



Penrith Waste Recycling and Transfer Facility Modification 1

Change in building material
State Significant Development Modification Assessment
(SSD 7733 MOD 1)

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Glossary

Abbreviation	Definition
BCA	Building Code of Australia
Council	Penrith City Council
Department	Department of Planning, Industry and Environment
EIS	Environmental Impact Statement
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
EPL	Environment Protection Licence
ESD	Ecologically Sustainable Development
FRL	Fire Resistance Level
FRNSW	Fire and Rescue NSW
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development

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1 Introduction

This report provides the NSW Department of Planning, Industry and Environment's (the Department's) assessment of an application to modify the State significant development (SSD) consent for the Penrith Waste Recycling and Transfer Facility (SSD 7733) (the project).

The modification application has been lodged by Benedict Recycling Pty Ltd (the Applicant) pursuant to section 4.55(1A) of the Environmental Planning and Assessment Act (EP&A Act).

1.1 Background

The Applicant is currently constructing a waste management facility at 46-48 Peachtree Road, Penrith (the site) in the Penrith Local Government Area (LGA) (**Figure 1**). The Applicant is a NSW based waste management company which operates waste management facilities at Belrose, Chipping Norton, Newcastle and Wollongong.

The facility is approved to receive and sort up to 180,000 tonnes per annum (tpa) of pre-classified general solid waste (non-putrescible) and store up to 1,600 tonnes (t) of waste at any one time. SSD 7733 included the construction of a large new building to fully enclose the facility and house all unloading and sorting activities. The external walls of the building were proposed to be constructed partly of masonry and partly of Colorbond steel.

During consultation regarding fire safety design with Fire and Rescue NSW (FRNSW) under condition B36 of SSD 7733, changes were required to building materials to increase the overall Fire Resistance Level (FRL) of the building. A Fire Safety Study (FSS) had been prepared for SSD 7733 in April 2018, however since that time, FRNSW requirements have changed and higher fire ratings are required for the construction of waste facilities.

The modification application seeks to change the Colorbond steel parts of the external walls of the main building to be full-height masonry to address the requirements of FRNSW. There would be no change to the approved size, location or roof of the new building or any other aspects of the approved development.

1.2 Site Description

The site comprises 4,367 square metres (m²) of IN1 General Industrial zoned land located at 46-48 Peachtree Road, Penrith and is legally described as Lot 45 in DP 793931. The site is located in the Peachtree Road Industrial Area within the Penrith LGA and the area is predominantly characterised by industrial development. The Penrith town centre is located approximately 600 m to the south-east of the subject site.

The site is immediately adjoined by allotments zoned for industrial use. To the north of the site is a Bunnings hardware store (north-east) and a cleared vacant allotment (north-west). The allotments immediately to the east, west and south contain various industrial and commercial uses. The nearest residential receivers are located approximately 620 m to the south-west and east of the site.



Figure 1 | Local Context Map

1.3 Approval History

On 15 May 2020, the Minister for Planning and Public Spaces granted consent for the Penrith Waste Recycling and Transfer Facility which allowed the construction and operation of a waste transfer facility with a capacity of up to 180,000 tpa. SSD 7733 included approval for the construction of a new waste sorting building with a maximum height of 13.1 metres (m) using masonry and Colorbond materials.

2 Proposed modification

The Applicant has lodged a modification application under section 4.55(1A) of the EP&A Act to modify the development. The modification application is described in full in the Modification Report included in **Appendix B** and summarised below.

The modification application seeks to change the building material used for the external walls of the large building. The current approved design includes masonry walls for some parts of the external walls and Colorbond steel cladding for other parts. The exact approved wall material configuration (i.e. the split between masonry and Colorbond) varies between the north, south, east and west elevations.

The modification proposes replacing all Colorbond wall sections with masonry to provide full-height masonry walls on all sides which would increase the overall FRL of the building. See **Figure 2** and **Figure 3**. The increased FRL would represent a reduced risk of any fire spreading to nearby buildings and, in turn, increase the safety of the occupants of these buildings as well as the safety of fire fighters.

The Applicant is not seeking to alter the types of waste, waste throughput, hours of operation or any aspect of waste management at the facility.

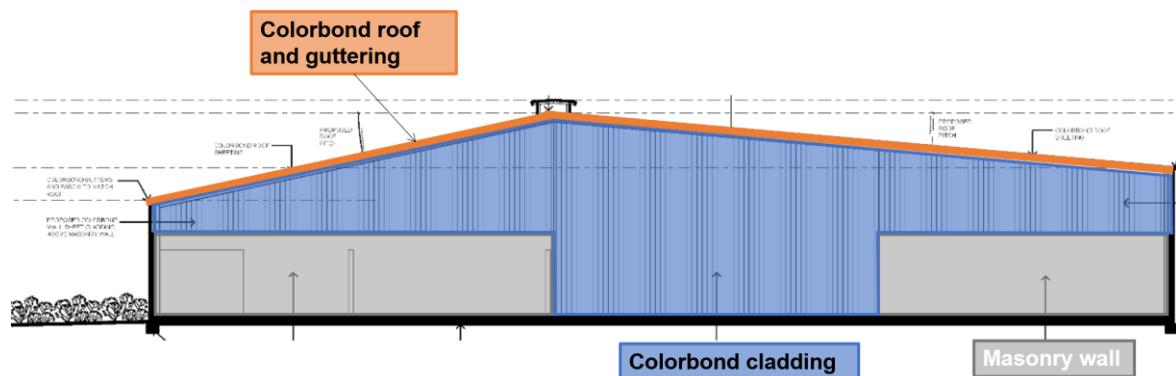


Figure 2 | Approved plan for the western elevation showing parts of external walls in Colorbond cladding

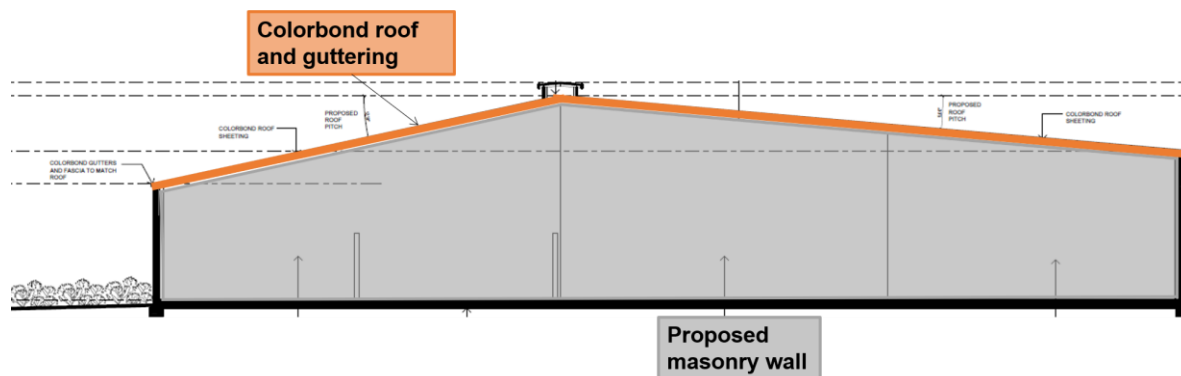


Figure 3 | Proposed plan for the western elevation showing external walls as full-height masonry wall

3 Strategic context

3.1 A Metropolis of Three Cities – the Greater Sydney Region Plan

In March 2018, the Greater Sydney Commission released the ‘Greater Sydney Region Plan: A Metropolis of Three Cities’ (the Plan). The Plan is built on a vision of three cities, the Western Parkland City, the Central River City and the Eastern Harbour City. The 40-year vision to 2056 brings new thinking to land use and transport patterns to boost Greater Sydney’s liveability, productivity and sustainability by spreading the benefits of growth. The site is located within the Western City District.

The proposed modification is consistent with Objective 23 as it would ensure industrial and urban services land is planned, retained and managed. The modification seeks to change the building design but does not change the use of the site for waste management.

3.2 Western Sydney District Plan

The Western Sydney District Plan recognises the management of waste would present both an environmental challenge and an economic opportunity. Planning Priority W19 for reducing carbon emissions and managing energy, water and waste efficiently states one of the opportunities is renewing and replacing inefficient infrastructure including waste management facilities.

The development supports this priority by providing modern infrastructure to promote diversion of waste away from landfill. The modification application would enable the waste management facility to meet modern fire safety measures.

Planning Priority W10 highlights the safeguarding of industrial and urban services land to facilitate industries of the future, including environmental services such as waste management and recycling facilities. The development is aligned with this priority as it maintains the use of the site as industrial land for waste management facilities.

3.3 Waste Avoidance and Resource Recovery Strategy 2014-21

Reducing waste and keeping materials circulating within the economy are priorities for the NSW government. To meet this challenge, the government has prepared a state-wide WARR Strategy. The strategy sets waste recovery targets to be achieved by 2021–22. These are:

- C&I from 57% (in 2010–11) to 70%
- C&D from 75% (in 2010-11) to 80%
- MSW from 52% (in 2010–11) to 70%
- increase the waste diverted from landfill from 63% (in 2010-11) to 75%.

The modification application supports the targets as it would enable the construction of the waste management facility consistent with the relevant FRNSW requirements. Without the modification the facility would not be able to be safely constructed and operated.

3.4 Western Sydney Regional Waste Avoidance and Resource Recovery Strategy 2017-2021

Nine councils, including Penrith City Council, have come together to develop the Western Sydney Regional Waste Avoidance and Resource Recovery Strategy 2017-21. The proposed modification would assist in achieving the strategy's objective to better plan for, and deliver, improved waste and resource recovery infrastructure.

The modification application to change some of the material of the external walls of the building would support the delivery of an improved waste management facility with all activities being carried out in an enclosed building. The modification application would specifically ensure the building meets contemporary requirements for fire safety.

4 Statutory context

4.1 Scope of Modifications

The Department has reviewed the scope of the modification application and considers that the application can be characterised as a modification involving minimal environmental impacts as the proposal:

- would not significantly increase the environmental impacts of the project as approved
- the primary function and purpose of the approved development would not change as a result of the proposed modification
- any potential environmental impacts would be minimal and appropriately managed through the existing or modified conditions of consent
- the modification is of a scale that warrants the use of section 4.55(1A) of the EP&A Act.
- is substantially the same development as originally approved
- would not involve any further disturbance outside the already approved disturbance areas for the project.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(1A) of the EP&A Act and does not constitute a new development application (DA). Accordingly, the Department considers that the application should be assessed and determined under section 4.55(1A) of the EP&A Act rather than requiring a new DA to be lodged.

4.2 Consent Authority

The Minister for Planning and Public Spaces (Minister) is the consent authority for the application under section 4.5(a) of the EP&A Act. Under the Minister's delegation of 26 April 2021, the Team Leader, Industry Assessments, may determine the application under delegation as:

- the Applicant has not disclosed a reportable political disclosure in connection with the application
- there are no public submissions in the nature of objections, and
- Council has not made a submission by way of objection.

4.3 Mandatory Matters for Consideration

The Department undertook a comprehensive assessment of the application against the mandatory matters for consideration (under section 79C of the EP&A Act, as in force at the time) as part of the original assessment of SSD 7733. This modification application does not result in significant changes that would alter the Department's consideration of the mandatory matters for consideration under section 4.15(1) of the EP&A Act and conclusions made as part of the original assessment.

4.4 Biodiversity Conservation Act 2016

Clause 30A(2)(c) of the Biodiversity Conservation (Savings and Transitional) Regulation 2017 specifies that if the determining authority is satisfied a modification will not increase the impact on biodiversity values, a biodiversity development assessment report (BDAR) is not required.

As the proposed modified development is located within the development footprint already assessed and approved and only involves minor alterations to building plans, it is not considered there is an increase in impacts on biodiversity values and the Department concludes a BDAR is not required.

5 Engagement

5.1 Department's Engagement

Clause 117(3B) of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation do not apply to section 4.55(1A) modifications with minimal environmental impact. Accordingly, the modification application was not notified or advertised. However, the modification application was made publicly available on the Department's website and was referred to FRNSW and Penrith City Council (Council) for comment on 13 April 2021.

FRNSW and Council were both supportive of the modification application.

6 Assessment

The Department has assessed the merits of the proposed modification. During this assessment, the Department has considered:

- the Modification Application provided to support the proposed modification (see **Appendix B**);
- the assessment report for the original application;
- submissions received from FRNSW and Council (see **Appendix C**);
- relevant environmental planning instruments, policies and guidelines;
- requirements of the EP&A Act, including the objects of the EP&A Act.

Table 1 | Assessment of Other issues

Findings	Recommendations
Fire Safety	
<ul style="list-style-type: none"> • Waste facilities generally present a “special problem of firefighting”. During the assessment of SSD 7733, FRNSW required the Applicant to address Clauses E1.10 and E2.3 of the National Construction Code (NCC) and recommended ongoing engagement with FRNSW to ensure its requirements would be met. • The Applicant indicated fire safety measures would be finalised as part of the detailed design process for the facility, including the large building, and confirmed appropriate fire measures would be included. Hence, conditions of consent required the final design of the onsite fire safety systems to meet the relevant requirements of the Building Code of Australia (BCA). • Following the consultation with FRNSW required under condition B36 of SSD 7733, FRNSW required the Applicant to re-design the building to meet the relevant structural and fire safety requirement including a higher FRL for the building. • A higher FRL would be achieved by altering the construction material of the external walls of the building to be masonry. Masonry is considered a non-combustible building material. • FRNSW was supportive of the increase in FRL facilitated by the modification. • The Department considers that increasing the FRL of the building is desirable and required to increase safety and satisfy FRNSW. • The Department is satisfied the modification would ensure fire safety is improved on the site and recommends the plans in Appendix 1 of SSD 7733 be updated to show the changes in the external walls of the building. 	<ul style="list-style-type: none"> • Update the Development Layout Plans in Appendix 1 of SSD 7733 to show full height masonry walls.
Visual	

Findings	Recommendations
<ul style="list-style-type: none"> • SSD 7733 included a visual impact assessment (VIA) for the construction of the new building. The VIA concluded the appearance of the proposed new building was in keeping with the industrial character of the area. • During its assessment of SSD 7733 the Department was satisfied the facility would be located within an established industrial area with limited possibility for views of the site from residential or public spaces and that landscaping was proposed to mitigate the visual impacts of the proposal. • The modification application considered the potential visual impacts of altering the material used for the external walls of the building including comparison with the materials of surrounding buildings. • In its modification application, the Applicant found the use of masonry on the external walls to be in keeping with the industrial character of the area as masonry and brickwork are used extensively on buildings in the vicinity of the site. • Council considered the masonry walls provided a more uniform built form presentation which was considered a positive aspect of the modification application. • The Department has considered the information provided regarding visual impact and concludes the proposed change in construction material of the external walls would not result in any adverse visual impacts. • The Department is satisfied that a building constructed with masonry walls would be consistent with the industrial nature of the area. 	<ul style="list-style-type: none"> • No additional conditions required

Air Quality

<ul style="list-style-type: none"> • The approved development has the potential to generate air quality impacts, mainly from dust emissions. • During the assessment of SSD 7733 the Department noted that enclosure of the facility would reduce the potential for air quality impacts and considered the use of dust suppression measures such as water misting within the building as appropriate. • The modification application considered the potential for additional impacts to air quality and confirmed the operations would remain enclosed and management and mitigation measures detailed in the air quality management plan (AQMP) would be implemented. • The Department notes the modification would not result in any change to the effectiveness of enclosure of the facility to manage air quality impacts and the AQMP would remain in place. • The Department is satisfied the air quality impacts would be managed through existing conditions of consent and no new conditions are proposed. 	<ul style="list-style-type: none"> • No additional conditions required
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7 Evaluation

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department considers the proposed modification is appropriate on the basis that:

- it would result in minimal environmental impacts beyond the approved facility
- the update to the building materials for the external walls of the building from part Colorbond steel to full masonry would improve the overall fire safety of the site

The Department is satisfied that the modification should be approved, subject to conditions.

Recommendation

It is recommended that the Team Leader, Industry Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **determines** that the modification application SSD 7733 MOD 1 falls within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modifies** the consent SSD 7733
- **signs** the attached approval of the modification (**Appendix A**).

Recommended by:



5 May 2021

Katelyn Symington

A/ Principal Environmental Assessment Officer
Industry Assessments

8 Determination

The recommendation is **Adopted** by:



5 May 2021

Sheelagh Laguna

A/Team Leader

Industry Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – Notice of Modification

<https://www.planningportal.nsw.gov.au/major-projects/project/41661>

Appendix B – Modification Application

<https://www.planningportal.nsw.gov.au/major-projects/project/41661>

Appendix C – Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/41661>