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GREGORY STREET WEST, WENDOUREE

VCAT REFERENCE P3410/2008

PLANNING PERMIT APPLICATION PP/2008/516 FOR USE AND
DEVELOPMENT OF AN INDUSTRY (MATERIALS RECYCLING AND
CONTRACTORS DEPOT)

PLANNING REPORT & STATEMENT OF EVIDENCE
PREPARED BY GLENN KELL

APRIL 2009

CONTENTS

1	INTRODUCTION	3
2	BACKGROUND	4
3	SITE AND SURROUNDS	5
	3.1 SUBJECT SITE	5
	3.2 SURROUNDING AREA	6
4	PROPOSED MATERIALS RECYCLING AND CONTRACTORS DEPOT.....	7
	4.1 REVISED SITE PLAN	7
	4.2 REVISED BUILDING PLANS	7
	4.3 OPERATIONAL ASPECTS	8
	4.3.1 SITE USERS.....	8
	4.3.2 EARTHWORKS	8
	4.3.3 PROPOSED BUILDINGS.....	8
	4.3.4 ACCESS ROADS	9
	4.3.5 WORKING AREAS	9
	4.3.6 MATERIALS RECYCLING.....	9
	4.3.7 LANDSCAPE / PLANTING AREA.....	11
	4.3.8 TRUCK WASH DOWN AREA	11
	4.3.9 HOURS OF OPERATION	11
5	ENVIRONMENTAL MANAGEMENT AND MITIGATION MEASURES	12
6	RESPONSE TO GROUNDS.....	16
	6.1 CONSISTENCY WITH STATE PLANNING POLICY FRAMEWORK.....	16
	6.2 CONSISTENCY WITH MUNICIPAL STRATEGIC STATEMENT	16
	6.3 CONSISTENCY WITH LOCAL POLICIES	16
	6.4 CONSISTENCY WITH PARTICULAR PROVISIONS.....	17
	6.5 NEIGHBOURHOOD CHARACTER / VISUAL IMPACTS	17
	6.6 NOISE.....	17
	6.7 ODOUR IMPACTS.....	17
	6.8 DUST IMPACTS.....	17
	6.9 TRAFFIC IMPACTS	18
	6.10 LITTER IMPACTS.....	18

6.11	CONTAMINANTS / HAZARDOUS MATERIAL.....	18
6.12	HEALTH IMPACTS.....	18
6.13	FLORA AND FAUNA	19
6.14	VERMIN IMPACTS	19
6.15	PROPERTY VALUES.....	19
6.16	PROXIMITY TO A RESIDENTIAL AREA.....	19
6.17	FIRE HAZARD	20
6.18	GROUNDWATER SUPPLY	20
7	KEY PLANNING PROVISIONS.....	21
7.1	LAND USE DEFINITIONS (CLAUSE 74).....	21
7.2	ZONING	21
7.3	OVERLAYS	26
7.4	STATE PLANNING POLICY FRAMEWORK	28
7.5	MUNICIPAL STRATEGIC STATEMENT.....	31
7.6	LOCAL POLICIES.....	32
7.7	ADDITIONAL STRATEGY AND POLICY.....	33
8	CONCLUSION	38

APPENDIX LIST

APPENDIX A.	CV – GLENN KELL
APPENDIX B.	ORIGINAL APPLICATION AND SUPPORTING DOCUMENTS
APPENDIX C.	COUNCIL APPLICATION RECEIPT LETTER
APPENDIX D.	COUNCIL RFI LETTER AND APPLICANTS RESPONSE
APPENDIX E.	COUNCILS 2 ND RFI LETTER AND AAV ADVICE
APPENDIX F.	ORIGINAL REFERRAL RESPONSE LETTERS (DSE AND VICTRACK)
APPENDIX G.	CERTIFICATES OF TITLES AND LEASE EXTRACT
APPENDIX H.	PLANNING PERMIT PLP/2005/288
APPENDIX I.	REVISED SITE PLAN (AND ASSOCIATED EMP DETAILS)
APPENDIX J.	REVISED BUILDING ELEVATION PLANS
APPENDIX K.	COMPANY PROFILES - BUTLER EXCAVATIONS AND BALLARAT CIVIC CONTRACTORS

1 INTRODUCTION

My name is Glenn Kell and I am the Manager of the Planning Division at Beveridge Williams - registered address Suite 6 / 115 Hawthorn Road, Caulfield Junction.

My qualifications and experience are described in **Appendix A**.

I have been requested by Best Hooper – Lawyers to prepare background information to the proposal and to present this town planning statement of evidence.

During the course of preparing this Statement I have:

- Reviewed the original application.
- Reviewed grounds of appeal.
- Reviewed the Ballarat Planning Scheme (including relevant strategic / policy documents).
- Inspected the site and surrounds on no less than three (3) occasions over the past two (2) months.

2 BACKGROUND

Planning permit application PLP/2008/516 was lodged with Council on 2 July 2008 on behalf of Grafton Dell Pty Ltd by Robert E Hall and Associates (Registered Building Practitioner DP-AD 1424).

This application comprised:

- an application form.
- a proposed site plan and elevation plans for the proposed buildings.
- a cheque - being the application fee.

A copy of the application and supporting information is presented in **Appendix B**.

On 8 July 2008, Ballarat City Council sent an application acknowledgment letter to the applicant's representative. A copy of this is presented in **Appendix C**.

On 30 July 2008 Council issued a Request for Further Information (RFI) letter and a brief response to this letter was provided by the applicant's representative on 11 August 2008. A copy of this correspondence is presented in **Appendix D**.

On 9 October 2008, Council sent a second RFI letter and a copy of EPA correspondence dated 3 October 2008. A copy of this letter together with written advice from AAV regarding any recorded aboriginal records for the site is presented in **Appendix E**.

The application was advertised on two (2) separate occasions. The first notification period commenced on the 22 September 2008 and the second commenced on the 16 October 2008. At the conclusion of the two notification periods approximately 250 submissions were received.

Through the statutory referral process, the following letters were also received by Council:

- Department of Sustainability and Environment letter dated 13 October 2008.
- VicTrack letter dated 3 October 2008

A copy of these are presented in **Appendix F**.

On 21 November 2008 an application was made to VCAT under Section 79 of the Planning and Environment Act 1987 against Council's Failure to Decide on this matter within the prescribed timeframe.

3 SITE AND SURROUNDS

3.1 Subject Site

The subject site is described as being:

- Lot 7, PS545459H (Volume 11052 Folio 638) which is under the ownership of Grafton Dell;
- the south-west portion of Lot 2 PS533922D (Volume 10964 Folio 841) which is owned by Biostarch Pty Ltd and held under lease arrangement by Grafton Dell. Note - it is understood that the balance of this lot is also held under leased arrangement from Biostarch by Laminex.

A copy of these Certificates of Titles and an extract of the lease are presented in **Appendix G**.

The titles are affected by several drainage easements that were created at the time of subdivision and a Section 173 Agreement on title. These easements and agreement are intended to facilitate the effective drainage of the land. A copy of Planning Permit PLP/2005/288 referred to within this Section 173 Agreement is presented in **Appendix H**.

The subject site is located on the north side of Gregory Street West within a designated industrial area.

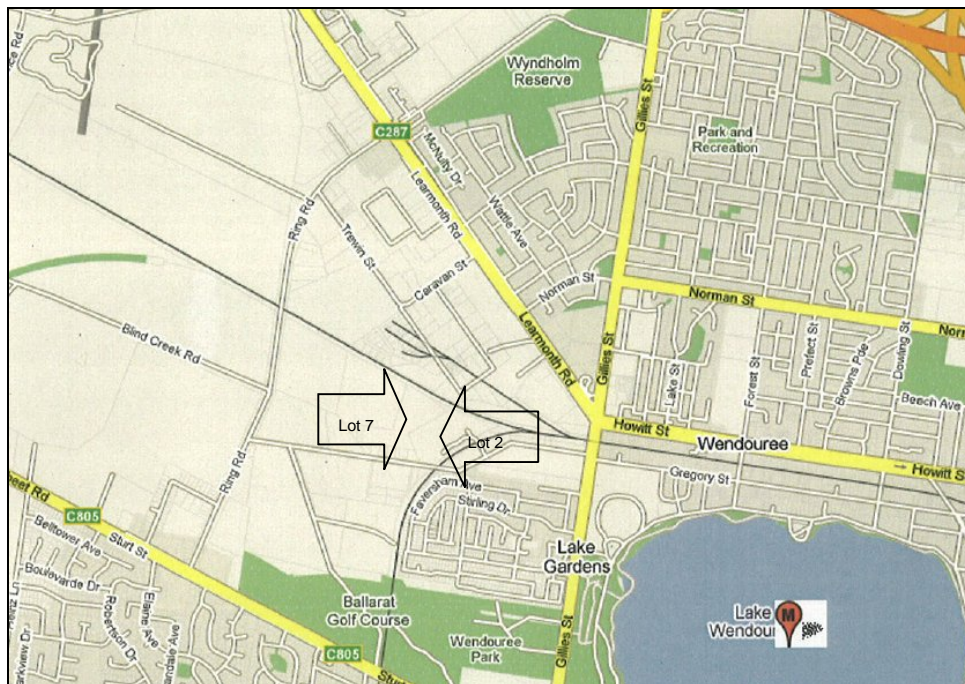


Figure 1 – General Location Plan

Source: www.mapit.com.au

Not to scale

The site is free of building structures and has been subjected to considerable earthworks and rubbish dumping over the years.

The north-west part of the site, appears in the Ballarat Planning Scheme to form part of the Flax Mill Swamp through the designation of the Environmental Significance Overlay (Schedule 2 – Streamline and Watercourse Protection).

3.2 Surrounding Area

The surrounding area can be described in the following table.

North	<p>Immediately north of the site is the Ballarat and Ararat Railway line which is zoned Public Use (Schedule 4 –Transport).</p> <p>Beyond the railway line is further industrial zoned land which is being used by a variety of industrial uses.</p>
East	<p>Immediately east of the site land is zoned Industrial 1 and used by Laminex (under lease arrangement from Biostarch).</p> <p>Beyond this site is Joe White Maltings which is also on land Industrial 1 zoned land..</p> <p>Further east is the disused Ballarat Cattle Yard Branch Railway and an Industrial 3 zoned parcel of land.</p>
South	<p>Immediately south of the site the land is zoned Industrial 1 and is used for transport distribution (Linfox).</p> <p>Ballarat Golf Course is located immediately adjacent to the site to the south- west.</p> <p>Lakes Gardens Residential Estate is located to the south-east:</p> <ul style="list-style-type: none"> approximately 400 metres from the proposed location of the crushing / screening plant approximately 250 metres from the transfer station / resale area and approximately 95 metres from the southern boundary of the subject site.
West	<p>Immediately west of the site is the broader Flax Mill Swamp Water Reserve which is zoned Public Conservation and Recreation under the Ballarat Planning Scheme.</p> <p>Beyond Flax Mill Swamp Water Reserve to the west is industrial zoned land which is currently used by Mars Confectionary.</p>

4 PROPOSED MATERIALS RECYCLING AND CONTRACTORS DEPOT

Following is an account of the siting, design and operational aspects of the proposed material recycling and contractors depot.

4.1 Revised Site Plan

Following my review of the original application, the Ballarat Planning Scheme provisions and statement of grounds, I am of the professional view that changes to the siting and design should be undertaken:

- To reduce the potential impact that the proposed facility may have on the surrounding properties and the environment.
- To improve the overall site layout from an operational perspective.

The revised Site Plan has been prepared by Cardno Grogan Richards and is presented in **Appendix I**.

This plan also doubles as a Site Environment Management Plan. It is noted that a larger version of this plan has been circulated to parties in accordance with the VCAT Direction to assist with readability.

My Response

It is my opinion that the changes made to the site plan will positively contribute to the proposal and will further reduce potential impacts that the proposed facility may have had on surrounding properties and environmental features.

The extent to which the revised siting plan will comply with environmental regulatory requirements will be detailed in technical assessments considering matters including odour, noise and dust – which are presented under separate cover.

4.2 Revised Building Plans

Through the revised site plan, it is proposed to:

- Retain the office building adjacent to the main site access.
- Retain the workshop machinery shed which has been relocated towards the southern boundary.
- Remove the material storage building originally proposed along the north-west boundary and replace with an open area for raw material stockpiles that will not exceed 5 metres in height.
- Retain the retail product storage bins within the north-west portion of the site without the roof structure.

- Extend the 1.5m high pre-cast concrete panel wall along the northern boundary of the site between the facility and the Flax Mill Swamp.

A copy of the revised building elevation plans are presented in Appendix J plans Details of the revised building plans are presented in Section 4.3.3 of this Statement.

4.3 Operational Aspects

4.3.1 Site Users

The material recycling depot, in the first instance is to be used by Butler Excavations (BE) and Ballarat Civic Contractors (BCC) who both currently operate in accordance with planning approvals from a rural residential property located at Napoleonean Road, Napoleonean in the Golden Plains Shire.

A Company Profile for each business is presented in **Appendix K**.

The current operation has outgrown the Napoleonean property and the applicant seeks to establish a purpose built facility within one of Ballarat's established industrial estates with good access to the north and north west urban areas of Ballarat.

The proposed contractors depot and recycling facility will result in all commercial activities being relocated to Gregory Street West.

4.3.2 Earthworks

The site will be recontoured (using residual clay material on the site from the former Vitclay operation on Lot 2) to facilitate the direction of stormwater and overland flow to an existing dam / low point on the site.

The proposed cut and fill will further assist in protecting the Flax Mill Swamp to the west and provide a more stable foundation upon which to construct buildings and carry out works including an improved drainage regime for the land.

4.3.3 Proposed Buildings

The proposal presents:

- An office building in proximity to the main access. This office will enable vehicle surveillance and directions for visitors to the facility as well as accommodating administrative functions of BE and BCC. An opportunity also exists to locate a weigh bridge in proximity to the entry gate to further monitor material entering and leaving the facility.
- A workshop machinery shed (depot) will be provided with separate road access from Gregory Street West. This will be used to store and repair the fleet of vehicles Butler Excavations currently operate – as detailed in their company profile (**Appendix K**).

- An open product storage structure will be used to store product from the facility in readiness for customer pick up. The location of this facility, immediately left of the entrance in proximity to the office, will assist in monitoring and serving customers.

Design details for these buildings are depicted in the original building plans presented in **Appendix B**.

4.3.4 Access Roads

Two vehicle accessways will be provided to the site. These being:

- The main access to the material recycling facility for trucks and private vehicles delivering and picking up from the facility. The 60 metre long main access road into the site will be constructed of asphalt or hot mix.
- The secondary access to the contractor workshop machinery shed will be constructed of all weather (crushed rock) and used exclusively for the three (3) fleet vehicles of Butler Excavations and Ballarat Civic Contractors.

The internal road will comprise a “circular” internal roadway with an all-weather (crushed rock) truck access to operational areas of the site.

4.3.5 Working Areas

Working areas within the material recycling facility will be constructed of all weather (crushed rock).

Areas not used for building, parking, accessways or formal working areas will be set aside for grass landscape areas for aesthetic purposes – as shown on the revised site plan.

4.3.6 Materials Recycling

Commercial wastes to be accepted by the material recycling facility will comprise:

- Bricks / concrete / rock
- Metal
- Trees and stumps
- Soil including fill material

As depicted in the revised site plan, areas have been designated for the stockpile of material (which will not exceed 5m in height), the crushing plant, crushed material and clean fill soil.

The areas set aside for the stockpiling are large enough to accommodate the stockpiles, vehicle circulations and separation distances between stockpiled material.

A brief account of each source material, anticipated volumes, storage, on-site movement, processing and potential market for each waste stream to be accepted into the facility follows.

Bricks / Concrete / Rock

The anticipated volume of material to be accepted is estimated to be around 2,000m³ per annum.

Bricks and concrete material will be stockpiled and separated as required.

A rock crusher will be used to break raw material into smaller pieces to load into a rock crusher.

A mobile crusher that will be brought onto the site 2-3 times per year or when an appropriate volume of material is received. Material will be processed using a feed hopper, grizzly, primary and secondary crushers, screens and conveyors – and fitted with dust suppression systems.

An area near the north-west corner of the site has been designated for a mobile crushing / screening plant with nominal capacity of 130 t/hr. On this basis it is estimated that breaking and crushing activity will operate for around two (2) days per month.

Pre-processed materials and crushed product will be moved to and from the crusher by front end loader or excavator.

Techniques will be provided to given to manage and mitigate any potential noise and dust impacts as recommended in associated technical assessments.

This material will be used to produce aggregate road base.

This material will be sold to civil construction companies, road construction companies and Councils.

Metal

A range of construction related metal material will be accepted by the facility. This will include, but not be limited to wire mesh used for concrete reinforcement and structural steel.

This material will be separated by mechanical means, stockpiled and located directly into bins for sale to recyclers.

No formal processing, crushing or baling of this material is proposed.

Trees and Stumps

It is estimated that the volume of material will be approximately 2,250m³ per annum.

This material will be processed with a mobile tub grinder that will be brought to the site a few times each year to reduce larger woody wastes and process timber to mulch, while a trailer-mounted mulcher (similar to ones used in urban areas on suburban streets by Councils and contractors to chip fallen branches and pruning) will be used on an as required basis.

Material from the shredder will be screened and oversized material returned for further shredding to reach the desired grade. Graded material will be transported by front end loader to the stock pile / resale area.

The final product from this process will be A Grade and B Grade mulch.

This material will be sold to landscapers, garden supplies and the general public.

Soils

It is estimated that the volume of soil material will be approximately 125,000m³ per annum.

Soil accepted by the facility will be stockpiled. Using front end loader, this will be blended with other soils and / or mulch to create top soil and blended soil products.

Soil contaminated with chemical substances will not be accepted into the facility.

This material will be sold to landscapers, garden supplies and the general public.

4.3.7 Landscape / Planting Area

Surrounding the east, north and west boundaries of the facility, it is proposed that a landscape planting area will be provided that is no less than 5m wide. This area will be planted with tube stock to be selected in consultation with Councils Environmental / Landscape Adviser and will provide further protection / integration with Flax Mill Swamp to the west.

4.3.8 Truck Wash Down Area

A truck wash down area is proposed adjacent to the “circular” internal road adjacent to the dam.

4.3.9 Hours of Operation

The proposed hours of operation are:

7.00am to 5.00 pm – Monday to Friday

7.00 am – 1.00 pm – Saturday

5 ENVIRONMENTAL MANAGEMENT AND MITIGATION MEASURES

A range of environmental management and mitigation measures are proposed to reduce and mitigate potential off-site impacts. These are based on the site environmental management plan prepared by Cardno Grogan Richards and presented in **Appendix I** (at A4 size).

This site environmental management plan is largely based on the various technical assessments undertaken to inform the current proposal including:

- Site and Environmental Management Plan (prepared by Cardno Grogan Richards)
- Stormwater Management Plan (prepared by Cardno Grogan Richards)
- Traffic Impact Assessment (prepared by Cardno Grogan Richards)
- Acoustic Assessment (prepared by Marshall Day Acoustics)
- Dust Assessment (prepared by CEE Consultants)

To assist in readability of management and mitigation measures as detailed in the Site EMP, these have been reproduced below.

Responsibilities

Civil Contractor: Butler Excavations

Contact: Tony Butler

Telephone: (03) 5342 0725

Emergency Contact : Tony Butler 0418 503 237

Communication of EMP Requirements

Induction of all persons working on site regarding requirements as set out on the EMP.

EMP to be displayed in a visible location within the site compound, eg. on walls of site sheds / office.

Inspections and Maintenance

At least one inspection per week.

Prior to and after heavy rain.

Maintain as required with all rectification to be addressed within 12 hours of an incident/report. Include inspection of the outfall to the swamp.

Staging of Works

Works will not be staged.

They will be sequenced as per the approved works program.

Associated Documents

The contractor shall maintain documentation including but not limited to records of inspection of protection measures, identification and rectification of deficiencies, incident reports, induction checklists, minutes of toolbox meetings and emergency procedures.

Noise Requirement

EPA Victoria and Council requirements must be adhered to in relation to the level of noise and working hours, to ensure that residents and other applicable neighbours to the site are not disturbed unreasonably. The generation of noise must be minimised and carried out in accordance with Acoustic report.

Working Hours

7.00 am to 5.00 pm Mon-Fri

7.00 am to 1.00 pm Sat

Noise Minimisation Methods

Regular maintenance and inspection of machinery. Fitting of guards and approved sound reduction measures.

Minimising Dust Generation

Constant traveling of machinery and trucks through the work site during dry windy days will result in dust. Any activity involving the handling and moving of soil shall be restricted on dry windy days. Dry ground conditions during summer period should be monitored.

Water sprays on crushing plant to be operational at all times during crushing activity.

Dust Suppression

Monitor dust generation from site. Activities generating dust need to be monitored and restricted if they reduce visibility on site and become hazardous.

A water truck is to be available to spray truck routes and exposed surfaces when necessary.

Contingencies

If high wind is expected while large areas of the site are stripped and machinery / trucks are moving throughout the site, water should be sprayed in order to establish a thick crust over unvegetated land and access paths. Check water restriction with local authority.

Product stockpiles to be watered if required.

Erosion and Management : Drainage Management

Control measures as shown on the EMP will be implemented to reduce sediment run-off into Flax Mill Swamp.

Existing grasses are to be retained around the edge of the site to aid in capturing sediment / silt from site run-off. Site to be filled and re-graded to direct run-off onto swale collection drains. Surface run-off to be directed to WSUD treatment and dam.

Soil Stabilisation : During Construction:

Vegetation to be retained where possible and encouraged over exposed areas. Monitor open drains for erosion and contact the superintendent should corrective action be required.

Soil Stabilisation : Post Works

Monitor silt fencing condition, gross pollutant trap levels and desilt as required.

Soil Stabilisation : Protection

Stock-piles to be placed away from Flax Mill Swamp, open drains and paved areas. Silt fences to be installed to prevent sediment run-off. A cut-off drain with earth bund to be installed on the up slope side of the stockpile to divert run-off away from the stock-pile. Re-vegetation to be encouraged to minimise possible sediment run-off and wind erosion. Minimise the number of stockpiles where possible. Watering to occur on stockpiles in accordance with Dust Suppression procedures.

Soil Stabilisation : Sediment Traps

Silt fences, Strawbales and temporary sediment pond or similar to be placed as shown on this plan during construction.

An open catchdrain along the truck route with strawbales at the basin inlet to be incorporated as shown.

All sediment traps to be maintained on a regular basis.

Installation of gross pollutant trap, bioretention and dam to occur upon completion of re-grading works.

Dewatering

Site shall be graded to avoid water ponding. In the event water ponding occurs, this water must be pumped into the gross pollutant trap.

Site Access

To be restricted to allocated truck routes.

Cleaning Vehicles

All vehicles leaving the site must remove any excess material via truck washdown area shown on plan.

Street Cleaning:

Roads are to be inspected and any sediments found shall be removed by street cleaning equipment within 12 hours of awareness to the issue.

Contaminant Status

Clean

Waste Minimisation Methods

Separate recyclable waste and materials from general waste for recycling. Recycling bins clearly marked to avoid contamination of materials.

Waste Storage and Disposal

Site compound to be established where site superintendent deems necessary. Bins for recycled and general waste to be kept within compound and are to be emptied on a weekly basis or when full to avoid overflow and spreading of waste. Concrete washouts to be established on site where required (identify at commencement of works). Waste from washouts to be disposed of off site.

Chemicals - Storage

All chemicals, diesel and oils stored on site (if any) are to be kept within the site compound in a secure location and locked up at all times.

Chemicals - Management

Site compound and designated refueling areas to be surrounded by a western bond (min. height of 300mm). The area is to be graded to a sump at the lowest point where spills will collect. Cut-off drains are to be installed to direct run-off away from refueling points. Spill kits are to be kept within the compound or within 10m of any refueling area. Should a spill occur, it is to be cleaned up immediately to avoid contamination of soil and water course. Spills are to be reported to the superintendent. Should any soil become contaminated from a spill, the area of effected soil is to be removed and disposed of at an appropriate location.

Refuelling Procedure

Refueling is to occur at the site compound or designated refueling points. No refueling is to occur within 30m (minimum) of any drainage inlet, catch/open drain or edge of Flax Mill Swamp.

Flora and Fauna

There are no fauna of significance on the site.

Protection of Flax Mill Swamp to be observed.

No issues within the extents of development shown.

6 RESPONSE TO GROUNDS

I have undertaken a review of the statement of grounds received to this application.

I provide the following response to key issues raised.

6.1 Consistency with State Planning Policy Framework

Grounds submitted generally state that the proposal does not comply with the State Planning Policy Framework.

My Response

My assessment of the proposal against key provisions of the SPPF is presented in **Section 7.3** of this Statement.

6.2 Consistency with Municipal Strategic Statement

Grounds submitted generally state that the proposal does not comply with the Ballarat Municipal Strategic Statement.

My Response

My assessment of the proposal against key provisions of the Ballarat MSS is presented in **Section 7.4** of this Statement.

6.3 Consistency with Local Policies

Grounds submitted generally state that the proposal does not comply with the Local Policies.

My Response

My assessment of the proposal against key local policy provisions is presented in **Section 7.5** of this Statement.

6.4 Consistency with Particular Provisions

Grounds submitted state the proposal does not comply with Clause 52.10 (Uses with Adverse Amenity Potential).

My Response

Under this clause a 200 metre threshold distance is recommended between sensitive uses (ie residences) and a material recycling depot.

The appropriateness of the separation distances provided in this instance is presented under separate cover in noise, odour and dust assessments.

6.5 Neighbourhood Character / Visual Impacts

My Response

The subject site is zoned Industrial 1 and I believe that the neighbourhood character of the area is significantly affected by the existing industry that operates legitimately within this industrial precinct. Subject to complying with appropriate buffer / threshold distance requirements from an environmental risk perspective, I do not believe that the proposed development will have an adverse impact on neighbourhood character given the size and scale of proposed buildings, works and operation.

6.6 Noise

My Response

A noise assessment of the facility has been presented under separate cover.

6.7 Odour Impacts

My Response

It is submitted that the facility will not generate any off-site impacts by way of odour.

6.8 Dust Impacts

My Response

An air quality (dust) assessment has been presented under separate cover.

6.9 Traffic Impacts

My Response

A traffic assessment has been presented under separate cover.

It is noted that vehicles entering and leaving the facility will travel via Ring Road to the west. I am not aware of any plans to open Gregory Street West adjacent to the subject site through to Gillies Street. Given the extent of industrial development likely to occur within this area in the future I envisage that all traffic would continue to use Ring Road.

6.10 Litter Impacts

My Response

Litter accepted to the facility will be of a commercial nature and will not generate wind borne litter like that experienced at general landfill facilities.

6.11 Contaminants / Hazardous Material

My Response

I understand that no hazardous material, including contaminated, fill will be accepted onto the site.

An assessment of dust has been presented under separate cover.

It is also noted that site works will be carried out in accordance with the guidelines and recommendations included in Environment Protection Authority publication No 275 "Construction Techniques for Sediment Pollution Control (May 1991)".

6.12 Health Impacts

My Response

The proposed development is being subjected to considerable assessment against relevant State Environment Protection Policies including noise, odour, and dust.

6.13 Flora and Fauna

My Response

Department of Sustainability and Environment Ecological Vegetation Classes Mapping as being, at a point of time in the past, part of the Plains Grass Woodland. Now the site does not appear to be characterised by any significant vegetation.

This inconsistency appears to arise from the discrepancies between the broad regional mapping techniques used for the DSE EVC maps and classifications and exact site conditions.

Conversely however it is understood that the Flax Mill Swamp to the west is characterised by features of environmental significance and it is submitted that the proposed use and development will not have detrimental impacts on these values. I understand that Biosis Research has been commissioned by the Council to look at flora and fauna issues and the relationship of the proposal to Flax Mill Swamp.

6.14 Vermin Impacts

My Response

I understand that the facility will accept commercial waste material only which will comprise solid inert material (such as bricks, concrete, rock), metal (construction related only), and green waste (such as trees and stumps).

Any contaminated materials (ie food wastes and packaging) that may find itself in the accepted waste streamline will be immediately located in a secure skip bins and taken to landfill.

6.15 Property Values

My Response

Property values are not a relevant planning consideration.

6.16 Proximity to a residential area

My Response

The closest residential zone is located approximately 400m from the proposed location of the crushing / screening plant, about 250m from the transfer station / resale area and 95m away from the property boundary.

A range of technical assessments covering matters including odour, noise, air quality and traffic have been prepared to assist in determining the appropriateness of these separation distances.

6.17 Fire Hazard

My Response

It is not envisaged that the type and quantities of material to be stored on site will contribute a significant fire hazard.

In the event that water is required for fire fighting purposes this can be readily sourced from the on-site dam.

6.18 Groundwater Supply

My Response

A Stormwater Management Plan and Site Environment Management Plan has been prepared for the proposed development.

I also understand that proposed facility will not accept hazardous waste that will compromise groundwater quality, the site will be re-contoured (using residual clay material on site from the former Vitclay operation) and that a range of dust control measures are proposed that would further protect Flax Mill Swamp and groundwater supply.

7 KEY PLANNING PROVISIONS

7.1 Land Use Definitions (Clause 74)

Clause 74 of the Ballarat Planning Scheme present land use definition to assist with the implementation of the zone provisions.

A review of these indicate the “best fit” definitions for the proposed development are:

Industry – which is defined as being “land used for, [amongst other things] laundering, repairing, servicing or washing any article, machinery, or vehicle, other than on-site work on a building, works or land”.

Material Recycling – which is defined as “land used to collect, dismantle, store, recycle, or sell, used or scrap material”.

It is noted that “material recycling” falls within the broader definition of “industry”

My Response

I believe that description of the proposed development as detailed on the application form is appropriate.

7.2 Zoning

The site is zoned Industrial 1.

An extract of the zone plan showing the subject site is presented below.

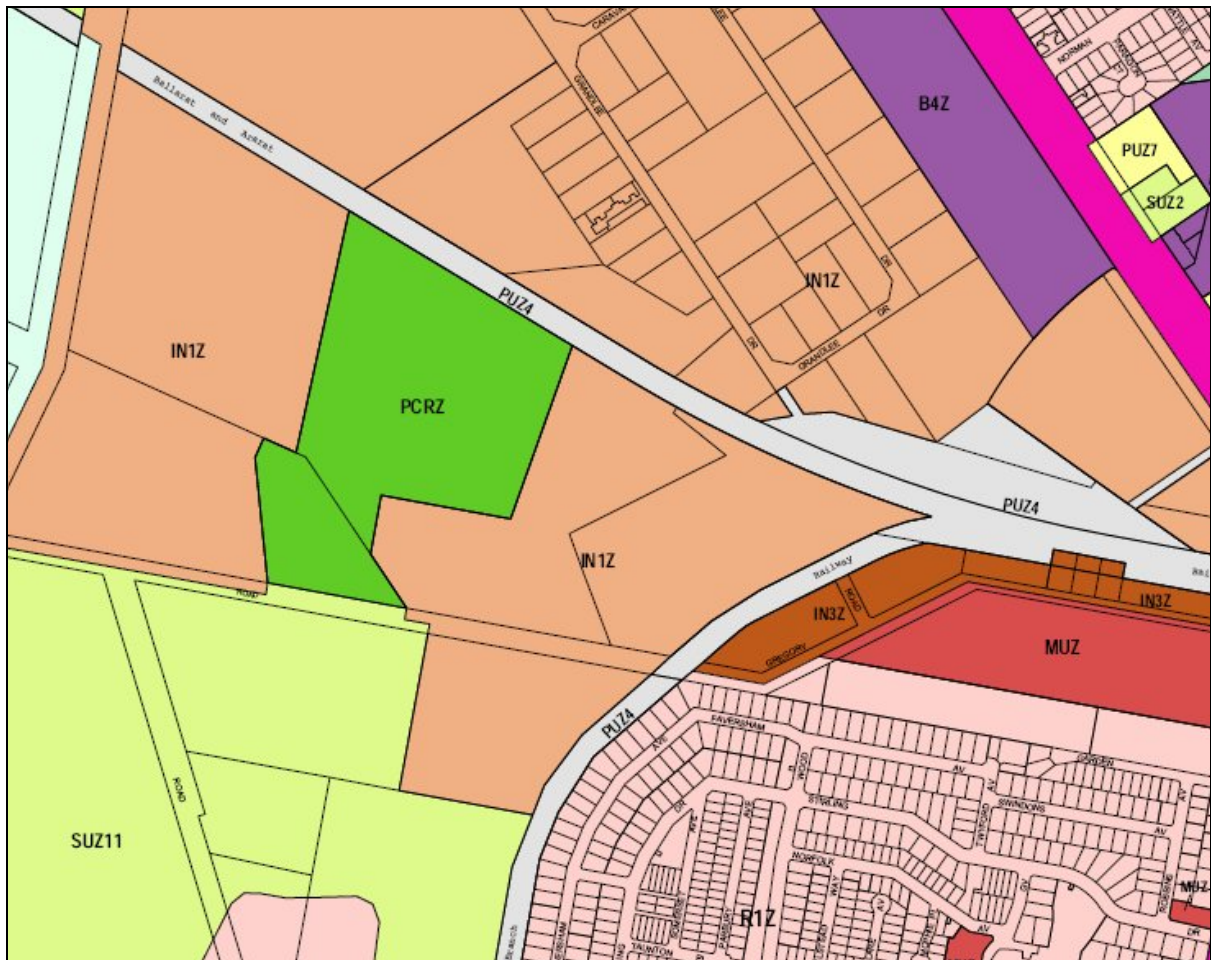


Figure 2 – Zone Plan

Source: DPCD web-page

Not to scale

The stated purpose of the Industrial 1 zone is:

- To implement the State Planning Policy Framework and Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- To provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities.

Under the provisions of this zone a permit is:

- is not required to use land for the purposes of a “contractors depot” (Clause 33.01-1).
- is required to use land for the purposes of “material recycling” provided the land is “at least 30 metres from land (not a road) which is in a residential zone or Business 5 Zone, land used for a hospital or an education facility or land in a Public Acquisition Overlay to be acquired for a hospital or an education centre” (Clause 33.01-1).
- is required to construct a building or construct or carry out works (Clause 33.01-4).

Clause 33.01-2 details information that must accompany an application to use land for an industry or warehouse and decision guidelines that the responsible authority must consider before deciding on an application. A response to each of these is presented in the following table.

Application Requirements	My Response
The purpose of the use and the types of processes to be utilised.	Presented in Section 4 of this report.
The type and quantity of goods to be stored, processed or produced.	Presented in Section 4.3.6 of this report.
How land not required for immediate use is to be maintained.	Presented in Section 4.3.5 and Section 4.3.7 of this report.
Whether a Works Approval or Waste Discharge Licence is required from the Environment Protection Authority.	I understand that a Works Approval or Waste Discharge Licence is not required from the Environment Protection Authority. It is noted that composting of green waste does not form part of the application.
Whether a notification under the Occupational Health and Safety (Major Hazard Facilities) Regulations 2000 is required, a licence under the Dangerous Goods Act 1985 is required or a fire protection quantity under the Dangerous Goods (Storage and Handling) Regulations 2000 is exceeded.	I understand that notification and a licence under these requirements is not required.
The likely effects, if any on the neighbourhood, including: <ul style="list-style-type: none"> - Noise levels - Air borne emissions - Emissions to land or water - Traffic, including the hours of delivery and despatch. - Light spill or glare 	<p>Consideration has been given to noise, odour, air quality and traffic implications through assessments prepared and presented under separate cover.</p> <p>The hours for operation proposed for the facility will not require operational lighting to be installed. Localised lighting may be established on site to assist with general security.</p>

Decision Guidelines	Response
The State Planning Policy Framework and Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.	Presented in Section 6 (Response to Grounds) and Section 7 (Key Planning Provisions) of this report.
The effect that the use may have on nearby existing or proposed residential areas or other uses which are sensitive to industrial off-site effects, having regard to any comments or directions of the referral authorities.	<p>Odour, noise, dust and traffic considerations have been considered in technical assessments presented under separate cover.</p> <p>The original referral responses from EPA, DSE, and VicTrack are referenced in Section 2 of this report and these parties have been invited to be a party to the current proceedings.</p>
The effect that nearby industries may have on the proposed use.	It is not considered that nearby industries will have a negative effect on the proposed use.
The drainage of the land.	Through the Stormwater Management Plan it is considered that the proposed development will

	make a positive contribution to the existing drainage regime in the area.
The availability and connection to services.	The site is located within an established Industrial area which appears to have services in proximity or able to be readily extended / augmented to accommodate the proposed development.
The effect of traffic to be generated on roads.	A traffic assessment has been prepared under separate cover and through this it is envisaged that potential traffic impacts will be minimal.
The interim use of those parts of the land not required for the proposed use.	As demonstrated on the revised site plan, virtually all of the subject site will be committed to activities associated with the material recycling or contactor depot including buildings, accessways / parking, drainage works, and grassed / landscaped areas.

Clause 33.01-4 details information that must accompany an application to construct a building or construct or carry out works and decision guidelines that the responsible authority must consider before deciding on an application. A response to each of these is presented in the following table.

Application Requirements	Response
<p>A plan drawn to scale which shows:</p> <ul style="list-style-type: none"> - The boundaries and dimensions of the site - Adjoining roads - Relevant ground levels - The layout of existing and proposed buildings and works - Driveways and vehicles parking and loading areas - Proposed landscape areas. - External storage and waste treatment areas 	<p>The revised site plan, with the information detailed, is referenced in Section 4.1 and presented in Appendix I of this report.</p>
<p>Elevation drawings to scale which show the color and materials of all buildings and works.</p>	<p>The revised building elevation plan is referenced in Section 4.2 and Section 4.3.3 and presented in Appendix B of this report.</p>
<p>Construction details of all drainage works, driveways and vehicle parking and loading areas</p>	<p>These details are referenced in the revised Site Plan and Stormwater Management Plan presented under separate cover.</p>
<p>A landscape layout which includes the description of vegetation to be planted, the surfaces to be constructed, a site works specification and the method of preparing, draining, watering and maintaining the landscape area.</p>	<p>The site plan identifies areas to be landscaped with tube stock along boundaries.</p> <p>It is envisaged that the species to be used, the quantity and the site works specifications will be determined in consultation with Council – particularly as it relates to Flax Mill Swamp.</p>

Decision Guidelines	Response
The State Planning Policy Framework and Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.	-
- Any natural or cultural values on or near the land.	Consideration has been given to the Flax Mill Swamp which is a natural feature near the land.
- Streetscape character	The site is located within a designated industrial area and vehicle access is provided via Ring Road which currently carries and will continue to carry significant levels of industrial traffic in the future. The proposed development will have a limited streetscape exposure to Gregory Street West given the location of the proposed facility at the rear of industrial allotments (some of which are currently under construction).
- Built form	The site is within an industrial area that is and will continue to be characterised by further industrial development. On this basis, I do not consider the proposed building and works to be inconsistent with an industrial area.
- Landscape treatment	The site will be landscaped in accordance with the landscape areas set aside in the revised Site Plan and Stormwater Management Plan.
- Interface with non-industrial areas	The proposed facility will have a limited visual interface with non-industrial areas (ie residential areas and the Ballarat Golf Course) given the location at the rear of industrial allotments and the location of the Flax Mill Swamp. Furthermore, the potential impacts from noise, odour, dust and traffic have been assessed and are presented under separate cover.
- Parking and site areas	The revised Site Plan has been modified to accommodate a more clearly defined area for vehicle movement, parking and working areas.
- Outdoor storage	Outdoor storage areas are clearly identified on the revised Site Plan.
Lighting	The hours for operation proposed for the facility will not require operational lighting to be installed. Localised lighting may be established on site to assist with general security.
Stormwater discharge	Presented in the Stormwater Management Plan

Based on the above, it is my opinion that the application requirements and decision guidelines detailed within the Industrial 1 Zone have been considered in the preparation and assessment of this proposal.

7.3 Overlays

The site is affected by Environmental Significance Overlay (Schedule 2 – Streamside and Watercourse Protection).

An extract of this overlay plan showing the subject site is presented below.



Figure 3 – Overlay Plan

Source: DPCD web-page

Not to scale

Under the provisions of this overlay a planning permit is required, amongst other things:

- To construct a building or construct or carry out works (including earthworks).
- To construct a fence if specified in a schedule to this overlay (Note : not specified)
- To remove, destroy or lop any vegetation, including dead vegetation. This does not apply:
 - If a schedule to this overlay specifically states that a permit is not required. (Note: not specified).
 - If a table to Clause 42.01-3 (Table of Exemptions) specifically states that a permit is not required.
 - To the removal, destruction or lopping of native vegetation in accordance with a native vegetation precinct plan specified in the schedule to Clause 52.16 (Note: not applicable).

Under Clause 1 of Schedule 2 (Streamside and Watercourse Protection) the statement of environmental significance for this area together with a development response is presented in the following table.

Statement of environmental significance	Response
The quality and quantity of water within streams and watercourses is an issue of significance in relation to potable water supply, recreation and tourism, industry, agriculture and many other areas.	The proposed development will improve the control and quality of water entering Flax Mill Swamp from the site in line with the Stormwater Management Plan.

Under Clause 2 of Schedule 2 (Streamside and Watercourse Protection) the “environmental objective to be achieved” is identified as, together with a development response is presented in the following table.

Environmental Objective	Response
To maintain the quality and quantity of water within watercourses.	The stormwater management techniques proposed are designed to improve the quality and quantity of water through the works proposed within the Stormwater Management Plan.
To maintain the ability of streams and watercourses to carry natural flows.	The stormwater management techniques proposed are designed to improve the ability of streams and watercourse to carry natural flows through the works proposed within the Stormwater Management Plan.
To prevent erosion of banks, stream beds and adjoining land and the situation of water courses, drains and other features.	The stormwater management techniques proposed are designed to prevent erosion of banks, stream beds and adjoining land and situation of water courses, drains and other features through the work proposed within the Stormwater Management Plan.
To protect and encourage the long term future of flora and fauna habitats along watercourses.	The stormwater management techniques proposed are designed to assist in protecting, and will encourage, the long term future of flora and fauna habitats along watercourses through the work proposed within the Stormwater Management Plan.
To ensure that development does not occur on land liable to flooding.	It is understood that the land is not liable to flooding.

Under Clause 4 of Schedule 2 (Streamside and Watercourse Protection) the decision guidelines that a responsible authority must consider, together with a development response is presented in the following table.

Decision Guideline	Response
The potential for flooding to occur, whether this will impose any additional flooding or drainage hazards or constraints over the land in the vicinity and whether any buildings can be adequately accessed in time of flood.	The development of this land will contribute a comprehensive drainage response to the site that is likely to have a positive impact on the site and surrounds – including Flax Mill Swamp.
The means of treatment and disposal of all	I understand that sewerage sullage will be

sewerage sullage, and other perishable wastes where connection to a public sewerage system is not viable.	disposed of via public sewerage system.
The possible effect of the development on the quality and quantity of water.	The development of this land will contribute a comprehensive drainage response to the site that is likely to have a positive impact on the quality and quantity of water on site and in the immediate surrounds.
The prevention of and the impact on soils and the need to prevent erosion.	Site works will be carried out in accordance with the guidelines and recommendations included in Environment Protection Authority publication No 275 “Construction Techniques for Sediment Pollution Control (May 1991)”.
The existing use of the land and the reason for the development in relation to the use.	The land is currently vacant, is zoned Industrial 1 and has been formally subdivided to accommodate industrial activity. The proposed development is in keeping with the existing zone and through the siting, design and management techniques that form this application – it is considered that the proposed development will have minimal impact on surrounding land uses and will assist in realising the economic and environmental potential of the land.

7.4 State Planning Policy Framework

Key State Planning Policy Framework (SPPF) within the Ballarat Planning Scheme considered relevant to the current proposal are detailed below.

Clause 12.07-2 (Waste Management)

Strategies identified through this clause to reduce the amount of waste generated and encourage increased reuse and recycling of waste materials include:

- Establishing new sites and facilities to safely manage Victoria’s solid hazardous waste in areas that will be viable long term and do not adversely affect sensitive land uses.
- Providing sufficient waste management facilities to promote recycling.
- Encouraging waste generators and businesses that use or recycle waste to locate near each other.
- Ensuring buffers for waste management facilities are protected and maintained.

My Response

The proposed development is consistent with the strategies detailed in this clause.

Clause 15.01- Protection of catchments, waterways and groundwater

The stated objective of this clause is ‘to assist the protection and, where possible, restoration of catchments, waterways, waterbodies, groundwater, and the marine environment’.

My Response

It is my opinion that this clause will be satisfied as any overland flow from the proposed facility will be treated on site before being discharged to Flax Mill Swamp.

I also note that any construction and operational works will be carried out in accordance with the guidelines and recommendations included in Environment Protection Authority publication No 275 “Construction Techniques for Sediment Pollution Control (May 1991)” and is likely to improve the existing drainage regime that appears to apply to the site and local area.

Clause 15.04 – Air Quality

The stated objective of this clause is “to assist the protection and improvement of air quality”.

My Response

An assessment of air quality considerations is presented under separate cover.

Clause 15.05 –Noise Abatement

The stated objective of this clause is “to assist the control of noise effects on sensitive land uses”.

My Response

An assessment of noise considerations is presented under separate cover.

Clause 15.11 – Environment – Heritage

The stated objective of this clause is “to assist the conservation of places that have natural, environmental, aesthetic, historic, cultural, scientific or social significance or other special value for scientific and research purposes, as a means of understanding our past, as well as maintaining and enhancing Victoria’s image and making a contribution to the economic and cultural growth of the State”.

My Response

Advice has been received from Aboriginal Affairs Victoria indicating that the site has not been subject to any recorded aboriginal heritage features.

The site is significantly disturbed by previous earthworks and activities.

Clause 17.03 - Industry

The stated objective of this clause is “to ensure availability of land for industry and to facilitate the sustainable development and operation of industry and research and development activity”.

In short this objective will be achieved, amongst other things by facilitation of industry development and protection of industry from the unplanned encroachment of sensitive land uses and the provisions of appropriate buffer / threshold distances.

My Response

I believe that the proposed development is appropriate within an Industrial 1 zone and subject to environmental risk assessments for air quality, noise and traffic to determine buffer / threshold distance in this instance.

Clause 18.10 – Infrastructure – Waste Management

The stated objective of this clause is “to assist control of the generation, transport and disposal of wastes so as to prevent pollution and land degradation”.

This clause relates more specifically to landfills and states that “the siting and management of waste disposal facilities must be in accordance with ... and relevant regional waste management plans”.

My Response

I believe that the proposed development will complement the intent and provisions of this clause by providing a facility that is consistent with the intent of the regional waste management plan (detailed below) and other State Government strategies / plans and initiatives to promote waste reduction and material recycling.

Clause 19.03 – Particular Uses and Development – Design and Built Form

My Response

The stated objective of this clause is “to achieve high quality urban design and architecture that reflects the particular characteristics, aspirations and cultural identity of the community; enhances liveability, diversity, amenity and safety of the public realm; promotes attractiveness of towns and cities within the broader strategic contexts”.

The proposed development is a purpose built facility that has been sited and designed in a sensitive manner to reduce and mitigate any potential impacts of design and built form on the surrounding area. Measures taken include, but are not limited to:

- siting the potential detrimental activities (ie concrete crushing) as far as possible away from sensitive land uses.
- restricting the hours of operation.
- screening the proposed development as would reasonably be required in an Industrial 1 zoned area

7.5 Municipal Strategic Statement

Key provisions of the Ballarat Municipal Strategic Statement (MSS) considered relevant to the current proposal are detailed below.

Clause 21.04 – Environment

This clause states that *“the wetlands to the west of the City, including Winter and Flax Mill Swamps, are also home to a range of seasonal or migratory water bird visitors.”*

My Response

It is submitted that the proposed development will not compromise the environmental significance of this feature.

Clause 21.05 – Settlement objectives and strategies

Key issues related to industrial areas include, amongst other things “improving the appearance and presentation of industrial uses”.

Under Clause 21.05-5 (Further Strategic Work) the following was noted:

“As a priority complete the investigation into the Potential Future Industrial Areas, in particular, the Ballarat Aerodrome and West Common Investigation Area. This investigation should include:

- The nature of constraints on industrial development associated with the heritage registration;
- The views of the land manager in relation to the rezoning of Crown Land;
- The potential for a Native Title claim and the implications if such a claim was made;
- Benefits of considering the area in separate sections;
- Interface issues;
- Impacts on flora and fauna and natural drainage systems, especially, the impact on Winter and Flaxmill Swamps.”

My Response

It is submitted that the proposed development will not compromise the features or works undertaken as part of this initiative.

Clause 21.06 – Economic development

Key issues for industry are recognised as being:

- Importance of the manufacturing sector to the local economy.
- Attracting new industry to increase the local employment base.

The objective as related to industry is “to create prosperity through the continued development of the manufacturing and transport and logistics sectors”.

Economic development strategies related to industry include:

- Encourage the development of new or expanded industries on existing industrially zoned land.
- Ensure that new industrial lots are of sufficient size, generally having a minimum area of 1,500 square metres, to accommodate their intended use.

My Response

I am of the view that the proposed development is consistent with this clause subject to appropriate environmental risk management and mitigation measures being put in place with respect to odour, noise, and dust implications on nearby sensitive land uses.

7.6 Local Policies

Key local policies provisions within the Ballarat Planning Scheme considered relevant to the current proposal are detailed below.

7.6.1 Industry (Clause 22.05)

Through this policy the importance of industry as an integral component of the economic growth and viability of the municipality is recognised.

Key policy objectives with relevance to the current application include:

- To ensure a high standard of urban design and landscaping is achieved to improve the amenity and appearance of industrial areas.
- To minimise the impact on the amenity of surrounding residential areas from traffic, noise and emissions generated by industrial land uses.
- To reduce and minimise conflict between industrial and non-industrial land uses.
- To facilitate the redevelopment of under-utilised sites for more intensive forms of industry to make more efficient use of existing infrastructure.
- To encourage best practice environmentally sustainable development, which utilises, where practicable, energy efficiency, water conservation and reuse, water sensitive urban design, and recycling or reuse of waste products.

This policy goes on to state under the heading of “Site Layout and Facilities” that:

“A high standard of urban design and amenity is desired within industrial areas to create a strong sense of place and to provide a quality environment for workers and visitors. Fencing on the front boundary of properties and in front of buildings can detract from the open streetscape appearance of industrial areas and limit the ability to provide attractive landscaped frontages that soften the visual impact of developments”.

It also goes on to state that *“it is policy that [amongst other things]:*

- *Industrial development in the immediate vicinity of residential uses open space or other sensitive land uses should enhance the preferred urban character of the neighbourhood, particularly in regard to the scale of the building, its landscaping, its setback from the street frontage and any abutting non-industrial uses.*
- *Any proposal to use or develop land for industrial purposes in the immediate area of residential uses, open space or other sensitive and uses must incorporate measures to limit adverse impact on the surrounding area, in particular, the emission of noise, artificial light, vibration, odour, fumes, smoke, vapor, steam, soot, ash, dust, waste water, waste products, grit or oil.*
- *The use of front setbacks should be restricted to landscaping, visitor car parking, access ways and signage.*
- *Storage and waste areas are to be appropriately secured and screened from sensitive uses and public sight.”*

My Response

I am of the view that there is nothing that the proposed development is consistent with this clause subject to appropriate environmental risk management and mitigation measures being put in place with respect to odour, noise, and dust implications on nearby sensitive land uses.

7.7 Additional Strategy and Policy

It is recognised that industry specific strategy, policy and guidelines are often prepared to inform the preparation of applications and to promote and achieve industry best practice. Often these documents are not formally referenced or incorporated within planning schemes but may be a valuable reference to assist in the preparation and assessment of applications.

Following are a number of such documents considered to lend support to the current proposal.

7.7.1 EcoRecycle, Guide to Best Practice at Resource Recovery and Waste

Transfer Facilities (2004)

This was prepared with the support of an advisory committee comprising representatives of:

- Industry operators.
- Local government.
- Victorian Environment Protection Authority.

- Work Safe Victoria.
- Victoria Waste Management Association.
- Insurance industry.

The stated purpose of this document is:

“... to promote best practice in the establishment and operation of resource recovery and waste transfer facilities. It may be used as the basis for risk assessments at these facilities.

The guide provides direction only – compliance is not mandatory unless required by a planning approval, tender brief or similar.”

The Guide addresses the following aspects of resource recovery and waste transfer facilities:

- Planning and siting.
- Design and construction.
- Operation and management.
- Rehabilitation and aftercare.

It is understood that these guidelines are currently being reviewed and a new version is expected in the first half of 2009.

My Response

Broad consideration has been given to these guidelines during the preparation of this planning application.

7.7.2 Victorian Government, Metropolitan Waste and Resource Recovery Strategic Plan (March 2009)

This strategic plan was prepared to further deliver on key targets and intentions of Towards Zero Waste – specifically for metropolitan Melbourne.

In particular, this includes *“encouraging the recovery and reuse of different materials; Victoria becoming a flagship for progress in resource recovery technologies, services and infrastructure; and improvement of recycling and efficiency in resources use”*.

Whilst this strategic plan specifically relates to the Melbourne metropolitan area it is identified that there is a role for regional Victoria to achieve waste reduction targets (p.8). On this basis, consideration could be given to this strategy which seeks to broadly promote investment in material reuse and recycling at a State level.

My Response

Consideration should be given to this strategic plan which broadly supports the proposed facility.

7.7.3 City of Ballarat, Waste Management Strategy (November 2007)

This states that Council is committed to the provision of cost effective, innovative, strategic and environmentally responsible waste management practises that continue to meet the needs of the community both now and into the future.

This strategy outlines the framework to meet this commitment over the next 5 years and presents background information on current practices and highlights the issues, challenges and strategies for the future direction of waste management services within the City of Ballarat.

Whilst this strategy appears to relate more specifically to domestic waste and Council operated facilities, it is noted that Section 9.5 of this strategy does identified that that there is demand for these commercial waste collection and that there have been a number of requests to Council from businesses to have this service provided by Council. This strategy goes on to identify the following risks and opportunities associated with this include:

Risk - As volume of materials is currently not clearly defined current resources may not be able to cope with additional volumes.

Opportunity - Additional recyclable material may be diverted from landfill.

My Response

It is my opinion that the proposed development is consistent with the intent of Council's Waste Management Strategy.

7.7.4 Victorian Government, Sustainability in Action :Towards Zero Waste Strategy (2005)

The vision of this strategy is for Victoria to be well advanced along the pathway of becoming a low waste society by 2014.

A state wide target of a 1.5 million tonne reduction in the projected quantity of solid waste generated by 2014 is established. It is noted that a major contributor to this target is the commercial and industrial sector which is supported to a lesser extent by municipalities.

Through this strategy a target has also been established for the commercial and industrial sector. This being an 80% recovery (by weight) of commercial and industrial solid waste for reuse and recycling by 2014. An interim target of 65% is established for 2008-09.

The waste hierarchy presented within this strategy provides a framework for setting strategic directions for waste and resource efficiency. This includes:

- Avoidance
- Reuse
- Recycling
- Recovery of Energy
- Treatment

- Containment
- Disposal

My Response

In my opinion the proposed development is consistent with intent and provisions of this strategy and will assist in meeting government targets in a market that is not directly supported / funded by the public sector.

7.7.5 Highlands Regional Waste Management Plan

This plan covers the municipalities of Central Goldfields, Pyrenees, Hepburn, Ballarat, Moorabool and Golden Plains.

The stated vision of this plan is *“to lead our community to a future of zero municipal waste to landfill”*.

The stated mission of this plan is *“to foster sustainable uses of resources and best practices in municipal waste management in order to protect and enhance the environmental values of the Highlands region as Victoria moves towards a zero waste society”*.

My Response

It is my opinion that the proposed development is consistent with the vision and mission of this plan.

7.7.6 Review of Water Transfer and Recycling Facility Provisions in Planning Scheme – Advisory Committee Issues and Options Paper (April 2009)

This advisory committee was appointed under Section 151 of the Planning and Environment Act 1987 with Terms of Reference including:

- The appropriateness of the existing definitions for waste transfer stations and material recycling facilities.
- The appropriateness of the land use controls applying to these facilities.
- The effectiveness of the mechanisms available to ensure these facilities comply with regulatory requirements.
- Any other matter that the Advisory Committee considers will improve outcomes.

This Issues and Options Papers is current out for public comment which will be accepted until 29 May 2009.

After this time it is understood that a hearing will be conducted and recommendations of the advisory committee handed down for consideration of the Planning Minister and the Department of Planning and Community Development.

My Response

Consideration has been given to issues and options paper which is does not appear to present anything that compromises the favourable consideration of this application.

8 CONCLUSION

Through this Statement, I conclude that:

- The use and development of a material recycling and contractors depot within an Industrial 1 zone land is highly appropriate.
- The State Planning Policy Framework, the Ballarat Municipal Strategic Statement and the local policies broadly support the proposed use and development within this location, subject to appropriate buffer / threshold distances – which are in fact being provided.
- The intent and provisions of the Environmental Significance Overlay (Schedule 2 – Streamside and Watercourse Protection) will not be compromised by the proposed development which seeks to re-contour the land on the eastern side of Flax Mill Swamp to protect the swamp from overland flows (including uncontrolled erosion and sediment) and to treat any overland flow in accordance with the Stormwater Management Plan before discharging this to Flax Mill Swamp.
- The proposal is broadly supported by State Government policy and initiatives that seek to encourage recycling and reduction in the amount of waste that goes to landfill.
- Subject to appropriate environmental risk assessment and mitigation measures, which have been subject to separate noise, air quality, dust and traffic assessments – the proposed facility is unlikely to contribute adverse amenity impacts and could satisfy the requirements of Clause 52.10 of the scheme and EPA policy requirements.