waste management plan has been provided with the application.	Yes
<b>9.0 Preservation of Trees and Vegetation</b>		

DCP 2002		
DCP Control	Proposed	Complies
<p>The proposal seeks to remove 18 trees indicated in red on the submitted landscape plan. An Arboricultural Implication Assessment by Horticultural Resources Consulting Group has been submitted detailing the proposed trees to be removed.</p> <p>Of the 18 trees to be removed five are identified as Category C Low, five are Category B Medium and eight are Category A High. The matrix of determining whether a tree is categorised as A, B or C has not been provided or adequately explained. An assessment of the health, vitality and longevity, retention value and landscape significance on the site, together with the matrix used, and recommendations of what trees should be retained and what amendments to the design layout could be made to facilitate this has not been provided. It would appear that trees 4, 5, 6, 7 and 8 may be able to be retained with the relocation of the driveway and redesign of the platform. The retention of these trees would benefit the proposal significantly in terms of amenity. Further information is therefore required in this instance to determine whether significant trees can be viably retained.</p>		

**iiia. Planning agreement that has been entered into under Section 7.4, or any draft planning agreement that a developer has offered to enter into under Section 7.4:**

There are no Planning Agreements or Draft Planning Agreements entered into for this development.

**iv. Matters prescribed by the Regulations:**

Division 8A of the EP & A Regulation 2000 requires the consent authority to consider "Prescribed conditions" of development consent.

The relevant prescribed conditions would have been included in the conditions of consent were the application to be approved.

**b) The likely impacts of that development, including environmental impacts on both the natural and built environments and the social and economic impacts in the locality:**

All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report. The development is not considered satisfactory in terms of environmental impacts as discussed in the body of this report as insufficient information has been provided.

**c) Suitability of the site for the development:**

The site is considered to be unsuitable for the proposed development. The amount of earthworks required to be carried out will have a detrimental environmental impact to the site with potential environmental impacts to the wetlands and watercourses located on and adjacent to the site due to the unknown impact from soil erosion, runoff and other such matters that have not been taken into consideration by the applicant.

**d) Any submissions made in accordance with the Act or the Regulations:**

In accordance with Section 3.2 of Part A of HDCP 2002, owners of surrounding properties were given notice of the application. In response, 69 submissions were received and are summarised as follows:

- Health impact to Ebenezer Primary school students;
- Heavy vehicle impacts to local road and locality;
- Traffic impacts and safety concerns from large trucks not fitting adequately on the road;
- Risk of contamination;
- Amenity impacts relating to noise, dust, pollution to creek and truck movements within close proximity to residents;
- Inappropriate and overdevelopment for the site and locality;



- Inadequate local infrastructure to support the proposal.

**Comment:** The above is a summary of the issues raised within the submissions received. An assessment in relation to the issues raised have been carried out and found to be warranted.

It is acknowledged that some of the concerns raised have been addressed, such as noise and dust, and others can be addressed through conditions in terms of landscape treatments, hours of operation and the like, however insufficient information has been provided to determine whether the road network and existing infrastructure can support the application which is required to be resolved.

#### **e) The Public Interest:**

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments and by Council ensuring that any adverse effects on the surrounding area and the environment are minimised. The proposal has been assessed against the relevant environmental planning instruments and insufficient information has been provided to determine the environmental impacts.

Therefore, the application cannot be supported in its current form and further information is required.

### **Development Contributions**

#### **Section 7.12 Fixed development consent levies (Hawkesbury Section 94A Contributions Plan 2015)**

The following development contributions apply to this development:

- Estimated cost of works: \$3,400,000.00 with contribution at 1% = \$34,000.00

Accordingly, were the application to be supported a condition of consent would be required to be imposed.

### **Conclusion**

The matters in relation to Section 4.15 of the Environmental Planning and Assessment Act 1979 have been taken into consideration. The application is unable to demonstrate that the site is suitable for the proposed development due to insufficient information.

The application is therefore recommended for deferment to allow the applicant to address the outstanding issues identified in this report.

## **Recommendation**

That the Sydney Western Planning Panel, as the consent authority pursuant to Clause 4.16(1)(a) of the Environmental Planning and Assessment Act 1979, defer development consent to DA0119/20 on land known as 99 Sargents Road EBENEZER NSW 2756, Lot 288 in DP751665, for Designated Development - Landscaping Material Supplies and Resource Recovery Facility and require the applicant to provide Council with additional information within 28 days of the date of the meeting.

## **Attachments**

Attachment 1	Architectural Plans: Drawing No. 01 to 05 Rev B Drawing No. 07	Bainidesign	07/08/2019 01/31/2020
	Landscape Plan L-01 & 02	Jala Designs	29/07/2019





	Stormwater Concept Plans: Drawing No. 101, 102, 103 & 104 Rev B	Australian Consulting Engineers	18/09/2020
	Engineering Drawings for Drainage and Site Works Drawing Nos. 001, 015, 016, 017, 020 & 050 Rev B	Indesco	27/03/2020
Attachment 2	Environmental Impact Statement Report No: 181084-EIS_Rev4	Benbow Environmental	03/04/2020
Attachment 3	Amended Air Quality Report No. 181084- AQIA_Rev4	Benbow Environmental	01/07/2020
Attachment 4	Amended Noise Impact Assessment No. 181084-NIA_Rev5	Benbow Environmental	15/09/2020
Attachment 5	EPA General Terms of Approval	EPA	23/12/2020
Attachment 6	BDAR Peer Review	Cumberland Ecology	

## Assessment Officer

**Natalie Piggott** | Senior Town Planner | Hawkesbury City Council

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**Please refer to Part 2 of this Report for the Recommendation, Delegate's  
Determination and Peer Review Template**