



# Penrith Waste Recycling and Transfer Facility

## Clause 4.6 Variation Assessment

---

Prepared for Benedict Recycling Pty Ltd  
February 2020





## Servicing projects throughout Australia and internationally

### SYDNEY

Ground Floor, 20 Chandos Street  
St Leonards NSW 2065  
T 02 9493 9500

### NEWCASTLE

Level 3, 175 Scott Street  
Newcastle NSW 2300  
T 02 4907 4800

### BRISBANE

Level 1, 87 Wickham Terrace  
Spring Hill QLD 4000  
T 07 3648 1200

### ADELAIDE

Level 1, 70 Pirie Street  
Adelaide SA 5000  
T 08 8232 2253

### MELBOURNE

Ground Floor, 188 Normanby Road  
Southbank VIC 3006  
T 03 9993 1905

### PERTH

Level 6, 191 St Georges Terrace  
Perth WA 6000

### CANBERRA

Level 8, 121 Marcus Street  
Canberra ACT 2600

# Penrith Waste Recycling and Transfer Facility

## Clause 4.6 Variation Assessment

### Report Number

---

J16099 RP11

### Client

---

Benedict Recycling Pty Ltd

### Date

---

11 February 2020

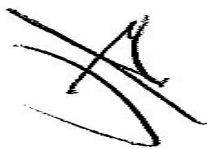
### Version

---

v1 Final

### Prepared by

---



**John Arnold**  
Associate Environmental Planner  
11 February 2020

### Approved by

---



**Phil Towler**  
Associate Director  
11 February 2020

This report has been prepared in accordance with the brief provided by the client and has relied upon the information collected at the time and under the conditions specified in the report. All findings, conclusions or recommendations contained in the report are based on the aforementioned circumstances. The report is for the use of the client and no responsibility will be taken for its use by other parties. The client may, at its discretion, use the report to inform regulators and the public. © Reproduction of this report for educational or other non-commercial purposes is authorised without prior written permission from EMM provided the source is fully acknowledged. Reproduction of this report for resale or other commercial purposes is prohibited without EMM's prior written permission.

# Table of Contents

1	Introduction	1
2	Matters to be considered under Clause 4.6	3
3	Summary and conclusion	9

Appendices

- Appendix A Plan of elevation
- Appendix B Photomontage of adjacent Bunnings Store

# 1 Introduction

This report seeks an exemption to a development standard prescribed by the *Penrith Local Environmental Plan 2010* (LEP 2010) in relation to a state significant development (SSD) application (SSD Ref 7733) for a proposed waste recycling and transfer facility (the proposed facility) at 46-48 Peachtree Road, Penrith, NSW (the site).

The proposed facility would have a capacity of up to 180,000 tonnes per annum (tpa) of general solid (non-putrescible waste), including pre-classified waste types from construction and demolition works, selected commercial and industrial waste, spoils, soils, council clean-ups, hand unloaded household waste, green and wood wastes and virgin natural excavated materials.

The exemption is sought pursuant to Clause 4.6 of LEP 2010 in relation to the maximum height of building development standard applicable to the proposed facility, being a maximum height of 12 m. The variation being sought relates to the requirement for a shed which encloses the operational area of the site and which varies the 12 m building height standard by 1.1 m, to a maximum building height of 13.1 m.

This request has been prepared in accordance with the former Department of Planning and Environment's *Guideline Varying Development Standards: A Guide, August 2011*.

## 1.1 What is the environmental planning instrument that applies to the site?

The environmental planning instrument (EPI) to which this request for variation relates is the *Penrith Local Environmental Plan 2010* (LEP 2010).

## 1.2 What is the zoning of the land?

The site is zoned IN1 General Industrial under LEP 2010. The proposed facility is an industrial use that is permissible with consent in the IN1 zone.

## 1.3 What are the objectives of the zone?

The proposed facility is consistent with the following objectives of the IN1 zone:

- to provide a wide range of industrial and warehouse land uses;
- to encourage employment opportunities;
- to minimise any adverse effect of industry on other land uses;
- to support and protect industrial land for industrial uses;
- to promote development that makes efficient use of industrial land; and
- to permit facilities that serve the daily recreation and convenience needs of the people who work in the surrounding industrial area.

## 1.4 What is the development standard being varied?

The development standard being varied is the 'height of buildings' standard.

## 1.5 Under what clause is the development standard listed in an EPI?

The development standard is prescribed under the following excerpt of Clause 4.3(2) of LEP 2010:

### **The height of buildings**

...

- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

## 1.6 What are the objectives of the development standard?

Clause 4.3 of LEP 2010 provides the following objectives of the development standards:

### **The height of buildings**

- (1) The objectives of this clause are as follows—
  - (a) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan,
  - (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,
  - (c) to require the height of future buildings to have regard to heritage sites and their settings,
  - (d) to ensure the preservation of historic views,
  - (e) to reinforce and respect the existing character and scale of low density residential areas,
  - (f) to maintain satisfactory sky exposure and daylight to existing buildings within commercial centres, to the sides and rear of tower forms and to key areas of the public domain, including parks, streets and lanes.

## 1.7 What is the numeric value of the development standard in the EPI?

The Height of Buildings Map referred to in Section 1.5 identifies the site as having a maximum building height of 12 m.

## 1.8 What is the proposed numeric value of the development standard in the DA and the variation proposed?

The height of the proposed shed is 13.1 m Australian height datum (AHD) and the maximum building height development standard is 12 m.

The maximum numerical variation proposed is 1.1 m.

## 2 Matters to be considered under Clause 4.6

Pursuant to Clause 4.6 (1) of LEP 2010 the objectives of the clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Pursuant to Clause 4.6 (3) of LEP 2010, development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Pursuant to Clause 4.6 (4) of LEP 2010, development consent must not be granted for development that contravenes a development standard unless:

- (a) the consent authority is satisfied that—
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) the concurrence of the Planning Secretary has been obtained.

Pursuant to Clause 4.6 (5) of LEP 2010, in deciding whether to grant concurrence, the Planning Secretary must consider the following:

- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
- (b) the public benefit of maintaining the development standard, and
- (c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.

The following sections of this report demonstrate how the proposed variation to the maximum height development standard meets the above requirements of Clause 4.6.

## 2.1 Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

During the public exhibition of the application the NSW Environment Protection Authority (EPA) noted in its submission that it expects all facilities similar to the proposed facility to be fully enclosed and the EPA would not recommend approval unless the operational areas of the proposed facility are enclosed.

To meet the EPA's requirement an enclosed shed was designed. The wall height of the building varies between 7 m at the front and 9 m at the rear and was designed at that height to ensure heavy machinery can be operated safely. The pitched roof allows for the adequate span of the building and extends to a height at the ridge of 12.3 m. A narrow 0.8 m high mesh to roof vent is proposed along the ridge of the roof, which increases the overall height to 13.1 m. The mesh roof vent was required for fire safety purposes, to provide natural ventilation and vent hot smoke in the event of a fire so that sufficient time for the evacuation of occupants is provided. A copy of the plan of elevation is provided in Appendix A.

The enclosed shed was required to meet the EPA's requirement to ensure that the application can be supported and designed to meet operational, structural and safety requirements. For these reasons compliance with the maximum building height development standard would be unreasonable and unnecessary.

## 2.2 Are there sufficient environmental planning grounds to justify contravening the development standards?

### 2.2.1 Potential amenity impacts

The requirement for an enclosed shed responds to the EPA's requirement and addresses issues in relation to potential acoustic, air quality and water quality impacts that were raised during the public exhibition of the application.

The enclosure of the operational areas of the site will result in the following environmental planning benefits:

- the provision of a roof over most of the site will remove a significant quantity of potential pollutants in the runoff from the site that would otherwise require treatment;
- the incorporation of reuse of roof runoff will meet the demand for non-potable water use in the site's amenities;
- the fully enclosed shed will include an open floor area which allows for a simpler operation and more material to be passed through the site;
- predicted operational noise levels show a general improvement in noise levels at nearby sensitive receivers compared to the original proposed design; and
- predicted incremental total suspended particulate, odour concentrations and dust deposition rates are predicted to be well below relevant NSW EPA criteria at all the assessment locations and show a measurable reduction from concentrations predicted for the original proposed design.



### 2.2.2 Potential visual impacts

The site is identified on land within the LEP 2010 Scenic and Landscape Values Map. Clause 7.5 (1) of LEP 2010 provides the following objectives for the protection of scenic character and landscape values:

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

A visual impact of the original proposal was undertaken as part of the environmental impact statement prepared by EMM Consulting (EMM) on 2 June 2017. A further assessment of the revised proposal was undertaken to address the requirements of Clause 7.5 of LEP 2010 as part of the response to submission report prepared by EMM on 15 November 2018. The outcomes of these assessments and a further visual analysis are provided below in the context of the objectives of Clause 7.5.

#### i Identify and protect areas that have particular scenic value either from major roads, identified heritage items or other public places

The closest major road is Castlereagh Road, approximately 200 m to the east of the site. Views to the site will be almost entirely obscured by existing structures between Castlereagh Road and the site. There are no views to the site from formal open space (ie parks and public reserves). Any views from the closest formal open space, Weir Reserve, is completely obscured by trees along Peach Tree Creek.

There are no known heritage items that will be visually impacted by the development, the closest being the Museum of Fire on Museum Drive, which is approximately 500m from the site.

Minor views to the front of the site may be possible from the Castlereagh Road and Peachtree Road intersection (refer Plate 2.1) although these will be largely restricted by existing buildings and tall mature trees between the site and the intersection.



**Plate 2.1** Street view from looking west along Peachtree Road towards the site (Google Earth)

The site will be visible from publicly accessible space, ie from Peachtree Road and the associated footpaths. Views from Peachtree Road will be improved, with the new shed replacing the existing aging shed (refer to Photograph 2.1 below) and perimeter walls, and as a result of the enhanced landscaping forming an appropriate screen. From a scenic and landscape values perspective, this change will be beneficial.



**Photograph 2.1** Eastern frontage of the site from Peachtree Road showing the existing building

ii Ensure development is located and designed to minimise its visual impact

The scale and mass of the proposed new shed has been considered in the context of other buildings in the area and having regard to the scenic landscape values of the area and the potential impact of views westerly towards the escarpment.

The visual character of the surrounding land to the east, south and west is predominantly industrial, as the site is located within the industrial area west of Castlereagh Road. The dominant visual features in the vicinity are industrial uses and factory units. Examples are shown in Photograph 2.2 and Photograph 2.3.



**Photograph 2.2** Concrete batching plant on Peachtree Road





**Photograph 2.3** Industrial units at Peachtree Road

There is Bunnings hardware store immediately adjacent the northern boundary of the site. The store is the largest and most prominent building in the area. The building provides a built form that is 12 m to the topmost element, with a ground to roof height of 9.5 m. There is a flat roof across the full the extent of the building. Penrith Council has confirmed that when a visual assessment was undertaken for the original DA for the Bunnings Store, it was demonstrated through a photomontage (refer Appendix B) that the building would sit below the escarpment when viewed from Castlereagh Street.

As discussed in Section 2.1, the proposed shed will have a wall height between 7 m at the front and 9 m at the rear and with a pitched roof to a height at the ridge of 12.3 m. A narrow 0.8 m high mesh to roof vent is proposed along the ridge of the roof. Only the uppermost part of the ridge of the roof and the vent will extend above the 12 m height and the majority of the roof will be at a similar height to and lower than the Bunnings building (ie 7–12.3 m).

The main views towards the escarpment are from the east of the site along Peachtree Road (refer Plate 2.1) and from Castlereagh Street. Bunnings is situated much closer to Castlereagh Road (approximately 30 m from its eastern elevation) than the recycling facility site (approximately 200 m from the eastern side of the site) and therefore, given the only small difference in height (0.3 m to the ridge of the roof), the top of the roof of the proposed development is expected to be below the escarpment, when viewed from Castlereagh Road and would not be visually intrusive within the skyline.

Given the size, bulk and scale of the Bunnings building it will remain the predominant building in the area, once the recycling facility shed is constructed.

Overall, it is considered that the proposed shed and the small breach of the maximum building height development standard would have a number of planning benefits that would be in the public interest, including:

- there would be significant environmental planning benefits as outlined in Section 2.2 above;
- the visual appearance of the building is in keeping with the industrial character of the area and the scale and massing of other buildings in the area;
- the design of the shed, with its pitched roof, would not be visually intrusive within the skyline and would protect the scenic character and landscape values of the area;

- if approved, the proposed facility will provide a convenient and cost-effective recycling solution for the area;
- the proposed facility will service the Penrith and western Sydney area, which is undergoing a significant increase in residential, industrial and infrastructure investment, generating demand for waste disposal;
- the proposed facility will provide an environmentally beneficial means of dealing with non-putrescible general solid waste, with the majority of materials sent on for processing and recovery; and
- the proposed facility will provide economic and social benefits through the provision of ongoing employment opportunities.

### 2.3 Requirement of concurrence from the Planning Secretary

This Clause 4.6 variation assessment provides adequate information and justification to enable the Planning Secretary to consider whether the contravention of the development standard raises any matter of significance for State or regional planning, the public benefit of maintaining the development standard and any other matters required to be taken into consideration before granting concurrence.

### 3 Summary and conclusion

This report seeks an exemption to the maximum building height development standard prescribed by LEP 2010 in relation to a state significant development application for a proposed waste recycling and transfer facility at 46-48 Peachtree Road, Penrith, NSW.

The exemption is sought pursuant to Clause 4.6 of LEP 2010 in relation to the proposed height of a shed which will enclose the operational area of the site and which varies the maximum building height development standard of 12 m, by 1.1 m, to a maximum height of 13.1 m.

The provision of an enclosed shed on site was a requirement of the EPA who stated in its submission during the public exhibition of the application that it could not support the application unless a shed that enclosed the operational area of the site was included. The proposed shed was designed to meet operational, structural and safety requirements and in doing so resulted in a minor exceedence of the maximum building height development standard.

Overall, it is considered that the proposed exemption of the building height development standard will have significant environmental planning benefits in terms of improved water quality and reuse and improved amenity outcomes in terms of noise and air quality. The proposed facility will also provide other planning benefits and will be in the public interest by providing a development that is in keeping with the industrial character and scale of other buildings in the area and providing social and economic benefits in term of recycling and diverting waste from landfill and providing ongoing employment opportunities.

For these reasons, and in accordance with the objectives of Clause 4.6 of LEP 2010, it is considered that an appropriate degree of flexibility should be allowed in applying the maximum building height development standard, which in doing so will achieve a better outcome for and from the proposed facility.



# Appendix A

## Plan of elevation



REFERENCES

DRAWINGS TO BE READ IN CONJUNCTION WITH BUT NOT LIMITED TO ALL STRUCTURAL ENGINEERS, STORMWATER ENGINEERS, LANDSCAPE ARCHITECTS, AND OTHER ASSOCIATED PLANS & REPORTS

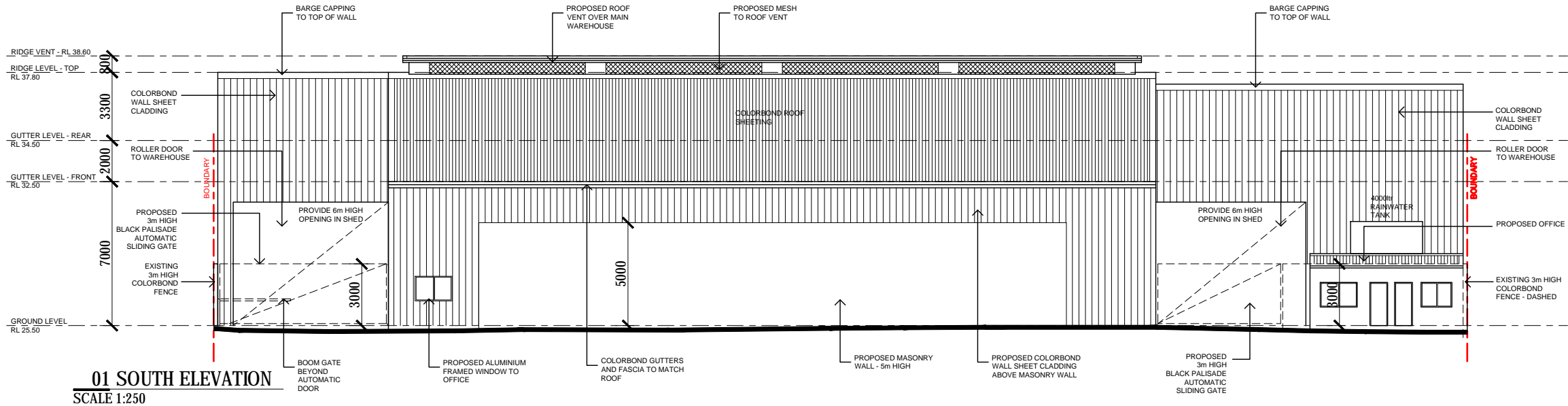
REFER TO THE BASIX REPORT FOR ADDITIONAL REQUIREMENTS TO THE ONES NOTED ON THE DRAWINGS.

NOTES

ALL DIMENSIONS AND SETOUTS ARE TO BE VERIFIED ON SITE AND ALL DIMENSIONS OR ANY DISCREPANCIES TO BE NOTIFIED TO THE ARCHITECT

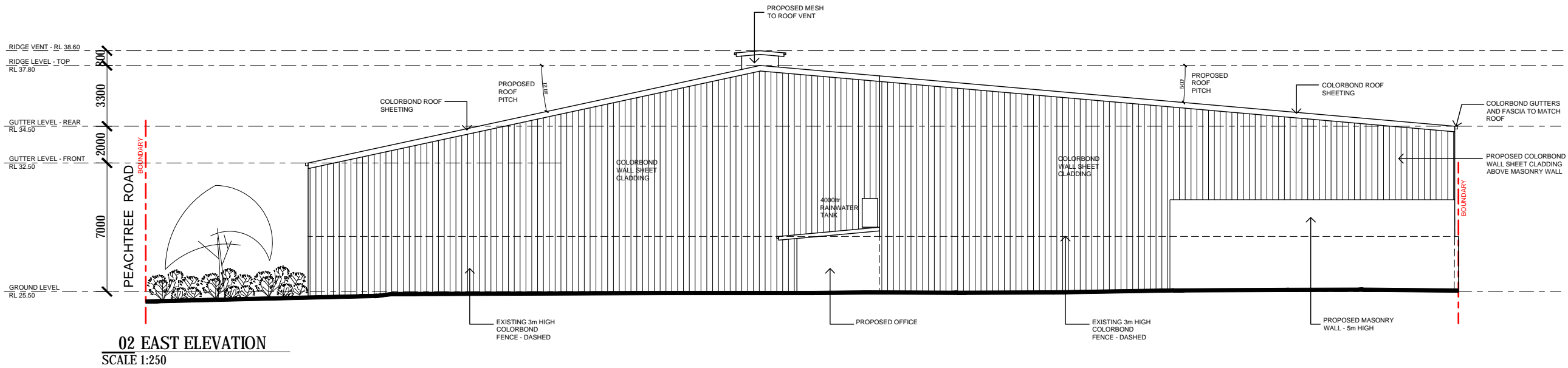
FIGURED DIMENSIONS TO BE USED AT ALL TIME.

DO NOT SCALE MEASUREMENTS OFF DRAWINGS.



SOUTH F I F

B	03.10.18	GENERAL AMENDMENTS
A	28.06.18	DA SUBMISSION
Rev.	Date	Description
Scale		
m	2.5	5
0	7.5	10
	1:250 at A3	



Project Architect

**DDA**  
**CDARCHITECTS**

LEVEL 2, 60 PARK STREET  
SYDNEY NSW 2000  
P: 02 9267 2000  
W: [www.cdarchitects.com.au](http://www.cdarchitects.com.au)

© Copyright  
The copyright of this drawing together with any other documents prepared by chance design (CD) remains the property of CD. CD grants licence for the use of this document for the purpose for which it is intended. The licence is not transferable without permission from CD.  
Nominated Architect: Jacob Yammine 8395, ABN 79 097 830 754

Project  
**PROPOSED  
WASTE MANAGEMENT FACILITY**

46 PEACHTREE ROAD, PENRITH  
NSW 2750

Drawing Title  
**SITE ELEVATION 1**

Job no.	Drawing no.	Rev.	
J17401D	A104	B	
Drawn by	Checked by	Approved by	Date
LW	JY	JY	APR 2017



# Appendix B

## Photomontage of adjacent Bunnings Store







artist's impression  
© PRDD www.prdd.biz

1019-01-D

BUNNINGS WAREHOUSE PROPOSAL, PENRITH  
VIEW FROM CASTLEREAGH RD LOOKING SW





