

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA21/0601
Proposed development:	Change of Use for a Proposed E-Waste Recycling Facility
Property address:	8 Kommer Place, ST MARYS NSW 2760
Property description:	Lot 191 DP 1135763
Date received:	13 August 2021
Assessing officer	Donna Clarke
Zoning:	IN1 General Industrial - LEP 2010
Class of building:	Class 7b
Recommendations:	Approve

Executive Summary

Council is in receipt of a development application for a change of use of an existing waste management facility at 8 Kommer Place, St Marys, to alter the materials and quantities recycled. Under Penrith Local Environmental Plan 2010 the proposal is defined as 'waste or resource management facility'.

The subject site is zoned IN1 General Industrial and although a waste or resource transfer station is not a listed activity under the Penrith Local Environmental Plan 2010, the operations are permitted with consent under Division 23 - Waste or Resource Management Facilities of the State Environmental Planning Policy (Infrastructure) 2007.

The key issues relate to ensuring no hazardous materials are stored on site.

In accordance with Penrith Development Control Plan 2014 the application was notified to adjoining properties from 30 August 2021 to 13 September 2021. No submissions were received in response.

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

Properties of the site

The subject site is located on the northern side of Kommer Place. 8 Kommer Place has a site area of 5649m² and a frontage of 13.78m. The land slopes gently to the north and there is a fall of approximately 1m across the site. The surrounding area is characterised by industrial and warehouse land uses.

There are a number of warehouse buildings located on 8 Kommer Place associated with the existing waste or resource management facility.

Site constraints

- Overland Flow Path
- Easements
 - 8 Kommer Place
 - Easement for Drainage 3m wide
 - Easement for Drainage 3.5m wide
 - Easement for Pad Mount Substation 2.75m wide
 - Easement for Water Pipe 3.05m wide
 - Easement for Access

Site history

7 Kommer Place (previously utilised in conjunction with No. 8)

- DA03/3007 - Parking of Trucks

8 Kommer Place

- DA11/0362 - Factory/Warehouse Building & Packaging of Scrap Cardboard & Plastic Material

7 & 8 Kommer Place

- DA16/1240 - Erection of a new awing with enclosed sides as an extension to the existing facility known as Building A; Erection of new awnings adjacent to the western side boundary of the Site; and Formal layout of vehicle parking area on Lot 20 of DP1012357.

Proposal

The proposed development involves altering the existing approved Waste Management Facility on 8 Kommer Place, as follows:

- Ace Recycling is proposing to Change the existing approved use for recycling of paper, cardboard and plastic material (DA 11/0362 and DA 16/1240) to recycling of up to 5,900 tonnes per annum of e-waste and plastic recycling.
- Less than 1,000 tonnes or 1,000 cubic metres of waste would be stored at any one time.
- No change is proposed for 7 Kommer Place (truck and vehicle parking).

Until March 2021, 8 Kommer Place was used for cardboard, paper and plastics recycling, with parking within the site and on the adjoining 7 Kommer Place.

A NSW EPA Environment Protection Licence (No 20640) was previously held for the site, permitting the recovery of general waste (plastic, paper and cardboard). The Licence was surrendered by the previous lessees in April 2021.

E-waste would be accepted from large suppliers (no public acceptance).

Recycling activities would largely comprise acceptance and dismantling of whole e-waste units (TVs, computers, stereos etc) into their component parts, being plastics, printed circuit boards, glass, batteries and metal. These would be sorted (eg. metals would be sorted into ferrous and non-ferrous metals) and sent to downstream recyclers for further processing.

Ace Recycling also proposes to conduct value-add plastics recycling by processing the plastics from e-waste into added raw materials using automated equipment.

Processing would be carried out within existing buildings, with storage of segregated products stored within existing buildings and under existing external awnings.

Unloading and load-out would be carried out on site.

Hours of operation are from 8am to 4pm Monday to Friday.

Approximately twenty (20) staff will be employed in total, including two management personnel.

Existing facilities would be used for office requirements and amenities.

Plans that apply

- Local Environmental Plan 2010
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- 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 4.15 - Evaluation

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

State Environmental Planning Policy (Infrastructure) 2007

Permissibility

The subject site is zoned IN1 General Industrial and under the Penrith LEP 2010 a waste or resource transfer station is not a listed activity permitted within the zone. The operation of a waste or resource transfer station is however permitted with consent within the zone under Division 23 - Waste or Resource Management Facilities of SEPP (Infrastructure) 2007 and as such the proposed development is a permitted use within the zone.

The proposal relies on Clause 121 (2) of the SEPP for permissibility, noting that the SEPP prevails over the prohibition contained in PLEP 2010 based on the provisions of Clause 8(1) of the SEPP.

The provisions of Clause 121 of the SEPP apply which allows the proposed waste or resource management facility as a permissible use with consent within the IN1 General Industrial zone (as defined below).

The proposal specifically constitutes a resource recovery facility which is a subset of a waste or resource management facility use, as defined below:

'resource recovery facility means a facility for the recovery of resources from waste, including such works or activities as separating and sorting, processing or treating the waste, composting, temporary storage, transfer or sale of recovered resources, energy generation from waste gases and water treatment, but not including re-manufacture of material or goods or disposal of the material by landfill or incineration.'

'waste or resource management facility means a waste or resource transfer station, a resource recovery facility or a waste disposal facility.'

Therefore the proposal is permissible with consent in the IN1 zone.

Traffic Generating Development

Schedule 3 of the SEPP (Infrastructure) 2007 also identifies landfill, recycling facilities and waste transfer stations of any size or capacity as traffic generating development and specifies that these developments be referred to the NSW Roads Maritime Service (RMS). The proposal is for the change of materials of an approved waste management facility and will not increase capacity of the existing waste management facility approved under DA11/0362. As there is no proposed increase to processing capacity or associated traffic referral to the RMS was not required.

State Environmental Planning Policy No 33—Hazardous and Offensive Development

SEPP 33 applies if a proposal for an industrial development requires consent, and it is either potentially hazardous industry or potentially offensive industry (or both). The development is not a hazardous industry and was reviewed by the EPA. The proposal is considered to be non-offensive or a non-hazardous development.

The application changes the existing approved use for recycling of paper, cardboard and plastic material (DA 11/0362 and DA 16/1240) to recycling of up to 5,900 tonnes per annum of e-waste and plastic recycling.

The 12,000L diesel tank, shown on the plans accompanying the DA, was removed by the owners prior to Ace Recycling leasing the site in April 2021. Ace Recycling do not propose or require any diesel storage on site. A condition of consent is recommended that separate approval is required for any tank or storage of hazardous materials.

State Environmental Planning Policy No 55—Remediation of Land

The site remains suitable for the continued use as a waste management facility and no further assessment against SEPP 55 is required.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against relevant criteria with Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) and the application is satisfactory subject to recommended conditions of consent.

Local Environmental Plan 2010

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion

Clause 2.3 Permissibility

The subject site is zoned IN1 General Industrial under Penrith Local Environmental Plan 2010.

Waste or resource management facilities are defined as:

"waste or resource management facility means a waste or resource transfer station, a resource recovery facility or a waste disposal facility"

and are prohibited in the IN1 zone, however SEPP (Infrastructure) 2007 serves to permit waste or resource management facilities within an IN1 equivalent zone and prevails to the extent of the inconsistency. The proposal is therefore permitted with consent.

The use could also fall within the definition of "general industry" under the LEP, however the above definition is more appropriate for this development and the SEPP prevails.

Clause 2.3 Zone objectives

The zone objectives allow for a range of warehouse and industrial uses, encourage employment opportunities and minimise any adverse effect of industry on other land uses. The proposal satisfies these objectives by providing an industrial process which also requires an area for storage and is not envisaged to create adverse environmental issues such as pollution of waterways, odour or acoustic impacts for adjoining properties or the greater area.

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 - see Appendix - Development Control Plan Compliance
C2 Vegetation Management	Complies - see Appendix - Development Control Plan Compliance
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies - see Appendix - Development Control Plan Compliance
C5 Waste Management	Complies - see Appendix - Development Control Plan Compliance
C6 Landscape Design	Complies
C7 Culture and Heritage	N/A
C8 Public Domain	Complies - see Appendix - Development Control Plan Compliance
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

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

Environmental Planning and Assessment Regulations 2000 - Designated Development

The proposal is not "designated development" due to the quantities processed.

Protection of the Environment Operations Act 1997 - Licence

A licence will be required to issued by the EPA, noting that the existing licence has ben surrendered.

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

Natural resources and systems eg. Air, water, soil

The development is not subject to flooding, subsidence or slip.

Water Management

This application does not alter water management of the site from previously approved.

Noise Impact

The operations will continue as approved, with processing carried out within existing buildings, and storage of segregated products stored within existing buildings and under existing external awnings. Unloading and load-out would be carried out on site. The hours of operation are proposed to be 8am to 4pm Monday to Friday, which is appropriate for a heavy industrial area with no adjoining residents.

Waste

The application includes a Waste Management Plan (WMP) that details the estimated quantities and proposed methods of managing waste that is generated during demolition, construction and operational activities.

The public domain and the public/private interface

The development is compatible with the existing surrounding industrial landuses.

The character of the place and its local and regional context

The proposal is consistent with the bulk, scale, colour and design of other development in the locality.

Access, traffic and transportation impacts

The development is unlikely to significantly impact on the local road system, with no objections to the proposal in terms of traffic.

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

The site is suitable for the following reasons:

- The site is zoned to permit the proposed use;
- The use is compatible with surrounding/adjoining land uses;
- The proposal will not have any unreasonable amenity impacts to adjoining properties as demonstrated with the documentation contained within the development application; and
- The proposed use complements the existing use of the site.

Section 4.15(1)(d) Any Submissions

Community Consultation

In accordance with Penrith Development Control Plan 2014 the application was notified to adjoining properties from 30 August 2021 to 13 September 2021. No submissions were received in response.

Referrals

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

Referral Body	Comments Received
Environmental - Environmental management	No objections - subject to conditions

Section 4.15(1)(e)The public interest

The proposed development will not generate any significant issues of public interest.

Conclusion

In assessing this application against the relevant environmental planning policies, the proposal satisfies the aims, objectives and provisions of these policies.

The site is suitable for the proposed development as outlined within the body of this report having regard to Section 4.15 of the Environmental Planning and Assessment Act, 1979, The proposal is considered to be in the public interest and is not considered to result in negative impacts as managed by way of recommended conditions of consent.

As a result the application is considered to be worthy of support, subject to recommended conditions of consent.

Recommendation

That DA 21/0601 for change of use of an existing waste management facility at 8 Kommer Place, St Marys, to alter the materials and quantities recycled, be approved subject to the attached conditions.

General

1 A001

The development must be implemented substantially in accordance with the stamped approved plans and conditions of consent under DA 11/0362 and DA 16/1240, as amended by this application including the Statement of Environmental Effects prepared by Wild Environment dated August 2021, the application form and any supporting information issued by Penrith City Council and by the following conditions.

Note: The 12,000L diesel tank shown on the stamped approved plans under DA 16/1240 has been removed from the site and is not to be reinstated without separate approval of Council.

2 A026 - Advertising sign (not for residential)

A separate development application for the erection of a sign or advertising structure, other than an advertisement listed as exempt development, is to be submitted to Penrith City Council, complying with the requirements of Penrith Development Control Plan-Advertising Signs.

3 A032 - Goods in buildings

All materials and goods associated with the use shall be contained within the building at all times.

4 A Special (BLANK)

This consent permits alterations to the existing approved Waste Management Facility on 8 Kommer Place, as follows:

- Change to the existing approved use for recycling of paper, cardboard and plastic material (DA 11/0362 and DA 16/1240) to recycling of up to 5,900 tonnes per annum of e-waste and plastic recycling.
- Less than 1,000 tonnes or 1,000 cubic metres of waste would be stored at any one time.
- E-waste would be accepted from large suppliers (no public acceptance).
- Recycling activities would largely comprise acceptance and dismantling of whole e-waste units (TVs, computers, stereos etc) into their component parts, being plastics, printed circuit boards, glass, batteries and metal. These would be sorted (eg. metals would be sorted into ferrous and non-ferrous metals) and sent to downstream recyclers for further processing.
- Conduct value-add plastics recycling by processing the plastics from e-waste into added raw materials using automated equipment.
- Processing would be carried out within existing buildings, with storage of segregated products stored within existing buildings and under existing external awnings and must be maintained in a neat and orderly manner.
- Unloading and load-out would be carried out on site.
- Storage of hazardous goods on site is not permitted.

Environmental Matters

5 D005 – No filling without prior approval (may need to add D006)

No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

6 D009 - Covering of waste storage area

All waste materials stored on-site 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.

7 D014 - Plant and equipment noise

The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

Section C1 Site Planning and Design Principles

The existing building and plant within the building are situated in a suitable position on the site and is responsive to the site attributes. The proposed development is compatible with the surrounding industrial nature of the area. The change to materials being recycled is conducive to the site.

Section C2 Vegetation Management

The application does not propose removal of vegetation.

Section C3 Water Management

No works are proposed with respect to water management.

Section C4 Land Management

No cut and fill is required over the site. Land contamination has been considered and the site is suitable for continued industrial use.

Section C5 Waste Management

A Waste Management Plan was included in the application detailing disposal of all waste from the internal works and on-going.

Section C6 Landscape Design

No landscaping is removed or proposed and embellishment is not required given the heavy industry nature of the site and surrounds.

Section C8 Public Domain

The overall development will result in an appropriate visual impact when viewed from the public domain due to existing fencing and the plant being contained within the building and the characteristics of the site.

Section C10 Transport, Access and Parking

The site contains car parking and the entire yard is hardstand for the trucks to park. The existing vehicular access and parking on site is acceptable and minor changes only are proposed with respect to the direction vehicles move into the site, but no physical works are required.

The site already has consents in place for 26 spaces and given the nature of the facility, with the majority of employees being truck drivers which come and go to site. There is ample room to accommodate staff and any visitors to the site, which is not anticipated to be very frequent.

Section C12 Noise & Vibration

The proposed use is not offensive and the noise levels are acceptable. There are no residential properties in close proximity.

Section C13 Infrastructure and Services

Adequate support services and utilities are available to service the waste recycling facility.

D4 Industrial Development

Section D4 Industrial

The proposal has been assessed against the relevant provisions of Section D4 Industrial, as detailed below:

Height

There is no change proposed to the height of the existing building.

Setbacks & Landscape

No change is proposed to the existing buildings.

Building Design

There is no significant change proposed to the external design of the existing buildings.

Storage of Chemicals

There is no storage of chemicals on site is undertaken. All storage occurs inside the building. The proposal does not include the storage of hazardous materials.

Access

The existing access points to the site are maintained. Vehicular access and manoeuvring on the site is acceptable.

Fencing

The existing fencing is appropriate as it provides security to the site.

Lighting

The existing external lighting is acceptable.