

DA NO: DA-2015/264/B

ADDRESS: 10 MCLACHLAN AVENUE, ARTARMON NSW 2064.

PROPOSAL: DESIGNATED AND INTEGRATED DEVELOPMENT - MODIFY EXISTING CONSENT TO INCREASE THE THROUGHPUT LIMIT. CHANGE TO THE PERMISSIBLE ACTIVITIES DURING NIGHT TIME HOURS TO ALLOW FOR PROCESSING, SORTING AND LOAD OUT OF MATERIAL TO BE CARRIED OUT 24 HOURS A DAY & EXPAND THE EXISTING WASTE STREAMS TO INCLUDE DRY COMMERCIAL AND INDUSTRIAL WASTE TYPES.

RECOMMENDATION: APPROVAL

ATTACHMENTS:

1. SITE DESCRIPTION AND AERIAL PHOTO
2. DEVELOPMENT CONTROLS, STATISTICS, DEVELOPER CONTRIBUTION & REFERRALS
3. SECTION 4.55 ASSESSMENT
4. SECTION 4.15 (79C) ASSESSMENT
5. SUBMISSIONS TABLE
6. SCHEDULE OF CONDITIONS
7. NOTIFICATION MAP

RESPONSIBLE OFFICER: RITU SHANKAR - TEAM LEADER

AUTHOR: JANITH DESILVA - DEVELOPMENT ASSESSMENT OFFICER

REPORT DATE: 17 MAY 2022

REPORT FOR: ELECTRONIC DETERMINATION

1. PURPOSE OF REPORT

The purpose of this report is to seek determination by Willoughby Local Planning Panel (WLPP) for modification application (S4.55) DA-2015/264/B. The application seeks consent to modify the original proposal to increase the throughput limit, change to the permissible activities during night time hours to allow for processing, sorting and load out of material to be carried out 24 hours a day & expand the existing waste streams to include dry Commercial and Industrial waste types at 10 McLachlan Avenue, Artarmon.

The application is required to be referred to the WLPP for determination because the existing development and the proposed modification meets the criteria for designated development under *Schedule 3 - Designated Development (No.45 Waste management facilities or works)* of the *Environmental Planning and Assessment Regulation 2021*.

2. OFFICER'S RECOMMENDATION

THAT the Willoughby Local Planning Panel:

2.1 Approve the modification application, DA-2015/264/B, subject to conditions contained in Attachment 6 for the following reasons:

2.1.1 The proposal is substantially the same development as the development for which the original consent was granted;

- 2.1.2 The proposal meets the objectives of the IN1 General Industrial zone by encouraging employment and accommodating industrial development whilst not having an unreasonable or adverse impact on surrounding industry or the environment;
- 2.1.3 The locality is suited for the proposed intensification and the increased capacity for waste processing and is considered to be in public interest;
- 2.1.4 The impacts of the modification are acceptable and can be adequately managed by the recommended development consent conditions.

3. BACKGROUND

- The original development application (DA-2015/264) for the demolition of the existing structures and construction of a Materials Recovery and Waste Transfer Facility and associated works was granted consent by the Joint Regional Planning Panel (Sydney East Region) on 15 September 2015.

The panel agreed with the Council recommendation for approval and made no changes to the recommended conditions of consent.

- A subsequent modification (DA-2015/264/A) was approved under delegated authority by Council on 22 November 2016. The proposal sought consent for amendments to the internal layout of the building, including the ground floor office, storage room and bathroom.
- Bingo Industries acquired the site in March 2018.

Chronology of this application	
23 September 2021	A pre DA meeting was held. The applicant discussed the proposed modification with Council, including potential impacts, the assessment pathway and who the relevant consent authority would be.
15 October 2021	The application was lodged, external referrals were sent to the Department, to the Environmental Protection Authority and to Transport for NSW (RMS). Internal referrals were sent to Council's traffic, environmental health, waste and infrastructure teams.
10 November 2021	The application was advertised in accordance with the requirements for designated and integrated development.
8 December 2021	Meeting held on site with applicant and neighbours to examine site and discuss issues.
14 January 2022	An additional information letter was sent by Council regarding EPA queries around waste management and handling and noise.
15 February 2022	An additional information letter was sent by Council regarding EPA queries around air quality and Council's concerns around traffic management.
25 March 2022	Additional information provided by applicant.
16 June 2022	EPA General Terms of Approval provided to Council.

4. DISCUSSION

Description of Proposal

The original development was approved for the processing of 65,000 tonnes per annum of mainly general solid (non-putrescible) waste generated from construction and demolition activities and from various commercial & industrial uses. The approval allowed for 24-hour operation of the site, with the following restrictions:

- All activities (including, deliveries, unloading, sorting, load out) – Monday to Sunday 7am to 6pm.
- Prescheduled deliveries and unloading of vehicles to be carried out wholly with the fully enclosed facility Monday to Sunday 6pm to 7am (night time hours). No processing or sorting of materials to be carried out during night time hours or on Sundays and public holidays.

The modification application seeks changes to the throughput limit, the permissible night time activities and to include additional dry commercial and industrial waste types. More specifically, the modification seeks to:

- Increase the throughput limit from 65,000 to 90,000 tonnes per annum
- Change to the permissible activities during night time hours to allow for processing, sorting and load out of materials, allowing the site to have full 24 hour operations on the permitted days (not permitted on public holidays).
- Expand the existing waste streams currently received by the site to include additional dry Commercial and Industrial waste types. Specifically, being:
 - Non chemical waste generated from manufacturing and services, including metal, timber, paper, ceramics, plastics, thermosets and composites.
 - Office and packaging waste including paper, plastics, glass, metal, timber that is not contaminated or mixed with any other type of waste.

It is considered that the proposal meets the ‘substantially the same development’ test and can be assessed as a modification.

No building works are proposed with this modification application.

Approval Pathway and Referral Requirements

- The application is an integrated development pursuant to Section 4.46 of the Environmental Planning and Assessment Act. Approval is required from the NSW Environmental Protection Authority (EPA) under the Protection of the Environment Operations Act 1997.
- The application is a designated development pursuant to Schedule 3 (45) of the Environmental Planning and Assessment Regulation (EP&A Regs.) 2021.
- The application was referred to Transport for NSW as traffic generating development under Clause 104 of the former SEPP Infrastructure, who have raised no objection to the development.
- The application was referred to the Department of Planning, in accordance with Clause 56 of the EP&A Regs. No submission has been received from the Department in response to the notification.

It is noted that waste management facilities that meet the criteria for designated development, are regionally significant development. As such, the original application was approved by the joint regional planning panel (Sydney East Region).

As per Clause 275 of the EPA&A Regs., a modification that meets the relevant criteria is to be determined by Council and not the regional panel. The relevant criteria being:

- A modification that does not propose changes to a condition that was proposed or amended by the panel.
- A modification that does not cause a conflict of interest, is not contentious development and does not depart from a development standard by more than 10%

The proposed modification meets the above criteria.

Nonetheless, the application proposes a change to the capacity, which is a criterion for a waste facility to be considered designated development. As such, the modification has been referred to the Willoughby Local Planning Panel for determination.

Neighbour Notification/Advertisement

The proposal was advertised on Council's website in accordance with the requirements of the EP&A Regs, and adjoining and surrounding properties were notified of the development in accordance with the requirements of the Willoughby Development Control Plan (WDCP).

Two (2) submissions were received from the neighbouring property at No 6 McLachlan Avenue which have been addressed in this report.

The controls and development statistics that apply to the subject land are provided in **Attachment 2**.

An assessment in accordance with S4.55 of the *Environmental Planning and Assessment Act* (EP&A Act) is provided in **Attachment 3**.

An assessment in accordance with S4.15 (79C) of the EP&A Act is provided in **Attachment 4**.

The issues within the submissions objecting to the proposal and the assessing officer's response are contained in **Attachment 5**.

The recommended schedule of modified conditions is provided in **Attachment 6**.

The WLPP plans used for this assessment can be found under the DA tracking functionality for this application on Council's website:

<https://eplanning.willoughby.nsw.gov.au/Pages/XC.Track/SearchApplication.aspx?id=514051>

5. CONCLUSION

The modification application DA-2015/264/B has been assessed in accordance with Section 4.15 (79C) of the *Environmental Planning and Assessment Act 1979*, WLEP 2012, WDCP, and other relevant codes and policies. It is considered that the proposal is acceptable in the particular location, subject to the consent conditions included in **Attachment 8**.

ATTACHMENT 1: SITE DESCRIPTION AND AERIAL PHOTO

The subject site is located on the Southern corner of McLachlan Avenue and Marden Street and has an approximate area of 2,254m². The site is currently occupied by the resource recovery centre that is the subject of this application. The facility has one dedicated ingress (via Mclachlan avenue) and egress way (via Marden Street) and provides 15 car spaces. The site processes upto 65,000 tonnes of waste per annum and has capacity to store upto 9,000 tonnes of waste.

The site is surrounded by outhur industrial uses, with the Holcim Australia Concrete Plant found directly to the south west of the subject site. Directly to the south east is a building which hosts various a mixture of industrial and commercial premises known as 6-8 McLachlan avenue. The building walls are built to the boundary of the Bingo site. The nothern side of Mclachlan Avenue is a road rerserve with sound barriers to the Gore Hill Freeway. The Lane Cove tunnel is located within this road reserve.

Located at 1-5 Marden Street is a foundry operated by Weir Minerals which produces casting moulds.

Located at 12 Marden Street is the Chatswood Toyota Service Centre.

The closest residential areas to the subject site are located some distance away, on the opposite side of the Pacific Highway and the Gore Hill Freeway.

Subject site pinned below



ATTACHMENT 2: CONTROLS & DEVELOPMENT STATISTICS AND REFERRALS

WLEP 2012 Zoning:	IN1 – General Industrial Zone
Existing Use Rights	NO
Additional Permitted Use	N/A
Conservation area	NO
Aboriginal Heritage	NO
Heritage Item	NO
Vicinity of Heritage Item	NO
Natural Heritage Register	NO
Bushfire Prone Area	NO
Flood related planning control	YES – Overland flow (major flooding). Impacts have been assessed in original application and will remain unaffected by this modification.
Foreshore Building Line	NO
Adjacent to classified road	NO
Road/lane widening	NO
BASIX SEPP	NO
Development near Lane Cove Tunnel	YES – Impacts have been assessed and conditions imposed in original application and will remain unaffected by this modification.
Contaminated Land	N/A – Impacts assessed during original application. No ground disturbance proposed with this modification.
Adjacent / above Metro	NO
Other relevant SEPPS	SEPP (Transport and Infrastructure) 2021

Development statistics - There are no relevant development statistics that are affected by the proposed modification given the nature of the application.

Referrals

Internal Referrals	
Building services	No objections or conditions
Engineering	<p>We have reviewed the above application with regards elements relevant to this section.</p> <p>The proposed works involve an increase in volume managed at the site and a subsequent increase in truck movements. These traffic movements, which do include heavy vehicles, will reduce the life of the road pavement. The road pavement fronting the site is asphaltic concrete, which is already showing evidence of damage at the entry to the Bingo site. This damage has occurred since Bingo opened in 2017/2018. As there is existing damage and the increased truck volumes will result in further damage, we do require that the applicant reconstruct the area of pavement with current damage.</p>

	<p>We note that the Holcim site further along the street has had approval to increase traffic volumes and was not required to reconstruct road pavement. However, the road pavement at the Holcim site is concrete, which is able to better withstand higher truck loads and movements, including turning movements, better than the asphaltic concrete pavement that exists at the Bingo site. This difference was taken into consideration when determining the requirements to the Holcim site. Streetview photos were also reviewed for the Bingo site, which has identified that damage has occurred at the entry into the Bingo site since the site opened and not elsewhere in the street.</p> <p>There is evidence on site that trucks entering and existing the site are not contained within the existing vehicle crossings and are damaging the adjacent turf and potentially damaging the adjacent kerb. We have required that crossings are to be reconstructed, to contain the swept path of the design vehicle using the crossing. The exact extent can be determined when swept path diagrams are submitted. If the applicant is able to demonstrate that vehicles can stay within the as-constructed crossings, then this requirement may be waived. However, evidence on site is that they do not.</p> <p>Planner's comments – The engineer has required that additional conditions be incorporated to ensure that the road pavement and vehicular crossings be reconstructed. The design details, including swept paths are to be submitted to Council for approval prior to construction.</p>
<p>Environmental Health</p>	<p>No objections subject to standard conditions controlling:</p> <ul style="list-style-type: none"> • Acoustics • Noise and Vibration • Dust, Smoke & Odour <p>Planners comments- The proposed conditions have been incorporated into the modified conditions included in Attachment 6.</p>
<p>Waste</p>	<p>No objections to the proposal. No conditions recommended.</p>
<p>Traffic</p>	<ul style="list-style-type: none"> • Generally, -no objection for the proposed increased operation hours/ waste tonne. It makes sense to spread the hours/loading & unloading activities at the site • However, the site observation showed that the operators/customers are not operating accordingly to the current consents. Traffic queues built up at the driveway and flow onto the road, creating traffic congestion & safety issues. • Truck drivers were observed to start unloading at driveway and road space, which is highly illegal/unsafe and none compliance to the agreed operation plan. • Truck drivers were also observed to have leave the site at Exit point then to re-enter the site at the Entry point in a loop, to continue doing un-finished loading/unloading activities. This shows the number of trucks arrival is more than the internal capacity space can manage. • These activities do not give Traffic & Transport team the confidence that any future DA approval/Consents will be compliant by the operator/site manager.

	<ul style="list-style-type: none"> • Other BINGO sites provided to Council as an example 24/7 operation, are not comparable with Artarmon site setting, due to these key factors: <ul style="list-style-type: none"> ○ site locations (many are located in semi-rural areas ie Kembla Grange, Greenacre and Reverby) ○ internal footprint size (area for various operations/activities is layover space) ○ external road environment (bend road/ limited line of sight) ○ busy section of road shared by various adjacent land uses (heavy vehicles traffic) • Traffic & Transport Team would support a 12-months trial of the proposed operation with an end date and the trial would need to be compliant with the trial conditions/measures in place, as we have discussed including an independent audit process and reporting, to measure the operation compliance and safety performance. • The trial is fair and reasonable for the applicant to operate the trial, for the new operation and for Council to monitor & evaluate the operations/activities and impacts on the road network. • The operational traffic management plan including an independent auditor to randomly audit/inspect the operations during the trial period will give Council the confidence that the applicant is committing and complying to the DA consents/requirements. <p>Planner Comments – The traffic engineer’s comments have been incorporated into conditions that are included in this modified consent, including a one-year trial period and the need for further traffic audits and inspections during the trial process. Updates have also been recommended for the operational traffic management plan.</p>
Compliance	<p>It is observed that there is a decline in trucks queuing on the public roadway. The BINGO team seem to be appropriately managing loads visiting their site with relatively little impact on the road.</p> <p>However, what I will suggest is that the loading zone is moved from outside 3 McLachlan and across the driveway into Marden Street and replaced with a No Stopping zone. This will make room for trucks to swing wide on the corner when exiting various industrial sites (eg Holcim concrete plant, car carriers from Toyota, WEIR minerals and BINGO).</p> <p>Planners comments – The improvement to the site’s traffic management during the assessment period are noted. This seems to be due to operational changes that were instituted in November 2021, which have been discussed further in the report below.</p>

External Referrals

TfNSW

Reference is made to Council's correspondence dated 1 November 2021 referring the abovementioned modification application to Transport for NSW (TfNSW) for comment in accordance with Section 104 of the *State Environmental Planning Policy (Infrastructure) 2007*. TfNSW notes that:

TfNSW has reviewed the submitted documents and raises no objection to the proposed modification that includes increase in waste and extended operation to a 24-hour operational period. The addition of nine trucks (18 two-way vehicle movements) across a 24-hour period is not anticipated to result in impacts to nearby intersection performance or road safety on the surrounding road network.

As such, TfNSW provides the following advisory comments for Council's consideration in determining the application:

- Details of the proposed number of vehicle parking spaces and compliance with appropriate parking codes and justification for the level of car parking provided on the site should be provided as per Council's requirements.
- The swept path of the longest vehicles entering and exiting site as well as manoeuvrability through the site should be submitted to Council for approval.
- A draft Loading Dock and Servicing Management plan should be developed, including the forecast loading and servicing traffic volumes by vehicle size, frequency, time of day and duration of stay.
- A Construction Pedestrian and Traffic Management Plan (CPTMP) detailing construction vehicle routes, number of trucks, hours of operation, access arrangement and traffic control should be submitted to Council prior to the issue of the Construction Certificate.
- A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre (TMC) for any works that may impact on traffic flows on surrounding street during demolition and construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

Should you have any further inquiries in relation to this matter, please do not hesitate to contact Divna Cvetojevic, Development Assessment Officer, on 0455 515 259 or by email at development.sydney@transport.nsw.gov.au.

Environmental
Protection
Agency

Environmental Planning and Assessment Act 1979

Part 4 Modification Application - EPA Comments



Notice No. - 1619452

ARTARMON RECYCLING PTY LTD
Trading as ARTARMON RECYCLING
ABN 46 624 522 943 ACN 624 522 943
305 PARRAMATTA ROAD
AUBURN NSW 2144

Attention: Brad Searle

Notice Number 1619452
File Number Doc21/952932
Date 16-Jun-2022

Re: Application to modify DA 2015/264 Artamon Resource Recovery Facility CNR-30604 Issued pursuant to Section 4.55(2) Environmental Planning and Assessment Act 1979

I refer to the application by Artamon Resource Recovery Facility to modify development consent DA 2015/264 and the accompanying information provided to the Environment Protection Authority (EPA) on 29 October 2021. The modification of the consent is sought to authorise:

- To increase the throughput limit from 65,000 to 90,000 tonnes per annum.
- Change to the permissible activities during night time hours to allow for processing, sorting and load out of material to be carried out 24 hours a day, 7 days per week.
- Expand the existing waste streams currently received at the Premises to include additional dry Commercial and Industrial (C&I) waste types including:
 - Non-chemical waste generated from manufacturing and services, including metal, timber, paper, ceramics, plastics, thermosets, and composites.
 - Office and packaging waste including paper, plastics, glass, metal, timber) that is not contaminated or mixed with any other type of waste

The EPA has reviewed the application and information provided and is of the view that if the current activity is modified, EPL No. 20763 should also be varied to effectively regulate the modified activity. The applicant will need to apply separately to the EPA to vary this licence.

The additional licence conditions likely to be imposed by the EPA are set out at attachment A. Should Willoughby City Council decide to approve the modification, the modification would require a variation to the Environment Protection Licence for the activities at the Premises to be lawful. As such, the EPA would be exercising its licensing functions under the *Protection of the Environment Operations Act 1997*.

The proposed licence conditions relate to the operating hours of the facility, increase the throughput and expand C&I waste streams as outlined in the information provided to the EPA. In the event that the proposal is further modified, either by the applicant prior to the granting of consent or as a result of the conditions proposed to be attached to the consent, the EPA requests that Willoughby City Council consult with EPA about the changes before modifying the consent. This will enable the EPA to determine whether the proposed licence conditions need to be modified in light of the changes.

If you have any questions, or wish to discuss this matter further please contact Jenny Gustafson on 9585 6471.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andrew Hawkins'.

.....
Andrew Hawkins
Unit Head Non-metro Sites
Environment Protection Authority
(by Delegation)

Environmental Planning and Assessment Act 1979

Part 4 Modification Application - EPA Comments



Notice No. - 1619462

Administrative conditions

A1. Information supplied to the EPA

A1.1 Except as expressly provided by these general terms of approval, works and activities must be carried out in accordance with the proposal contained in:

- Application to modify DA 2015/264 submitted to Willoughby City Council.
- Environmental impact statement: Artamon Resource Recovery Facility S4.55(2) Modification Report produced by Arcadis dated 30 September 2021 relating to the development;
- Artamon Resource Recovery Facility - Application to Modify DA 2015/264 – Response to request for additional information produced by Arcadis dated 30 September 2021;
- all additional documents supplied to the EPA in relation to the development, including:
 - Appendix B - Air Quality Impact Assessment
 - Appendix C - Noise Impact Assessment

Limit conditions

L2. Waste

The licensee must not cause, permit or allow any waste to be received at the premises, except the wastes expressly referred to in the column titled "Waste" and meeting the definition, if any, in the column title "Description" in the table below. Any waste received at the premises must only be used for the activities referred to in relation to that waste in the column titled "Activity" in the table below. Any waste received at the premises is subject to those limits or conditions, if any, referred to in relation to that waste contained in the column titled "Other Limits" in the table below. This condition does not limit any other conditions in this licence.

L2.1

Code	Waste	Description	Activity	Other Limits
N/A	Non-chemical waste generated from manufacturing and services, including metal, timber, paper, ceramics, plastics, thermosets, and composites.		Resource Recovery Waste Processing (non-thermal treatment) Waste Storage	
N/A	Office and packaging waste including paper, plastics, glass, metal, timber) that is not contaminated or mixed with any other type of waste.		Resource Recovery Waste Processing (non-thermal treatment) Waste Storage	
N/A	Garden Waste	As defined in Schedule 1 of the POEO Act, in force from time to time.	Resource Recovery Waste Processing (non-thermal treatment) Waste Storage	Must be removed from premises within 48 hours of arrival.

L2.2 The authorised amount of waste permitted on the premises cannot exceed 9,000 tonnes at any one time.

L2.3 The quantity of waste received at the premises must not exceed 90,000 tonnes per year.

L3 Hours of operation

L3.1 Activities at the premises including tipping, sorting, processing and loading out of material may be carried out 24 hours, 7 days per week. Activities at the premises is not permitted on public holidays.

This condition does not apply to the delivery of material outside the hours of operation permitted by this condition, if that delivery is required by police or other authorities for safety reasons; and/or the operation or personnel or equipment are endangered. In such circumstances, prior notification must be provided to the EPA and affected residents as soon as possible, or within a reasonable period in case of emergency.

ATTACHMENT 3: SECTION 4.55 ASSESSMENT

Considerations Under S4.55(2) EP&A Act - Other modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A

(a)	<p>It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all).</p>	
	<p>Comment: The proposal has passed the ‘substantially the same’ test as per the precedent set out in <i>Moto Projects (No 2) Pty Ltd v North Sydney Council [1999] NSWLEC 280</i> and summarised in <i>Trinvass Pty Ltd v The Council of the City of Sydney [2018] NSWLEC 77</i>, which involves a qualitative and quantitative comparison between the original development and the proposal within the context of the site and the original approval.</p> <p><u>Quantitative comparison</u></p> <ul style="list-style-type: none"> • The use of the development is unchanged as a waste management facility. • The physical form of the development remains unchanged. Council engineers will require re-construction of the road pavement, but this is beneficial for the business and the surrounds and is a response to existing operations. • The development still functions on a 24/7 basis, with a change to the permissible activities during the night time period. As per the provided statement (Section 4.2), activities will be generally phased to allow for processing to take place within the daytime hours and load out to take place at night, which will minimise operational impacts. • The proposal will see an increase to maximum throughput limit by 25,000 tonnes (38%). The site has physical capacity for the increase and will not require any layout changes or inclusion of additional processing facilities or machinery. • The waste types received by the development will be expanded into additional commercial and industrial streams, but the remain broadly in the same category of dry materials waste that is non-putrescible. • The number of vehicles accessing the site will be increased, however traffic movements will be spread across a broader 24-hour period. 	

Considerations Under S4.55(2) EP&A Act - Other modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A

	<p><u>Qualitative comparison</u></p> <p>The qualitative comparison relates mainly to the potential environmental impacts stemming from the modification. These chiefly relate to three main areas being: acoustics, traffic and air quality (dust and odour).</p> <p>These impacts have been assessed in detail in Attachment 6 of the report. It was found that if the proponent was to operate the development as outlined in the application, the impacts will be within the bounds of acceptability and would not result in a substantial difference from the original application.</p> <p>The site is in an industrial area and is spatially insulated from most vulnerable residential receivers. The neighbouring Holcim Concrete Plant at 8 Marden Street has been given a similar (trial) approval (DA-2019/212) to operate 24/7. There is a public benefit and need to increase capacity of waste processing sites, in line with both State and Commonwealth governments resource recovery targets. As such, the site is appropriate for the proposed intensification.</p> <p>Further, the change to permissible activities in the 24/7 period would nominally allow the development to ‘flatten’ out activities across a broader period, softening the potential impacts of increased throughput.</p> <p>The proposal has been sent to the relevant external authorities who have raised no objection to the modification. Similarly, Council’s internal officers have provided consent, subject to conditions. Subject to these conditions, it is believed that the impacts of the proposal will be sufficiently mitigated and do not substantially differ from the original approval.</p> <p>Given the above assessment, it is considered that the modification is ‘substantially the same development’ both on quantitative and qualitative terms within the context of the original approval.</p>	
(b)	<p>It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent.</p>	
	<p>Comment: The proposal has been sent to the Environmental Protection Authority who have provided their consent and issued modified general terms of approval. The proposal was additionally sent to TfNSW as traffic generating development and they have provided approval. The proposal was additionally provided to the Department who have not provided any comment.</p>	

Considerations Under S4.55(2) EP&A Act - Other modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A

(c)	<p>It has notified the application in accordance with: the regulations, if the regulations so require, or a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent.</p>	
	<p>Comment: The modified application was notified in accordance with Part D and E of Willoughby Community Participation Plan (WCPP) from 10 November 2021 to 09 December 2021.</p> <p>The proposal was advertised on Council’s website in accordance with the requirements of the EP&A Regs, and adjoining and surrounding properties were notified of the development in accordance with the requirements of the Willoughby Development Control Plan (WDCP) and the Regs. from 10 November to 9 December 2021.</p> <p>2 submissions were received from the neighbouring property, 6-8 McLachlan Avenue which have been addressed in Attachment 7 of this report.</p>	
(d)	<p>It has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.</p>	
	<p>Comment: Council received 2 submissions from the neighbouring premises at 6-8 and is addressed in Attachment 7 of this report.</p>	

ATTACHMENT 4 - SECTION 4.15 (79C) ASSESSMENT

The application has been assessed under the provisions of S.4.15 (79C) of the *Environmental Planning and Assessment Act*.

The most relevant matters for consideration are assessed under the following headings:

Matters for Consideration Under S.4.15 (79C) EP&A Act
Considered and Satisfactory ✓ Considered and Unsatisfactory ✗ and Not Relevant N/A

(a)(i)	The provisions of any environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> State Environmental Planning Policies (SEPP) 	✓
	<ul style="list-style-type: none"> Regional Environmental Plans (REP) 	✓
	<ul style="list-style-type: none"> Local Environmental Plans (LEP) 	✓
	<p>Comment: The modified proposal does not contravene any relevant matters for consideration under the provisions of any SEPPs, REPs or development standards under WLEP 2012.</p> <p>SEPP (Transport and Infrastructure) 2021</p> <p>The development is traffic generating development as identified in Schedule 3 of the SEPP. No objection has been raised by TfNSW or Council's traffic section to the development, subject to conditions.</p> <p>SEPP (Resilience and Hazards) 2021</p> <p>Chapter 3: Hazardous and Offensive Development The original application was not considered hazardous or offensive development due to the types of waste accepted by the development. It is considered that the modification, with the new waste streams, does not trigger the need for further assessment under the SEPP as it would not result in excessive odour or potentially offensive waste streams being accepted on site.</p> <p>Chapter 4: Remediation of Land The modification application does not involve any physical works or disturbance of land. The previous use was a warehouse use, as such there are no requirements to address this chapter of the SEPP.</p> <p>Willoughby Local Environmental Plan 2012</p> <p>The modification will not result in any change to permissibility under the IN1 – General Industrial Zone and is consistent with the objectives of the zone. The application does not contravene any of the relevant development standards or clauses set out in the plan.</p>	
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> Draft State Environmental Planning Policies (SEPP) 	✓
	<ul style="list-style-type: none"> Draft Regional Environmental Plans (REP) 	✓
	<ul style="list-style-type: none"> Draft Local Environmental Plans (LEP) 	✓
	<p>Comment: The proposal does not contravene any of the relevant objectives or clauses as set out in the Draft Willoughby Local Environmental Plan 2020.</p>	
(a)(iii)	Any development control plans	
	<ul style="list-style-type: none"> Development control plans (DCPs) 	✓
	<p>Comment: The proposal is consistent with the provisions of the WDCP.</p>	
(a)(iv)	Any matters prescribed by the regulations	
	<ul style="list-style-type: none"> Clause 92 EP&A Regulation-Demolition 	✓

Matters for Consideration Under S.4.15 (79C) EP&A Act

Considered and Satisfactory ✓ Considered and Unsatisfactory ✘ and Not Relevant N/A

	<ul style="list-style-type: none"> • Clause 93 EP&A Regulation-Fire Safety Considerations 	✓																												
	<ul style="list-style-type: none"> • Clause 94 EP&A Regulation-Fire Upgrade of Existing Buildings 	✓																												
	Comment: There are no prescribed matters that affect the modification application.																													
(b)	The likely impacts of the development:																													
	<ul style="list-style-type: none"> • Context & setting 	✓																												
	<ul style="list-style-type: none"> • Access, transport & traffic, parking, loading/unloading <p>Potential traffic impacts are salient when considering the 38% increase to capacity. It is noted, from a search of Council records and from site observation, that the existing facility has caused some impacts to the surrounds in terms of vehicular queuing, unsafe behaviour, and loading/unloading activities taking place within the Council reserve. Bingo has recently put in place measures to deal with existing impacts and propose new measures as part of this application.</p> <p><u>Predicted and existing vehicle movements</u> The proposed modification seeks to reduce impacts by spreading out traffic activities across a broader 24-hour period. Further, the documentation states that the extra tonnage (from the increased capacity), will be delivered by Bingo owned hook lift trucks with a payload of 10 tonnes. The collection will be conducted by articulated trucks with a payload of 33 tonnes. Bingo states that the increased capacity will result in an additional 9 trucks (18 total vehicle movements) over a 24-hour period, which should have minimal impacts on the road network.</p> <p><i>Table 6-3 Modification traffic generation</i></p> <table border="1"> <thead> <tr> <th>Vehicle</th> <th>Vehicle payload</th> <th>Operational days per year</th> <th>HV generation (daily)</th> </tr> </thead> <tbody> <tr> <td>Delivery (hook lift truck)</td> <td>10 tonnes</td> <td>352</td> <td>7</td> </tr> <tr> <td>Collection (articulated vehicles)</td> <td>33 tonnes</td> <td>(excluding public holidays)</td> <td>2</td> </tr> <tr> <td>Total</td> <td></td> <td></td> <td>9</td> </tr> </tbody> </table> <p>It is noted that currently the majority of deliveries to the existing site take place via light (39%) and rigid (61%) vehicles (with a smaller payload) from mainly private customers. This differs from the projections in table 6-3. A monitoring measure is required to ensure that the predicted truck movements will be in line with the projections.</p> <p><i>Table 2-2 Existing inbound vehicle mix</i></p> <table border="1"> <thead> <tr> <th>Vehicle type</th> <th>Daily number of vehicles (2020)¹</th> <th>Proportion</th> </tr> </thead> <tbody> <tr> <td>Light vehicles (Utes, cars with trailers)</td> <td>48</td> <td>39%</td> </tr> <tr> <td>Rigid vehicles (Small, medium, heavy)</td> <td>75</td> <td>61%</td> </tr> <tr> <td>Articulated vehicles</td> <td><1</td> <td><1%</td> </tr> </tbody> </table>	Vehicle	Vehicle payload	Operational days per year	HV generation (daily)	Delivery (hook lift truck)	10 tonnes	352	7	Collection (articulated vehicles)	33 tonnes	(excluding public holidays)	2	Total			9	Vehicle type	Daily number of vehicles (2020) ¹	Proportion	Light vehicles (Utes, cars with trailers)	48	39%	Rigid vehicles (Small, medium, heavy)	75	61%	Articulated vehicles	<1	<1%	✓
Vehicle	Vehicle payload	Operational days per year	HV generation (daily)																											
Delivery (hook lift truck)	10 tonnes	352	7																											
Collection (articulated vehicles)	33 tonnes	(excluding public holidays)	2																											
Total			9																											
Vehicle type	Daily number of vehicles (2020) ¹	Proportion																												
Light vehicles (Utes, cars with trailers)	48	39%																												
Rigid vehicles (Small, medium, heavy)	75	61%																												
Articulated vehicles	<1	<1%																												

Matters for Consideration Under S.4.15 (79C) EP&A Act

Considered and Satisfactory ✓ Considered and Unsatisfactory ✗ and Not Relevant N/A

Conflict between tipping and loading activities

A common cause of queuing on site is due to tipping activities and collection activities taking place concurrently resulting in conflicts. Bingo further states that the change to allowable activities would allow for separation of rigid and articulated trucks, allowing load out during the night time period which would increase safety and decrease vehicle dwell times.

The argument is accepted by Council that the modification will allow better separation. However, a monitoring and compliance framework is required to ensure that the proponent can operate the site without conflicting activities causing impacts.

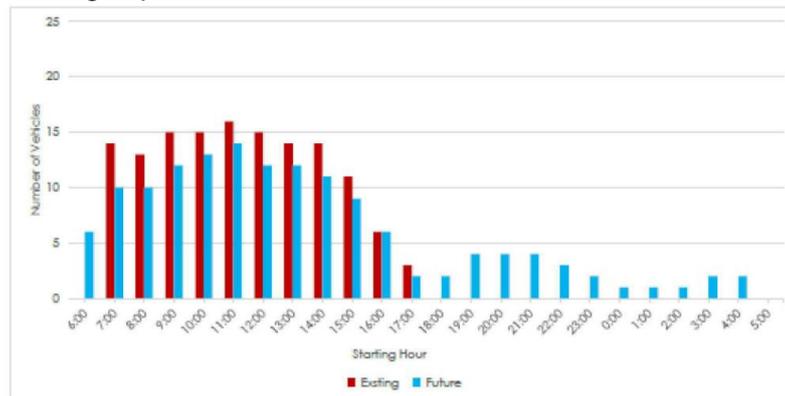


Figure 6-4 Comparison of existing and future traffic profiles

Vehicle stacking and unloading

Bingo states that the average time (worst case scenario) for a load to be delivered in 15 minutes. This has informed the stacking analysis conducted by Bingo which finds that the site can comfortably accommodate a total of 36 delivery vehicles within an hour, which is well under the predicted arrivals in peak period (14 vehicles).

Nonetheless, further information provided by Bingo finds that the most common cause of queuing is due to deliveries that require hand unloading which can take up to 30 minutes per vehicle. In order to reduce ongoing and potential impacts, manual loading and unloading should take place during off peak periods. It is noted that the proposed increase in capacity is to be transported by Bingo trucks which tip waste far more efficiently.

Matters for Consideration Under S.4.15 (79C) EP&A Act

Considered and Satisfactory ✓ Considered and Unsatisfactory ✗ and Not Relevant N/A

Existing and proposed measures

Bingo's data highlights that the proposed hours will result in a traffic profile with less trips during the peak period. In conjunction with the predicted vehicle movements, the modification can potentially reduce existing traffic impacts.

Bingo has additionally introduced the following measures to deal with traffic impacts:

- Restrict incoming waste to between 7am-4pm to allow for load out in the evening periods
- Record vehicle's tare weight to reduce weigh in time
- Geo-tracking Bingo vehicles to allow real-time redirection
- Use CCTV at site entrance driveway to monitor allocation of trucks.

Since November 2021:

- Introduce a dedicated traffic controller on site (7am-4pm, 6 days a week)
- 2 Additional tip floor site personnel to manage loading/unloading
- Introduced a new pricing scheme that sees waste charged in mass (tonnes) rather than volume (cubic meters) which has reduced the number of small load customers.

Bingo proposed the following measures to further ameliorate impacts:

- Implement a Driver's Code of Conduct which outlines operating hours and peak periods, untarping protocols and behaviour on site.
- Restrictions on smaller vehicles (that require hand unloading) during busy periods.
- Piloting a 'book ahead' system to nominate a time period for expected deliveries by independent contractors.
- Institute a monitoring and management framework which will result in the submission of a traffic evaluation report to Council after 12 months of modified operations.

Matters for Consideration Under S.4.15 (79C) EP&A Act

Considered and Satisfactory ✓ Considered and Unsatisfactory ✗ and Not Relevant N/A

	<p><u>Trial period and monitoring and management</u></p> <p>It is considered that if the site is properly managed, in accordance with the submitted documentation, the modification will result in an overall improvement to traffic. Nonetheless, given the past history with the site, it is recommended that the proposed operating hours be granted on a trial basis of 1 year.</p> <p>In order to ensure that Bingo is operating the site as proposed and to give Bingo the opportunity to make any needed improvements to site operations it is further recommended that an audit of operations be undertaken by an Independent Environmental auditor 5 months after the start of the trial period, with the results being submitted to Council.</p> <p>The auditor shall review the following:</p> <ol style="list-style-type: none"> Complaints from the public (obtained from Council and from the facility's complaints register) Traffic movements to and from the site including an assessment of weighbridge data and CCTV footage of site entrance driveway. Overall impacts to traffic and any recorded incidents of traffic queuing and of loading/unloading activities taking place on Council land The most updated Operational Environmental Management Plan Any other conditions of the consent relevant to environmental protection with particular attention paid to odour, dust, noise and vibration impacts. <p>The auditor is to conduct up to 5 random site inspections over a 3-month period to monitor operations on the ground and should review if operations are conducted in accordance with the approved documents.</p> <p>A report of the auditor's review and findings is to be provided to Council.</p> <p>Furthermore, the traffic management plan will be conditioned to include the following:</p> <ol style="list-style-type: none"> The proposed Driver's Code of Conduct is to encourage use of the online booking system and detail that loads that require manual handling (hand unloading) be delivered during specified shoulder periods. The proposed 'book ahead' system should include a capacity limit and specific requirements and booking times for vehicles that require manual handling. An update to the procedures to ensure that no layover or loading/unloading activities take place on publically owned land including the vehicular crossing. A draft loading Dock and Servicing Management Plan should be developed, including forecast loading and servicing traffic volumes by vehicle size, frequency time of day and duration of stay. (TfNSW requirement) <p>Subject to the above conditioning, it is considered that the sufficient safeguards have been put in place to manage traffic impacts.</p>	
	<ul style="list-style-type: none"> • Servicing 	✓
	<ul style="list-style-type: none"> • Public domain 	✓
	<ul style="list-style-type: none"> • Utilities 	✓

Matters for Consideration Under S.4.15 (79C) EP&A Act

Considered and Satisfactory ✓ Considered and Unsatisfactory ✗ and Not Relevant N/A

• Heritage	✓
• Privacy	✓
• Views	✓
• Solar Access	✓
• Water and draining	✓
• Soils	✓
• Air & microclimate, and particulate pollution to surrounds	✓
<p>The proposal has been assessed by the EPA which monitors and controls particulate management around the site. The EPA has been satisfied with the air quality assessment that has been provided, which finds that the proposal is generally compliant with air quality criteria.</p> <p>It is noted that the received submission complained about particulate pollution to the surrounds.</p> <p>Bingo has mitigation measures in place to manage dust which include:</p> <ul style="list-style-type: none"> - Covering vehicle loads on and off site - Misting system internally - Procedures around handling dusty materials (dampening and reduced drop heights) - Operations within a fully enclosed shed - Fast operating roller door - Regular cleaning schedule including use of a street sweeper and clearing of tip floor. - Regular dust monitoring <p>The proposal has been further assessed by Council's environmental health officer who has recommended the following condition:</p> <p>Dust, Smoke & Odour.</p> <p><i>A dust, smoke and odour impact assessment shall be submitted to Council if any complaints are lodged with Council in relation to any of these emissions generated as a result of the increase in hours of operation or increased amounts of materials processed at the business. The report must be prepared by a suitably qualified environmental consultant and include modelling of any dust, smoke and odour impact on the nearest affected receptor (e.g. residents / property occupants).</i></p> <p><i>Any recommendations resulting from the report are to be in accordance with AS/NZS 1668.1 – 1998 and AS 1668.2 – 2012, as well as the Office of Environment & Heritage Technical Framework – Assessments and Management of Odour from Stationary Sources in NSW (November 2006).</i></p> <p><i>If required by Council, the person in charge of the business shall implement any or all of the recommendations of the assessment and any additional requirements of Council to Council's satisfaction.</i></p> <p><i>(Reason: Amenity, environmental compliance and health)</i></p> <p>It is further noted that the independent consultant will assess air and dust pollution during the trial period audit, which will allow Council to understand if the current measures are adequate. It is considered that subject to conditioning and proper operations on site the proposal will generate minimal new impacts.</p>	
• Flora & fauna	✓
• Waste	✓

Matters for Consideration Under S.4.15 (79C) EP&A Act

Considered and Satisfactory ✓ Considered and Unsatisfactory ✗ and Not Relevant N/A

	<ul style="list-style-type: none"> • Energy • Noise & vibration <p>The nearest residential acoustic receivers are located well away from the subject site and are separated by the Pacific Highway and Gore Hill Freeway. The applicant has provided an acoustic report that finds potential impacts from the modification to be acceptable.</p>  <p>Figure 2-1: Site Overview and Nearest Receivers</p>	✓
--	--	---

Matters for Consideration Under S.4.15 (79C) EP&A Act

Considered and Satisfactory ✓ Considered and Unsatisfactory ✗ and Not Relevant N/A

	<p>Council's environmental health officer has reviewed the documentation and provided consent, subject to the following conditions:</p> <p>Acoustic Report.</p> <p><i>Comply at all times with the recommendations of the Noise Impact Assessment prepared by Wilkinson Murray, ref RWDI#2104904, dated 24th August 2021 (Reason: Amenity)</i></p> <p>Noise & Vibration.</p> <p><i>The business, including operation of vehicles, shall be conducted so as to avoid unreasonable noise or vibration, and cause no interference to adjoining or nearby residential or business premises. In the event of a noise or vibration problem arising at the time, the person in charge of the premises shall when instructed by Council, cause to be carried out a review of the acoustic report by a qualified acoustic consultant, and submit the results to Council.</i></p> <p><i>If required by Council, the person in charge of the club shall implement any or all of the recommendations of the consultant and any additional requirements of Council to Council's satisfaction.</i> (Reason: Amenity, environmental compliance and health)</p> <p>It is noted that a vibration complaint has been received from the neighbouring development at 6-8 McLachlan Road. The issue was discussed during the onsite meeting, on 8 December, it was agreed that the issue was caused by vibrations from dumping. Bingo has since put in place measures to address the issue.</p> <p>The neighbouring development generally operates between 7am – 5pm. As such, the proposal will potentially result in a reduction of impacts to the by spreading out activities across the night time period. The proposal is to function under the trial period, and the conditioned environmental audit will examine noise and vibration impacts including complaints. An amended acoustic report and an acoustic management plan will be additionally conditioned to limit impacts to the immediate neighbours.</p> <p>Subject to the above, it is believed that noise and vibration impacts are within the bounds of acceptability and can be controlled through a proper management and compliance framework.</p>	
	<ul style="list-style-type: none"> • Natural hazards: Flooding 	✓
	<ul style="list-style-type: none"> • Safety, security crime prevention 	✓
	<ul style="list-style-type: none"> • Social impact in the locality 	✓
	<ul style="list-style-type: none"> • Economic impact in the locality 	✓
	<ul style="list-style-type: none"> • Site design and internal design 	✓
	<ul style="list-style-type: none"> • Construction 	✓
	<ul style="list-style-type: none"> • Cumulative impacts 	✓

Matters for Consideration Under S.4.15 (79C) EP&A Act

Considered and Satisfactory ✓ Considered and Unsatisfactory ✗ and Not Relevant N/A

	<p>Comment: The impacts of the development have been assessed with regard to the planning principle for the impact of intensification as set out in <i>Randall Pty Ltd v Leichhardt Council [2004] NSWLEC 277</i>.</p> <p>The principle is as follows:</p> <p><i>First, is the impact of the operation of the existing use acceptable? If the answer is no, then an extension or intensification, would be unacceptable unless there is no overall increase in impact or there are measures proposed which would mitigate the existing impact.</i></p> <p><i>Second, if the answer is yes, is the impact of the proposed extension or intensification still acceptable?</i></p> <p><u>Impact of Existing Operations</u></p> <p>A search of Council records notes multiple complaints from neighbours regarding site operations. The complaints relate mainly to traffic management and dust pollution from operations.</p> <p>The submissions to Council from the neighbouring development, 6-8 McLachlan Avenue make further reference to traffic and dust pollution and a complaint about acoustic and vibration impacts from dumping.</p> <p>Site inspection by Council's traffic engineer revealed instances of vehicular queuing, loading and unloading within the layback & vehicles looping through the site to conduct loading and unloading activities.</p> <p>Bingo has informed Council that they have been actively working to reduce existing impacts and have been reviewing and updating their operations. Measures for traffic include hiring a traffic controller and having additional tip floor site personnel. Measures for dust management include monitoring and regular sweeping and cleaning. Measures around acoustics involve reducing drop heights and monitoring complaints.</p> <p>The latest reports from Council's compliance team has found that there is an improvement in site management and impacts. Nonetheless, the previous history of the site is still relevant to this application.</p>	
--	--	--

Matters for Consideration Under S.4.15 (79C) EP&A Act

Considered and Satisfactory ✓ Considered and Unsatisfactory ✗ and Not Relevant N/A

	<p><u>Mitigation of impacts with modification</u></p> <p>The central thrust of this modification is that by extending the permissible activities across a 24-hour period, the intensity of impacts could be flattened out across a broader timeframe.</p> <p>As per the provided documentation, the modification will result in minimal new additional heavy vehicle movements despite the increase to capacity, with a reduction to trips during the peak period. In terms of acoustics, the most vulnerable residential receivers are well insulated from the development. Nonetheless, the flattening out of activities over the 24-hour operation cycle, could improve acoustic impacts to the neighbouring commercial receiver, 6-8 McLachlan avenue where businesses close at 5pm.</p> <p>The current modification application proposes extensive measures to mitigate impacts both current and proposed to air quality, traffic and acoustics. These have been assessed in detail above. Additionally, Council proposed a range of conditions to further control and mitigate impacts stemming from the development.</p> <p>It is considered that if the development functions in compliance with the provided documentation and the recommended conditions, impacts will be suitably mitigated, if not, reduced.</p> <p>Nonetheless, it is recommended that the proposed hours and capacity are to be conditioned on a trial basis. The trial would allow Council to monitor ongoing impacts from the development while also allowing the applicant to put in place a robust monitoring and compliance framework that can last during the lifetime of the development.</p>	
(c)	The suitability of the site for the development	
	<ul style="list-style-type: none"> Does the proposal fit in the locality? 	✓
	<ul style="list-style-type: none"> Are the site attributes conducive to this development? 	✓
	<p>Comment: The modified proposal will not adversely alter the character of the locality, subject to conditions and proper operations.</p> <p>It is considered that the proposed intensification is well suited to the Artarmon industrial area, given the distance of vulnerable residential receivers, the proximity to major highways that feed into the site (reducing impact on the local road network), and immediate operators that also function on 24-hour basis (Holcim Plant).</p> <p>The existing building is suited for the increase in capacity and does not require any additional works or machinery. The proposal is also suited for the broader context of the North Shore, providing a resource recovery service for the area.</p>	
(d)	Any submissions made in accordance with this Act or the regulations	
	<ul style="list-style-type: none"> Public submissions 	✓
	<ul style="list-style-type: none"> Submissions from public authorities 	✓

Matters for Consideration Under S.4.15 (79C) EP&A Act

Considered and Satisfactory ✓ Considered and Unsatisfactory ✗ and Not Relevant N/A

	<p>Comment: The development application is classified as Designated Development. The application was referred to the Department of Planning, but no referral was received. Submissions were received from the EPA as the development was integrated. A submission was received from TfNSW as the development is traffic generating development.</p> <p>2 submissions were received from the neighbouring development at 6-8 McLachlan Avenue, that have been addressed in Attachment 5.</p>	
(e)	The public interest	
	<ul style="list-style-type: none"> Federal, State and Local Government interests and Community interests 	✓
	<p>Comment: The proposal is broadly in the public interest. The industrial site is suited for the intensification and impacts can be properly managed through conditioning and a proper monitoring and compliance framework.</p> <p>The increase in construction work has increased demand for adequate recycling capacity over the next decade. The Commonwealth Government has been seeking to reduce or phase out waste exports, which further underscores the need for domestic waste processing infrastructure. The proposed modification is thus in line with Commonwealth and State governments aims to increase resource recovery.</p> <p>The modification will allow the applicant to be increase operational efficiencies across their recycling network and allow for a full utilization of the existing facility that is close to reaching its current approved capacity (65,000 tonnes).</p> <p>As stated previously, it is considered that spreading out the activities across a 24-hour period would reduce potential impacts to the immediate surrounds and to the road network, if managed correctly.</p> <p>Given the above, subject to conditions, the proposal is in the public interest.</p>	

ATTACHMENT 5 – SUBMISSIONS TABLE

Council was in receipt of 2 submissions from the neighbouring property at 6-8 McLachlan Road. The submitters were met on site along with the applicant to discuss issues. The primary concern was of impacts stemming from ongoing operations particularly in terms of noise and vibration, traffic and dust. The submitters raised concerns over the proposed intensification if current impacts aren't properly managed.

The issues are summarised below along with Council comments:

Issue: Atmospheric pollution and dust issues stemming from the development, no proper wheel washing facility exacerbates the issue with vehicles dumping industrial waste. The dirt on the roads can cause cars to slide and have accidents.

Comment: *The documentation submitted with this application has satisfied the EPA and Council's environmental health officer that pollution impacts are acceptable. A number of measures are in place to control dust including a monitoring and cleaning schedule. It is considered that if the approval operates according to the approved management plans the dust impacts will be manageable. The inclusion of a wheel wash was discussed during assessment, however, the development does not have the space to provide it, given the relatively constrained egress way. The approval to intensify is to be given on a trial basis and the requirement for an independent audit will allow the impacts of the development to be properly monitored and managed. Further conditions are recommended including further assessment if dust and air pollution complaints are received as a result of the modification.*

Issue: Damage to Council guttering infrastructure and to a "No Stopping" sign stemming from Bingo activities.

Comment: *Council infrastructure is conditioned for repair as part of this application. The damage to the sign is not an environmental planning issue for this application and should be repaired through the relevant process.*

Issue: Excessive traffic and vehicular queuing stemming from insufficient stacking capacity on site.

Comment: *Potential traffic impacts have been addressed in detail in the assessment section of the report. It is considered that the modification will allow vehicular movements to be spread across a broader period which would reduce traffic impacts to the affected development where businesses tend to operate till 5pm. The applicant has proposed sufficient measures to mitigate existing and proposed traffic impacts. The approval to intensify is to be given on a trial basis and the requirement for an independent audit will allow the impacts of the development to be properly monitored and managed.*

Issue: Acoustic and vibration issues caused by dumping of heavy materials.

Comment: *As discussed on site, the impacts were caused by improper site management, Bingo has since taken steps to address the issues. Nonetheless, the conditions proposed in this modification application will include an amended acoustic report addressing impacts to this site. Further conditions are included to protect amenity including further testing on event of complaint. The approval to intensify is to be given on a trial basis and the requirement for an independent audit will allow the impacts of the development to be properly monitored and managed.*

Issue: the applicant's mitigation measures can't be enforced due to lack of control over incoming vehicles and difficulties cleaning street due to parked cars.

Comment: *As discussed in the above assessment, the proposed measures are believed to be adequate in controlling the development. The proposed Driver's Code of Conduct, traffic controller on site and the 'book ahead' system would allow Bingo to monitor and manage private deliveries. The increased capacity will be delivered to the site by mainly Bingo owned and operated trucks which would also give the applicant greater control. The difficulties in cleaning areas of the street where cars are parked are acknowledged. However, this is not an issue the applicant can reasonably address. The main thoroughfare is to be swept by a street sweeper in line with Bingo's existing procedures.*

ATTACHMENT 6: SCHEDULE OF CONDITIONS

SCHEDULE

Development Consent DA-2015/264/A is modified as follows:

A. The following conditions 2, 3, 54 and 86 are amended to read as follows:

2. General Terms of Approval – Integrated Development

The development is subject to the General Terms of Approval (“GTA”) as detailed in Attachment A of the Notice 1533334 (File Number: SF 15/8554) date 10 Sept 2015 issued by the Environmental Protection Authority for an integrated development within the meaning of *s91 of the Environmental Planning and Assessment Act 1979*.

And as modified by:

The GTA provided in the ‘Administrative Conditions’ section of the Notice 1619452 (File Number: Doc21/952932) dated 16 June 2022 issued by the Environmental Protection Authority.

The GTA provided in Appendix A & the modified GTA provided in Appendix B to this determination notice form part of the conditions of this development consent.

(Reasons: Integrated development approval)

3. Approved Development and Operation

The maximum processing capacity, staff numbers, type of waste transfers, traffic movements and associated operational matters of the approved waste transfer facility must be consistent with the details contained in the following, (except for otherwise provided by the conditions of this consent, and any Licence requirements issued by the Environmental Protection Authority (“EPA”) (NSW)):

- The submitted Environmental Impact Statement (“EIS”) dated June 2015 prepared by Stimson & Baker Planning
- *Section 4.55(2) Application to Modify DA-2015/264*, prepared by Arcadis, dated 30 September 2021, including attached appendices
- *Memo – Application to Modify DA-2015/264 – Response to request for additional information*, prepared by Arcadis, dated 25 March 2022, including attached appendices

An Operational Environmental Management Plan (“OEMP”) consistent with the above documents must be developed and implemented by the development to ensure site specific issues are appropriately managed throughout the life of the development. This plan must be developed prior to the commencement of any works (or operations) at the site or prior to the issue of any construction certificate, whichever is sooner. The OEMP is to be submitted to Council and EPA for approval. A copy is to be maintained on the premises and be provided to the relevant authority upon request. The OEMP is to be treated as a living document and be updated based on review and at the request of a relevant authority.

The OEMP must include, but not limited to:

- a) An Incoming Waste Quality Plan. This must ensure no food waste or hazardous waste or materials are to be processed at the site.
- b) A construction environment management plan.
- c) An Operational Traffic Management Plan.
- d) An Air Quality and Dust Management Plan.
- e) An Acoustic Management Plan to limit impacts to immediate neighbours.

Please also refer to additional requirements contained in other conditions of this development consent with respect to point b), c), d) & e) above.

The Waste Management Facility shall be granted the:

- Increase to throughput limit from 65,000 to 90,000 tonnes per annum; and
- Change to the permissible activities to allow for unloading, processing, sorting and load out of materials, 24 hours a day, seven days a week (not permitted on public holidays).

for a maximum 12-month trial period from the date when written confirmation is provided to Council that operations have commenced on the site in line with this modification application.

Twelve (12) months after the date of the written confirmation by Council, the throughput limit and permissible activities shall revert back to the following:

- Throughput limit 65,000 tonnes per annum
- All approved activities allowed Monday to Sunday 7am to 6pm. Pre-scheduled deliveries and unloading of vehicles may be carried out wholly within the fully enclosed facility between Monday to Sunday 6pm to 7am and is only permitted for registered account holders. No processing or sorting of material is to be carried out during night time hours or on Sundays and public holidays.

For consideration of the continuation of the trial throughput limit and permissible activities an application under Clause 4.55 of the Environmental Planning and Assessment Act 1979, to modify this consent condition must be lodged after the completion of the ten month of the trial period for Council's consideration.
(Reason: Information and ensure compliance)

54. Traffic Management Plan – Operations

A traffic management plan prepared by a suitably qualified traffic consultant must be submitted to and approved by the PCA prior to commencement of operations on site, and a copy be provided to the Council (if Council is not the PCA).

The management plan must detail the operating procedures of the site, including internal circulation, the coordination of deliveries, loading and unloading. The plan is to be consistent with the traffic report titled *Traffic Impact Statement Ref 14-141 dated May 2015* prepared by *Thompson Stanbury Associates* submitted with the development application and as modified by *Artarmon Resource Recovery Facility Operational Traffic Management Plan dated 24 March 2021* prepared by *The Transport Planning Partnership*.

The traffic management plan should introduce the following:

- a. The proposed Driver's Code of Conduct is to encourage use of the online booking system and detail that loads that require manual handling (hand unloading) be delivered during specified shoulder periods.

- b. The proposed 'book ahead' system should include a capacity limit and specific requirements and booking times for vehicles that require manual handling.
- c. An update to the procedures to ensure that no layover or loading/unloading activities take place on publically owned land including the vehicular crossing.
- d. A draft loading Dock and Servicing Management Plan should be developed, including forecast loading and servicing traffic volumes by vehicle size, frequency time of day and duration of stay. (TfNSW requirement)

The traffic management plan shall be reviewed and updated from time to time as directed by the relevant road authorities, including Willoughby City Council and Transport for NSW to mitigate any adverse impacts on the surrounding road network and/or road safety. The traffic management plan shall form part of the Operational Environmental Management Plan as specified in Condition **3(c)**.

The traffic management plan must be adhered to at all times, and is the responsibility of the developer/occupier of the site.
(Reason: Road Safety and Traffic management)

86. Noise & Vibration Control – Offensive Noise

The business, including operation of vehicles, the use of the premises, building services, equipment, machinery and ancillary fittings, shall not give rise to an "offensive noise" as defined under the provisions of the Protection of the Environment Operations Act 1997 and generate noise or vibration that cause unreasonable interference to adjoining or nearby residential or business premises.

In the event of a noise or vibration problem arising at the time, the person in charge of the premises shall, when instructed by Council, carry out a review of the latest acoustic report by a qualified acoustic consultant, and submit the results to Council.

If required by Council, the person in charge of the business shall implement any or all of the recommendations of the consultant and any additional requirements of Council to Council's satisfaction.

(Reason: Amenity, environmental compliance and health)

B. The following conditions 3A, 20A, 67A, 69A 90A and 90B are added:

3A. Independent Environmental Audit

At a period of five (5) months after the start of the trial period, an audit of the operations of the Waste Management Facility is to be conducted by an Independent Environmental and Traffic Auditor. The auditor shall conduct a review of the following:

- a. Complaints from the public (obtained from Council and from the facility's complaints register)
- b. Traffic movements to and from the site including an assessment of weighbridge data and CCTV footage of site entrance driveway.
- c. Overall impacts to traffic and any recorded incidents of traffic queuing and of loading/unloading activities taking place on Council land
- d. The most updated Operational Environmental Management Plan
- e. Any other conditions of the consent relevant to environmental protection with particular attention paid to odour, dust, noise and vibration impacts.

The auditor is to conduct up to 5 random site inspections over a 3-month period to monitor operations on the ground. The consultant should review if operations are conducted in accordance with the approved documents in this condition.

The auditor should make recommendations, if needed, to update the Operational Environmental Management Plan. A report of the auditor's review and findings is to be provided to Council.

(Reason: Ensure compliance, Protect amenity)

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

The following conditions of consent must be complied with prior to the issue of a construction certificate.

20A. Design of Works in Public Road (Roads Act Approval)

Prior to issue of any Construction Certificate, the Applicant must submit, for approval by Council as a road authority, full design engineering plans and specifications prepared by a suitably qualified and experienced civil engineer for the following infrastructure works:

- a. Reconstruct road pavement for a minimum of 20m long by 5m wide, to rectify damage to the existing road at the eastern entry caused by additional truck movements at the site.
- b. Reconstruction of a 2 x vehicular crossings in McLachlan Ave and Marden Street, to ensure that truck movements are contained within the crossing and not onto the adjacent turf. Swept path diagrams will be required to confirm that the vehicle crossing size is suitable for vehicles using the site, as current evidence is that the crossings are not suitable. This requirement may not be required by Council if the applicant is able to demonstrate that the swept path of the design vehicle is able to be contained within the existing crossing and layback and does not extend onto the turf or over the adjacent kerb.

The required plans must be designed in accordance with Council's specifications (AUS-SPEC). A minimum of three (3) weeks will be required for Council to assess the *Roads Act* submissions. Early submission is recommended to avoid delays in obtaining a Construction Certificate. For the purpose of inspections carried out by Council Engineers, the corresponding fees set out in Council's current *Fees and Charges Schedule* are payable to Council prior to issue of the approved plans. Approval must be obtained from Willoughby City Council as the road authority under the *Roads Act 1993* for any proposed works in the public road prior to the issue of any Construction Certificate.

Additional approval will also be required under s68 Local Government Act or the *Roads Act 1993* for the awning overhanging public land, and must be obtained prior to the issue of a construction certificate.

(Reason: Ensure compliance)

PRIOR TO OCCUPATION OF THE DEVELOPMENT

The following conditions of consent must be complied with prior to the issue of an occupation certificate.

67A. Reconstruct Pavement

A five metre minimum width of road pavement for a minimum length of 20m at the eastern vehicle entry shall be reconstructed in accordance with Council's approved drawings, conditions and specification (AUS-SPEC). Council's standard design traffic for this pavement is 5×10^6 ESA. The extent of work shall cover the extent of damage at the entry due to the additional truck movements. The exact extent is to be agreed with Council's Engineer on-site.

(Reason: Ensure compliance)

69A. Reconstruct Vehicular Crossing

Reconstruct the two vehicular crossings used by trucks, including the replacement of the existing layback and/or gutter and any associated road restoration as directed by Council's Engineers. All works shall be carried out in accordance with Council's specification AUS-SPEC C271 and Council's Standard Drawing SD105 - Council Vehicular Footpath Crossing and Kerb and Gutter details and any approved longitudinal sections. A separate application for the crossing including current fees and charges is to be submitted for approval by Council.

Two new crossings used by trucks are to be reconstructed, such that the swept paths for the design vehicle are kept within the crossing extent, including within the layback. All the crossings are to be constructed at right angles to the street kerb in plain concrete. The new crossings shall be located no closer than 1 metre from any power pole and 2 metres from any street tree unless otherwise approved by Council.

The footpath which forms part of the proposed crossing shall have a maximum crossfall of 2.5%. The nature strip and footpath is to be adjusted on both sides of the crossing to suit the new levels.

The suitability of the grade of driveway inside the property is the sole responsibility of the applicant and the required alignment levels fixed by Council may impact upon these levels.

All adjustments to the nature strip, footpath and/or public utilities' mains and services as a consequence of the development and any associated construction works shall be carried out at the full cost to the Applicant. All driveway grades and transitions must comply with AS/NZS 2890.1.

Vehicular Crossing Formwork Inspection Sheet shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Certifying Authority prior to issue of any Occupation Certificate. Alternatively, if the applicant is able to demonstrate that the swept path of the design vehicle is able to be contained within the existing crossing and layback, and not onto the adjacent kerb or grass, then the requirement to reconstruct the crossing is not required and written advice from Council is to be submitted to the Certifying Authority.

(Reason: Public amenity)

90A. Dust, Smoke & Odour

A dust, smoke and odour impact assessment shall be submitted to Council if any complaints are lodged with Council in relation to any of these emissions generated as a result of the increase in hours of operation or increased amounts of materials processed at the business. The report must be prepared by a suitably qualified environmental consultant and include modelling of any dust, smoke and odour impact on the nearest affected receptor (e.g. residents / property occupants).

Any recommendations resulting from the report are to be in accordance with AS/NZS 1668.1 – 1998 and AS 1668.2 – 2012, as well as the Office of Environment & Heritage Technical Framework – Assessments and Management of Odour from Stationary Sources in NSW (November 2006).

If required by Council, the person in charge of the business shall implement any or all of the recommendations of the assessment and any additional requirements of Council to Council's satisfaction. Any recommendations in the report should be implemented in the Air Quality and Dust Management Plan, within the latest Operational Environmental Management Plan as specified in Condition **3(d)**.
(Reason: Amenity, Environmental Compliance and Health)

ADDITIONAL CONDITIONS

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land, and relevant legislation.

90B. Acoustic Report

Comply at all times with the recommendations of the Noise Impact Assessment prepared by Wilkinson Murray, ref RWDI#2104904, dated 24th August 2021. The report is to be amended to include an assessment of noise and vibration impacts to No. 6-8 McLachlan avenue. The assessment is to include mitigation measures and recommendations that should be implemented in the Acoustic Management Plan, within the latest Operational Environmental Management Plan as specified in Condition **3(e)**.

(Reason: Amenity, Environmental Compliance and Health)

C. Comply with all other conditions of the original development consent.

ATTACHMENT 7: NOTIFICATION MAP



Record of Neighbour Notifications sent relating to:

DA: 2015/264/B

At: 10 McLachlan Avenue ARTARMON NSW 2064

