

Wollongong Local Planning Panel Assessment Report | 9 June 2020

WLPP No.	Item No.3
DA No.	DA-2020/197
Proposal	Change of use to water cremation facility
Property	124-130 Auburn Street, CONISTON
Applicant	Little Red Hen Pty Ltd
Responsible Team	Development Assessment and Certification - City Centre Team (MJ)

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Local Planning Panel - Determination

The proposal has been referred to Local Planning Panel for determination pursuant to clause 2.19(1)(a) of the Environmental Planning and Assessment Act 1979. The proposal is captured by Schedule 2, 3 & 4(b) of the Local Planning Panels Direction of 1 March 2018. The proposal is the subject of 10 or more unique submissions by way of objection.

Proposal

The proposal is for the fit out and use of 34 / 124-130 Auburn Street, Coniston as a water cremation facility.

Permissibility

The site is zoned IN1 General Industrial pursuant to Wollongong Local Environmental Plan 2009. The proposal is categorised as a crematorium and is permissible in the zone with development consent.

Consultation

The proposal was notified in accordance with Council's Community Participation Plan and received 13 unique submissions which are discussed at section 1.3 of the assessment report.

Main Issues

The main issue is that insufficient information has been provided to allow Council to undertake a full assessment. The deficit in information relates primarily to mitigation of environmental impacts, clarification of the operation of the business and waste management.

RECOMMENDATION

It is recommended that the application is refused as insufficient information has been provided to allow a full assessment against the provisions of Section 4.15 (1) of the Environmental Planning and Assessment Act 1979 – see Attachment 5.

1 APPLICATION OVERVIEW

1.1 PLANNING CONTROLS

The following planning controls apply to the development:

State Environmental Planning Policies

- SEPP 55 – Remediation of Land
- SEPP 33 Hazardous and Offensive Development
- SEPP (Infrastructure) 2007

Local Environmental Plans

- Wollongong Local Environmental Plan (WLEP) 2009

Development Control Plans

- Wollongong Development Control Plan (WDCP) 2009

Other policies

- Wollongong City-Wide Development Contributions Plan 2019

1.2 DETAILED DESCRIPTION OF PROPOSAL

The proposal comprises fit out and use of 34 / 124-130 Auburn Street, Coniston as a water cremation facility.

The work is limited to installation of equipment only, no construction works, or signage is proposed.

Proposed Land Use / Activity

Processing of human remains via Alkaline hydrolysis (water cremation). The application indicates that the process not notably audible and virtually free from odour. Cadavers are placed in chamber in water with 2% KOH (Potassium Hydroxide). On completion bones removed and returned to family. Wastewater to be removed by private waste contractor (Veolia).

- 3 x 'Aquamation Chambers'
- Hours of operation 7am – 7pm, 7 days a week (2 – 4 hours a day)
- 25 kg of KOH (Potassium Hydroxide) stored on site
- Staff: 1 – 2
- Private waste contractor to service development
- 2 car spaces dedicated to unit

1.1 BACKGROUND

The encompassing industrial warehouse development and Torrens title subdivision was approved under DA-2007/1520/D. The development was later strata subdivided. There is no clear record of the previous use of the subject unit 34 (lot 31). See development history below.

- DA-2007/1520, Proposed 3 stage development involving the subdivision of all the parcels into 3 separate allotments, part demolition of existing buildings and construction of 42 new light industrial units, proposed new cafe and strata subdivision thereof.
 - DA-2007/1520/A, Amendment to delete one large unit (unit 21) and replace with three units on the same footprint and modify the carparking and landscaping
 - DA-2007/1520/B, Modification to realign and resize some mezzanine levels, reconfiguring of two car spaces and the rewording of two (2) conditions relating to State Rail
 - DA-2007/1520/C, Modification C - construct mezzanine structure in unit 10
 - DA-2007/1520/D, Modification D – use of mezzanine structure in unit 10

- DA-2008/404, Demolition of buildings including warehouses, workshops, cafe, dwelling-house and carport
- SC-2008/107, Three (3) lot torrens title subdivision
- SC-2009/28, Twenty eight (28) lot strata subdivision
- SC-2009/15, Four (4) lot strata subdivision
- SC-2012/84, Light industrial Stage 2 15 strata title lot subdivision

The following provides a chronology regarding information requests and correspondence with the applicant:

- **31 March 2020** – Information request letter sent from Council's PAU, requesting:
 - Unpaid Fees
 - Owners Consent
 - Site plan, showing car parking & any construction works
 - Waste management Plan
 - Specifications for water creation unit and wastewater disposal
- **9 April 2020** – Email response from applicant, containing:
 - Aerial photo - Site plan
 - Confirmation contractor (VEOLIA) will take waste
 - General description of equipment
 - Request all future correspondence be via email
- **7 May 2020** – Information request sent from Council (Assessing Planner), requesting:
 - Waste Management Plan prepared in accordance with DCP
 - Details of Operational parameters, Procedures and Environmental Management Measures
 - Clarifying whether the proposal is Designated Development (storage of chemicals)
- **11 May 2020** – Following correspondence from NSW Health, follow up email sent from Council Planner clarifying previous information request, requesting further detail of operations and environmental management.
- **12 May 2020** – Email response from applicant containing documents (authored by applicant) comparing pollution impacts of cremation against alkaline hydrolysis and brief answers to matters raised in letter sent 7 May 2020, mostly unsatisfactory. Some matters not addressed at all.
- **21 May 2020** – Email from Council Planner advising information requests had not been satisfactorily addressed and reiterated matters raised in 11 May email. Advised information would need to be submitted shortly to enable consideration in making recommendation to WLPP.

Prelodgement Meetings

No pre-lodgement meeting was held for the proposal.

Customer service actions

There are no outstanding customer service requests of relevance to the development.

1.2 SITE DESCRIPTION

The site is located at Unit 34 / 124-130 Auburn Street, Coniston and the title reference is Lot 2 DP 1133785. The encompassing development is the subject of a strata scheme SP 88010, the development relates to Lot 31.

The site forms one industrial unit within a 42-unit complex with communal driveway and services areas. The complex contains a variety of industrial, commercial and recreational development.

The site is zoned IN1 General Residential and the surrounding area is characterised by a varied scale and age of commercial and industrial development. Notable locations in close proximity to the site include the Wollongong Cemetery and Coniston Public School. The site also abuts a rail corridor.

Property constraints

Council records identify the land as being impacted by the following constraints:

- Contamination: Potentially Contaminated Land due to Previous Uses
- Acid sulphate soils: No earthworks are proposed, and no concerns are raised in this regard.
- Flooding: The site is identified as being flood affected – ‘Flood Risk Precinct Classification under Review’. Council’s Stormwater Officer has provided the flood planning level for the purposes of standard conditions of consent, should approval be recommended.
- Restrictions / Easement: The encompassing site and related DP, SP and 88b instrument are affected by several easements, restrictions and right of carriageway easements, all generally related to access and services. There are no restrictions on the title that would preclude the proposal.
- Heritage: Wollongong cemetery (LEP item no. 6282) is located ~175m from the site and there is no visual connection between the sites. This is not a heritage constraint on the site, but notable considering the proposal.

1.3 SUBMISSIONS

The application was notified in accordance with Council’s Community Participation Plan 2019. 13 unique submissions were received and the issues identified are summarised in the table below.

Table 1: Concerns raised in submissions

Concern	Comment
Impact of death related processes on mental health of employees of nearby businesses	Not a matter for consideration under the Act.
Inappropriate development due to nature of business and proximity/relationship to other businesses within complex	The proposed use (crematoria) is permitted in the subject IN1 General Industrial Zone.
Lack of information with DA regarding specifics of process, waste management, emergency (spillage) controls and vehicle movements	The application failed to demonstrate how this development could operate whilst not resulting adverse environmental and social impacts.
Impact on property and rental value of units within complex	Not a matter for consideration under the Act.
Security implications due to out of hours access to gated complex.	The application contained insufficient information to permit a complete assessment against the relevant development standards and controls.
Water cremation process contrary to cultural / religious beliefs of operators within complex.	Specific personal beliefs or impact on property value are not generally considered a planning, legal or environmental consideration under the Act.
General objection to proposal as lack of information precludes potential support of application.	The application contained insufficient information to permit a complete assessment against the relevant development standards and controls.
The nature of the proposed use is inappropriate for industrial & business complex.	The proposed use (crematoria) is permitted in the subject IN1 General Industrial Zone.

Concern	Comment
Such a use requires dedicated site with without communal areas.	The proposed use (crematoria) is permitted in the subject IN1 General Industrial Zone.
Adverse effect on visiting clients and customers.	The application contained insufficient information to permit a complete assessment against the relevant development standards and controls.
Potential exposure of cadavers to public and occupants of other units.	The application contained insufficient information to permit a complete assessment against the relevant development standards and controls.
Proximity to food service premises and contamination potential due to chemical processes.	The application contained insufficient information to permit a complete assessment against the relevant development standards and controls.
Concern over transport of bodies from interstate and legal implications.	The application contained insufficient information to permit a complete assessment against the relevant development standards and controls.
Inappropriate location with regard to school and other child-oriented recreation businesses.	The proposed use (crematoria) is permitted in the subject IN1 General Industrial Zone.
Concern over mitigation of medical waste, odour and cadaver delivery/disposal issues.	The application contained insufficient information to permit a complete assessment against the relevant development standards and controls.
Unforeseen health effects of chemicals used in business process.	The application contained insufficient information to permit a complete assessment against the relevant development standards and controls.

1.4 CONSULTATION

1.4.1 INTERNAL CONSULTATION

Building Inspector

Council's Building Officer has reviewed the application and recommended conditions of consent.

Environment Officer

Council's Environment Officer has reviewed the application and raised several concerns regarding the following matters;

- References made by the applicant regarding cremation and gas emissions are not relevant to Australian standards and regulations.
- Exhaust system with appropriate filtration not provided to mitigate odours and emissions from fumes
- Operational management plan required addressing pollution incidents management, waste management, emergency spill response and uncontrolled vapour emissions.

- Clarity of operations regarding; Body preparations, Waste management, Waste liquid storage, screening of cadavers, clarity of plans, specifications of equipment used, body storage, duration of process, WH&S procedures, remains processing and emergency (spill) procedures.

Health Inspector

Council's Health Officer has reviewed the application and recommended conditions of consent.

Safer Community Action Team (SCAT) Officer

Council's SCAT Officer has reviewed the application and raised several concerns, namely, the lack of clarity in the application regarding;

- Security of the facility
- Chemical storage
- Waste management
- Vehicle movements

1.4.2 EXTERNAL CONSULTATION

NSW Health – Public Health Unit (Illawarra)

An environmental health officer from NSW Health – Public Health Unit (Illawarra) has reviewed the application and recommended further information be requested regarding the operation of the business and environmental protection measures.

Cemeteries and Crematoria NSW were also consulted and advised that they have no role in the design of these premises and have provided no comments.

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

1.7 Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

The development would therefore not be considered to result in adverse impacts on biodiversity and is consistent with the provisions of the Biodiversity Conservation Act 2016.

2.1 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT

2.1.1 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

Council records do not classify the site as contaminated land. However, they do note the site 'Potentially Contaminated Land due to Previous Uses'. Notwithstanding, the development does not appear to entail excavation or a change of use relating to a use identified under clause 7.

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY NO 33—HAZARDOUS AND OFFENSIVE DEVELOPMENT

Part 1 Preliminary

3 Definitions of “potentially hazardous industry” and “potentially offensive industry”

The SEPP defines “potentially hazardous industry” and “potentially offensive industry” as follows;

potentially hazardous industry means a development for the purposes of any industry which, if the development were to operate without employing any measures (including, for example, isolation from existing or likely future development on other land) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would pose a significant risk in relation to the locality—

(a) to human health, life or property, or

(b) to the biophysical environment,

and includes a hazardous industry and a hazardous storage establishment.

potentially offensive industry means a development for the purposes of an industry which, if the development were to operate without employing any measures (including, for example, isolation from existing or likely future development on other land) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would emit a polluting discharge (including for example, noise) in a manner which would have a significant adverse impact in the locality or on the existing or likely future development on other land, and includes an offensive industry and an offensive storage establishment.

Due to lack of information provided by the applicant regarding the development, Council was unable to determine whether the development is potentially (or actually) hazardous or offensive development and was therefore unable to be assessed under Part 2 and 3 of the SEPP.

As a complete assessment could not be undertaken due to lack of information, refusal is recommended. The application has not been fully considered in relation compliance with the SEPP.

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

Part 3 > Division 15 Railways

Subdivision 2 Development in or adjacent to rail corridors and interim rail corridors—notification and other requirements

85 Development adjacent to rail corridors

The development is not likely to have an adverse effect on rail safety, therefore this clause does not apply.

As a complete assessment could not be undertaken due to lack of information, refusal is recommended. The application has not been fully considered in relation compliance with the SEPP.

2.1.4 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

crematorium means a building in which deceased persons or pets are cremated, whether or not it contains an associated building for conducting memorial services.

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned IN1 General Industrial.

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- *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 facilitate and encourage appropriate forms of industrial development which will contribute to the economic and employment growth of Wollongong.*
- *To allow some diversity of activities that will not—*
 - (a) significantly detract from the operation of existing or proposed manufacturing and service industries, or*
 - (b) significantly detract from the amenity of nearby residents, or*
 - (c) adversely impact upon the efficient operation of the surrounding road system.*

Due to lack of information it was unable to be determined whether the proposal is satisfactory with regard to the above objectives, specifically whether the development is an appropriate form of industrial development which will contribute to the economic and employment growth of Wollongong or will significantly detract from the operation of existing or proposed manufacturing and service industries.

The land use table permits the following uses in the zone.

*Advertising structures; Community facilities; **Crematoria**; Depots; Freight transport facilities; Garden centres; General industries; Hardware and building supplies; Heavy industries; Helipads; Industrial retail outlets; Industrial training facilities; Kiosks; Light industries; Liquid fuel depots; Mortuaries; Neighbourhood shops; Oyster aquaculture; Places of public worship; Recreation areas; Recreation facilities (indoor); Roads; Service stations; Take away food and drink premises; Tank-based aquaculture; Transport depots; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Warehouse or distribution centres*

The proposal is categorised as Crematoria (a crematorium) as defined above and is permissible in the zone with development consent.

Commentary on use of Crematoria definition:

Crematorium ('crematoria') are specified in the land use table as permissible with consent. Reduction/disposal of bodies would ordinarily be defined 'crematoria', however the specific method to be employed on-site (alkaline hydrolysis or aquamation) involves the body being immersed in a high temperature water and liquid chemical solution which ultimately reduces the flesh to liquid. No "cremation" occurs. At the end of the aquamation process, bones and any other components remaining are sorted and either returned to the family or disposed of.

Relevant caselaw has been considered. In Carrick Group Pty Ltd v Blue Mountains City Council [2011] NSWLEC 1097, Commissioners Dixon and Johnson considered a modification application to modify an existing commercial building for use as a funeral facility. Neither 'funeral facility' nor 'crematorium' were defined in the relevant LEP.

The Court was required to consider whether the proposed cremator was an industrial use or commercial premises under the LEP. The court concluded that all aspects of the funeral facility were commercial in nature and were not industrial. Therefore, industrial definitions are not considered appropriate for the proposed development.

The Court accepted Council's argument that:

"...a particular type of development cannot be excluded from a definition within which it falls because of an evolution in public habits": *Caltex Oil (Australia) Pty Ltd V Holroyd Municipal Council (1983) 49 LGRA 77* at [78].

It may be appropriate therefore to consider the development of aquamation technology as a step in the evolution of body disposal that in the past would generally be characterised as 'crematorium'. Therefore, what may have been formerly rigidly interpreted as a 'crematorium' (i.e. using cremator to reduce bodies) arguably may now include aquamation. The central function of body disposal remains consistent in addition to an expectation of environmental and social impacts.

Part 4 Principal development standards

Clause 4.3 Height of buildings

The proposal does not alter the existing building height.

Clause 4.4 Floor space ratio

The proposal does not comprise any additional gross floor area.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The development is already serviced by electricity, water and sewage services.

Clause 7.3 Flood planning area

The site is flood affected and part of the land is below the “flood planning level”, being the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metres freeboard. In this instance the flood planning level is 14.46m RL. Given the lack of information provided it was unable to be determined whether the development represents a risk to life or property.

Clause 7.5 Acid Sulfate Soils

The proposal is identified as being affected by class 5 acid sulphate soils. An acid sulphate soils management plan is not required as no excavation is proposed.

2.2 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

NA

2.3 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

As a complete assessment could not be undertaken due to lack of information, refusal is recommended. The application has not been fully considered under the provisions of the DCP. Notwithstanding, see comments below made to the extent to which the application could be considered.

CHAPTER A2 – ECOLOGICALLY SUSTAINABLE DEVELOPMENT

Development controls to improve the sustainability of development throughout Wollongong are integrated into the relevant chapters of this DCP.

Insufficient information was provided with the application to determine the environmental impacts of the development and whether it is ecologically sustainable.

Discussion under chapter B5 has been included as it applies to industrially zoned land and industrial nature of surrounding uses, despite the proposal not being commercial in nature.

CHAPTER B5 INDUSTRIAL DEVELOPMENT

<i>Control/objective</i>	<i>Comment</i>	<i>Compliance</i>
<u>3 Factory / warehouse distribution centre building design requirements</u>	NA – No change to building design proposed.	NA
<u>4 Building design / façade treatment</u>	NA – No change to building design proposed.	NA
<u>5 Energy and Water Efficiency</u>	Unable to be determined due to lack of information regarding equipment used.	N
<u>6 Safety and security</u>	Unable to be determined due to lack of information regarding security of premises. See further assessment under Chapter E2.	N
<u>7 Carparking requirements</u>	Use of existing car parking areas (2 spaces).	Y

<i>Control/objective</i>	<i>Comment</i>	<i>Compliance</i>
	See further assessment under Chapter E3.	
<u>8 Loading dock facilities, vehicular access and manoeuvring requirements</u>	Unable to be determined due to lack of information. See further assessment under Chapter E3.	N
<u>9 Landscaping requirements</u>	NA – No change to landscaping.	NA
<u>10 Outdoor storage areas</u>	NA – No such area proposed.	NA
<u>11 Shipping container storage facilities</u>	NA	NA
<u>12 Motor Vehicle Repair Workshops</u>	NA	NA
<u>13 Fencing</u>	NA	NA
<u>14 Use of factory / warehouse units</u>	Council's Building / Fire Safety Officer has reviewed the proposal and recommended conditions of consent.	Y
<u>15 Abrasive blasting industry</u>	NA	NA
<u>16 Industrial development adjoining a residential zone</u>	NA	NA
<u>17 Retailing in industrial areas</u>	NA	NA
<u>18 Yallah Industrial Estate</u>	NA	NA
<u>19 Jardine Street Industrial Estate</u>	NA	NA
<u>20 Advertising structures / signs</u>	NA	NA
<u>21 Stormwater drainage requirements & flood study requirements</u>	No change to stormwater design proposed.	N

<i>Control/objective</i>	<i>Comment</i>	<i>Compliance</i>
	Given the lack of information provided it was unable to be determined whether the development represents a risk to life or property. See Chapter E14 and E15.	
<u>22 Riparian corridor management</u>	NA	NA
<u>23 Utility infrastructure services</u>	NA	NA
<u>24 Subdivision of industrial land</u>	NA	NA
<u>25 Road design & construction requirements – road types and characteristics for public roads</u>	NA	NA
<u>26 Restricted access to arterial or sub-arterial roads</u>	NA	NA
<u>27 Street lighting</u>	NA	NA
<u>28 Strata subdivision of multi-unit factory / warehouse distribution centre complexes</u>	NA – Encompassing complex is subject to an existing strata scheme.	NA

CHAPTER D1 – CHARACTER STATEMENTS

Coniston

In respect to the subject area the character statement reads: “The General Industrial IN1 zone generally bounded* by Bridge Street, the railway, John Cleary Place and Springhill Road will cater for a range of general industrial and port related activities, given its proximity to the inner harbour of Port Kembla and direct road links to the Southern Freeway.”

**It is noted the site does not geographically fit within the stated location, however, it is adjacent, zoned IN1 and the statement uses the phrase “generally bounded”.*

Due to insufficient information it was unable to be determined whether the proposal is consistent with the existing and desired future character for the locality.

CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY

Level access is provided to the unit, no additional accessibility measures are proposed. Council’s Building Officer has reviewed the proposal and raised no concerns regarding accessibility.

CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

Compliance with Chapter E3 unable to be determined due to lack of information regarding security of premises.

CHAPTER E3: CAR PARKING, ACCESS, SERVICING/LOADING FACILITIES AND TRAFFIC MANAGEMENT

7 Parking demand and servicing requirements

Chapter E3 does not provide a car parking ratio for crematoria. Two (2) car spaces are allocated to the unit in the strata scheme.

Exemptions

There is a bus stop located within 400m of the site upon the Auburn Street frontage and a train station located within 800m. Therefore a 30% reduction would be applicable, should a car parking rate be identified.

8 Vehicular access

Existing shared access to be used.

9 Loading / unloading facilities and service vehicle manoeuvring

Insufficient information provided to demonstrate loading / unloading of cadavers may be done in an appropriate manner.

CHAPTER E7: WASTE MANAGEMENT

A Site Waste Minimisation and Management Plan has not been provided in accordance with this chapter. Insufficient information has been provided to determine whether waste management may be undertaken in accordance with the requirements of Chapter E7.

CHAPTER E13 FLOODPLAIN MANAGEMENT

The site is flood affected. Given the lack of information provided it was unable to be determined whether the development represents a risk to life or property.

CHAPTER E14 STORMWATER MANAGEMENT

No change to existing stormwater management system.

CHAPTER E20 CONTAMINATED LAND MANAGEMENT

Council records do not classify the site as contaminated land. However, they do note the site 'Potentially Contaminated Land due to Previous Uses'. Notwithstanding, the development does not entail excavation or raise any specific concerns regarding impacts of previous contamination.

2.3.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2019

No levy is applicable as refusal is recommended.

2.4 SECTION 4.15(1)(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 7.4, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 7.4

There are no planning agreements entered into or any draft agreement offered to enter into under S7.4 which affect the development.

2.5 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

4 What is designated development?

Insufficient information was submitted with the application to determine whether the application is declared to be designated development.

93 Fire safety and other considerations

Council's Building / Fire Safety Officer has reviewed the proposal and recommended conditions regarding fire safety.

2.6 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT

As a complete assessment could not be undertaken due to lack of information, refusal is recommended. The application has not been fully considered in relation to the likely impacts of the proposal. Notwithstanding, see comments below made to the extent to which the application could be considered.

<u>Context and Setting:</u> The matter of suitability of this specific business in this location has been the subject of several objections made regarding this development. Crematoria are permitted in the subject IN1 General Industrial Zone. However, insufficient information regarding the operation of the business has been submitted in order to determine whether this development is acceptable considering the context and setting of the site.
<u>Access, Transport and Traffic:</u> Insufficient information has been submitted to determine whether appropriate loading / unloading areas are available to the unit.
<u>Public Domain:</u> No notable impact on the public domain is anticipated.
<u>Utilities:</u> The proposal is not envisaged to place an unreasonable demand on utilities supply. Due to lack of information this was unable to be determined definitively.
<u>Heritage:</u> No heritage items will be impacted by the proposal.
<u>Other land resources:</u> Insufficient information has been submitted to determine whether the proposal will contribute to orderly development of the site.
<u>Water:</u> The site is presently serviced by Sydney Water. Insufficient information has been provided to determine whether the proposal will have an unreasonable water consumption.
<u>Soils:</u> No excavation is proposed. Potential impact on soils undetermined due to lack of information with regard to disposal of chemical waste.
<u>Air and Microclimate:</u> Insufficient information has been submitted regarding emissions and environmental mitigation measures to determine whether the development will have an adverse impact on air and microclimate.

<p><u>Flora and Fauna:</u></p> <p>There is no vegetation removal or landscaping proposed or required.</p>
<p><u>Waste:</u></p> <p>A satisfactory waste management plan was not submitted with the application. Therefore, due to insufficient information it was unable to be determined whether there would adverse impacts due to waste management at the premises.</p>
<p><u>Energy:</u></p> <p>The proposal is not envisaged to have unreasonable energy consumption.</p>
<p><u>Noise and vibration:</u></p> <p>Insufficient information was submitted regarding the proposed equipment and process to determine noise and vibration impacts.</p>
<p><u>Natural hazards:</u></p> <p>The site is flood affected, given the lack of information provided it was unable to be determined whether the development represents a risk to life or property.</p>
<p><u>Technological hazards:</u></p> <p>Insufficient information was submitted regarding the proposed equipment and process to determine whether the development will result in technological hazards.</p>
<p><u>Safety, Security and Crime Prevention:</u></p> <p>Insufficient information was submitted regarding the security of the premises.</p>
<p><u>Social Impact:</u></p> <p>The social impact of the development was the subject of many objections made regarding the proposal.</p> <p>With regard to the application of the Precautionary Principle, due to lack of information there is significant uncertainty regarding the likely social impacts of the proposal. In addition, Council's Community Services Officer has reviewed the proposal and raised concerns with the lack of clarity of business operations.</p>
<p><u>Economic Impact:</u></p> <p>Due to lack of information the relevant economic impacts of the proposal are not determined.</p>
<p><u>Site Design and Internal Design:</u></p> <p>Insufficient information has been submitted to determine whether the application results in any departures from development standards or Council's development control plans.</p>
<p><u>Construction:</u></p> <p>No construction works are proposed.</p>
<p><u>Cumulative Impacts:</u></p> <p>Insufficient information has been submitted to determine potential negative cumulative impacts.</p>

2.7 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

Due to lack of information the proposal was unable to be considered as to whether the site is suitable for this development.

2.8 SECTION 4.15(1)(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

See section 1.3 of this report.

2.9 SECTION 4.15(1)(E) THE PUBLIC INTEREST

Insufficient information has been provided to determine whether the development will have any unreasonable impacts on the environment or the amenity of the locality. Therefore, the proposal is not considered to be in the public interest.

3 CONCLUSION

A full and complete assessment of the proposal having regard to the Heads of Consideration under Section S4.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 2009 and all relevant Council DCPs, Codes and Policies, has not been possible due to the lack of information regarding the development.

Insufficient information regarding business operations and environmental management has been submitted, despite several requests.

4 RECOMMENDATION

It is recommended that development application DA-2020/197 be refused for the reasons outlined at attachment 5.

5 ATTACHMENTS

- 1 Aerial Photograph
- 2 Wollongong LEP 2009 Zoning Map
- 3 Statement of Environmental Effects
- 4 Plans
- 5 Draft reasons for refusal



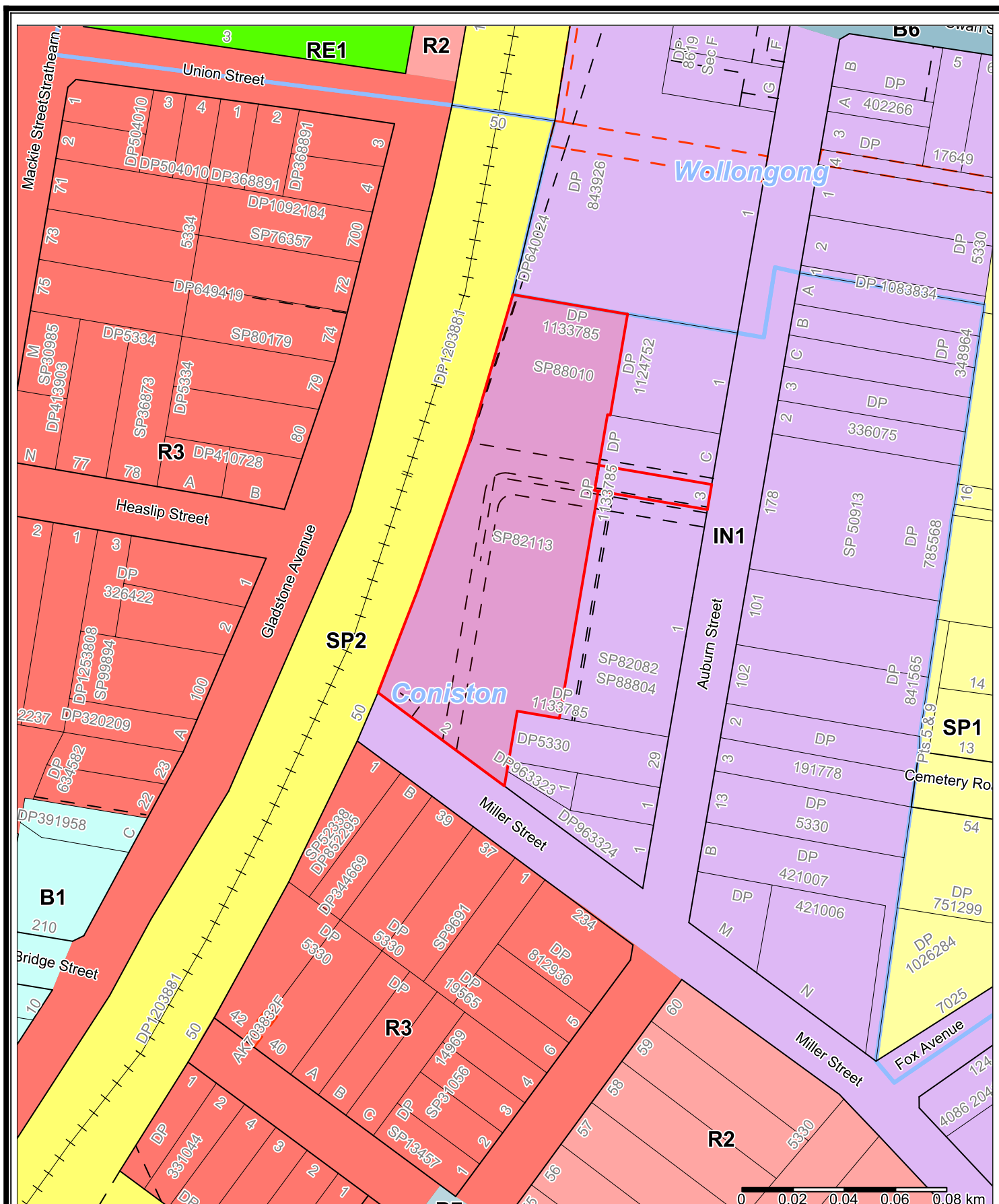
Aerial Photograph (2019)



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Wollongong LEP 2009 Zoning Map



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Re: Factory 34 124/130 Auburn Street, Coniston, 2500, NSW

Statement of Environmental Effects.

• Description of the business	Alkaline hydrolysis (water cremation)
• Noise,	No noise from operation, other than vehicles attending site.
• Odour	Virtually free of odour, if any a slight soap smell similar to a home laundry
• Security measures, Building	CCTV and swipe entry
• Security measures Equipment	Requires Code to be entered each time
• any processes / machinery	Stainless Steel Equipment, not machinery
• Members of the public	Do not attend this facility
• patron capacity	not applicable
• any preparation / sale of food	none
• any amplified / live music	none
• Parking	2 dedicated spaces at front of building

Use description

• Working hours of operation.	7am - 7pm, not continuous, 2 to 4 hrs day
• Staff numbers	1 or 2
• Materials	KOH, 25kg bags, stored in SS Cupboard
• Waste. water left after process	To be removed by Veolia
• Process Description	Alkaline Hydrolysis. Cadaver is placed in container in water with 2% KOH On completion, Bones removed and returned to family. Any water left to be removed by Veolia

From:
Sent: Friday, 13 March 2020 4:29 PM
To: CS Planning Applications
Subject: 2020/197 DA 2015/1213

hello Planning team

I am not sure if our application was clear enough.

This application is to relocate the equipment that is currently located at
99 Military Rd. Port Kembla pursuant to **DA 2015/1213**

This will not be an additional installation, the previously approved equipment will be moved from Port Kembla to Auburn St if approved

regards
John Humphries

Hi

Development	Business Premises - change of use to water cremation facility
Location	Lot 2 DP 1133785, Lot 3 DP 1133785, Lot 31 SP 88010 124-130 Auburn Street, CONISTON NSW 2500, 124-130 Auburn Street, CONISTON 2500,34/124-130 Auburn Street, CONISTON NSW 2500

1. Waste Management Plan

Submit a waste management plan prepared in accordance with Chapter E7 of the Wollongong Development Control Plan 2009.

This plans should address the

- 1 quantity of waste/wastewater generated, 900 litres, mostly H₂O
- 2 disposal details and the Collected by veolia
- 3 facility that legally accepts the waste. VEOLIA

2. Operational Parameters & Environmental Management

- i. Procedure for cadavers entering encompassing complex, the unit itself and to what extent communal property will be utilised.

Only driving along driveway, will then drive into our factory and close doors.

NO use will be made of communal property at all. Only the truck

- ii. Procedure for ensuring persons using communal property are not visually or physically exposed to cadavers.

A screen Vehicle will enter our factory and doors will be closed

- iii. Estimated frequency of processing and delivery of cadavers, including vehicle type.

Estimated 5 to 10 times each week. Usually delivered in an unmarked Panel Van

- iv. Procedure for persons claiming remains following processing.

The “ashes” are returned to the home of the family in person by a staff member

- v. Procedure for accidents/incidents (spills etc).

Appropriate “Industry Spill kits” will be kept on site.

- vi. Total operational capacity at any one time and are cadavers stored on site awaiting treatment.

Usually 2 at a time, but may be increased to 2 if demand is strong

Delivery is only by appointment; we shall have refrigeration on site as required by law. But intend to arrange delivery to avoid the need

- vii. Clarify amount of chemical/s stored on site and means of storage.

Up to 1 tonne in 25KG bags stored in a Stainless steel lockable cupboard.

- viii. Expand on explanation of Alkaline hydrolysis process and associated procedures.

Attach sheet

- ix. Specifications are required for the water cremation / aquamation unit.

Attach sheet

- x. Clarify anticipated emissions and any air pollutant mitigation measures
e.g. The Alkaline Hydrolysis cremation process may generate gases including Mercury vapour into the atmosphere.

Among the advantages of AH is that it avoids the Mercury vapor created by cremation.

It only takes 12 cremations to reach the maximum exposure to airborne mercury.
Some cremators incinerate hundreds or even thousands of bodies each year.

AH process creates ZERO air pollution. The water does NOT BOIL.

3. Designated Development

Clarify whether the development is classed as 'Designated development', as per the provisions of Clause 4 (and related Schedule 3) of the Environmental Planning and Assessment Regulation 2000.

4. Wollongong Local Planning Panel

The application will be required to be referred to the Wollongong Local Planning Panel for determination. This is in accordance with Part 2 - Contentious Development of Schedule 2 of the referral criteria set by the NSW Department of Planning. The criteria for referral in this instance is the number of objections received during notification.

As amended plans and documentation are required, the application may be re-notified in accordance with Council's Community Participation Plan, for which a fee may apply.

Please submit associated documents **by email** to [CS.Planning.Applications\(g\).wollongong.nsw.gov.au](mailto:CS.Planning.Applications(g).wollongong.nsw.gov.au). Please remember to include the application number in the subject of the email.

You must accurately complete all sections of the attached Lodgement of Additional Information form and return it with the required information.

We will defer further assessment of your application until we receive this information. The period between this letter and either (a) the provision of the additional information to Council or (b) written advice that the information will not be provided, will not form part of the assessment period for the purpose of any appeal, pursuant to Clauses 109 and 112 of the Environmental Planning and Assessment Regulation 2000. Please note that if the information is not received within 14 days, we may refuse your application. If you require an extension of time to prepare this information please make this request as soon as possible.

Your application has been sent to other sections of Council for assessment and this may result in more information being sought or additional matters needing to be addressed.

Martin Jameson

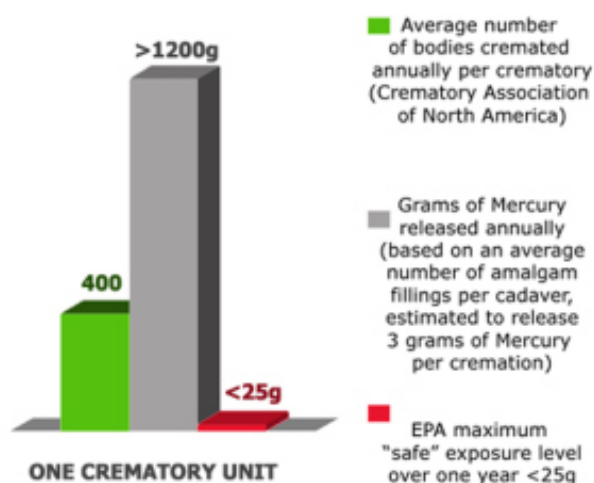
(02) 4227 7111

There is sufficient evidence in the form of scientific studies and expert opinions to warrant concerns.

Crematory emissions contain known toxins, including mercury from dental amalgam fillings, cadmium, lead, dioxins, furans, hydrogen chloride, nitrogen oxides and other pollutants at levels exceeding National Air Quality Guidelines and those put out by the State of Minnesota.

Heavy metals and PCDD/Fs stand out because of their toxicity and capacity for bioaccumulation, which means chronic and ongoing potential risks for human health exist, even at the disputably low levels the industry represents.

EPA (USA) has reportedly been talking to some of the larger volume crematories in Minnesota about ways they can reduce their mercury emissions, because of the large number of protected watershed areas across the state.



THIS shows that the mercury emissions from a crematorium doing 400 cremations a year is 48 times the safe level with 400 per year

Some Australian crematoriums do approx 6,000 per year = **18,000g**
or **720 times the max exposure**

Mercury_Impact_Graph

Jordan Municipality, Minnesota, USA

Citizens lobby group

We are aware and have been earnestly communicating to the officials in MN about current scientific findings which indicate levels of mercury from crematory emissions are eleven times higher than the data used by the EPA when they made the decision over ten years ago not to regulate crematories under the Clean Air Act, Solid Waste Incinerators category.

This decision was based on the data from a single test at a single crematory. Whether or not a crematory is officially called a solid waste incinerator, it is still an incinerator and should not be allowed to operate in a C1 Neighborhood Business zone, near so many homes and children.

Jordan Municipality's own building inspector has classified this crematory as an incinerator.

There has not been one single scientific study that concludes crematory emissions are safe.

The World Health Organization has stated "a safe level of mercury exposure ... has never been established." The data being provided by the crematory industry is out-dated, incorrect and amounts to a mix of marketing materials and a few selective tests done on new units as they were being installed.

Testing was not done for the toxins of concern. Mercury is a known neurotoxin which affects developing fetuses and young children even at low levels of exposure. Dioxins are known to cause cancer and birth defects. Human health is compromised by significantly smaller concentrations of these toxins than ever imagined.

In summary, there is enough scientific data to indicate the potential for harm to human health from living near a crematory is very real.

There is good reason to expect in the future stricter regulations on crematory emissions are coming, but they are not in place yet.

We are just not willing to allow this crematory to become established in Jordan, only to later learn our health and properties have been adversely impacted.

Fire Cremation/ Incineration

Global warming 300,000 hours of pollution emitted at 1000 C into air

Pollution 200-400 kgs greenhouse gas

Burning produces heat and air pollution, including mercury from tooth fillings and metal vapours from artificial joints and other surgical implants.

- hydrogen fluoride (HF),
- nitrogen oxides,
- sulfur dioxide,
- toxic **mercury**,
- carbon monoxide,
- particulate matter,
- hydrogen chloride (HCl), and
- heavy metals,

Huge energy use of PROPANE gas

Pacemakers Need to be removed or they will explode in cremator

HIP IMPLANTS are melted & add to pollution

Jewellery destroyed

If embalmed. The carcinogenic formaldehyde ads to pollution with toxic carcinogenic fumes

Bodies often have other things in them such as cytotoxic drugs from cancer treatment, all carcinogens in themselves.

Which increases cancer risk for crematorium workers. Only South Australia seem to have regulations to protect workets

According to Marika Gandhi, MP, wife of the late Sanjay Gandhi who is campaigning to stop Cremation in India. In a population where cremation is practised
one in 200,000 people will get cancer each year.

That is 6 million Indians dying of cremation induced cancer each year.

Research is also showing increased levels of cancer among residents living near crematoria, and especially in office staff in administration buildings close to cremators as air conditioning draws in the fumes emitted close by

Resources Coffins. Every year in the US 75,000 cubic metres of furniture timber is used in coffins

aquamation / Water Cremation/

NO Pollution emissions

Only 5-10% of energy used

No need to remove Pacemaker

Hip implants intact and can be reused

Jewellery intact and returned to family

Formaldehyde broken down to constituent chemicals and no longer carcinogenic

Aquamation destroys all DNA, RNA, all of the U-listed Cytotoxic agents used in cancer treatment, all biological toxins, all chemical warfare agents (nitrogen mustard, etc.), and glutaraldehyde, formaldehyde, and phenol, the elements used in embalming.

Animal bodies (for pet cremations) often have sodium pentobarbitol and other drugs in them as well.



Auburn St

Yintec Australia Pty

MHE-Demag
Australia Pty

OSET Bikes DownUnder
ELECTRIC

Booth Signs

Auburn St

130 Auburn Street

Gateway Industrial Park

KTC Model
Cars & Trucks

RPMGlobal
Wollongong (GeoGas)

Sorrento Espresso

126

North

Factory 34

Google

Yintec Austr

MHE-Demag
Australia Pty

118

Factory 34

2 designated
car spaces

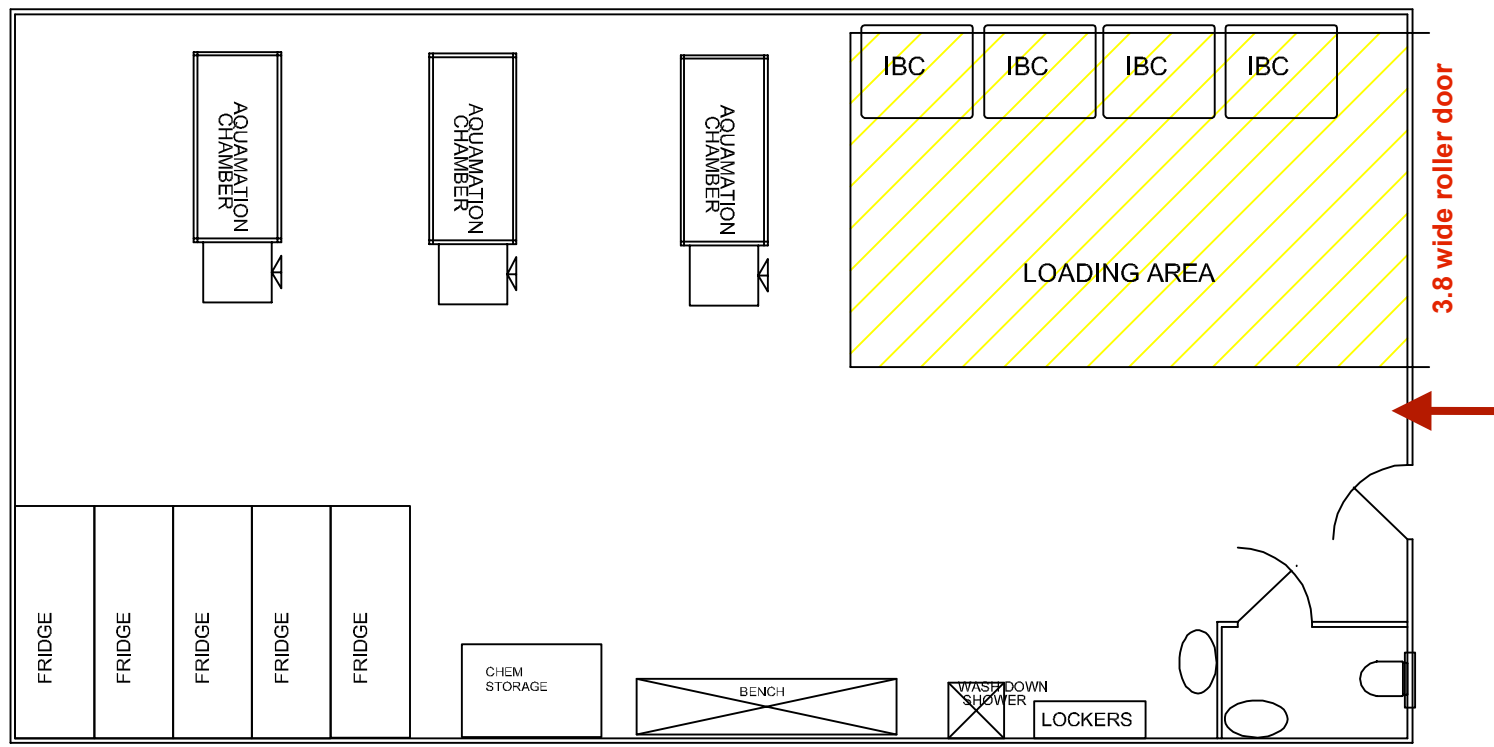
Car 1
Car 2

OSET Bikes DownUnder
ELECTRIC

122
Booth Signs

Gateway Industrial Park

130 Auburn Street



Floor concrete
walls Pre formed
concrete

REV:	DESCRIPTION:	BY:	DATE:
AMENDMENTS:			

SITE:	Unit 34 124-130 Auburn St Coliston	002	-	03/03/20
		DRAWING NO.	PROJECT NO.	DATE.
TITLE:	Proposed Layout	1:50	NW	A
		SCALE AT A4.	DRAWN.	CHECKED.
				REVISION.











DRAFT REASONS FOR REFUSAL

The reasons for the refusal of the proposed development are:

1. Insufficient information has been provided to allow a full assessment against the provisions of Clause 4 of the Environmental Planning and Assessment Regulation 2000.
2. Insufficient information has been provided to allow a full assessment against the provisions of Section 4.15 (1) of the Environmental Planning and Assessment Act 1979
3. Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development failed to demonstrate consistency with the objectives of the IN1 General Industrial Zone under Wollongong Local Environmental Plan 2009.
4. Pursuant to the provisions of Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act 1979, it is considered that the application has failed to demonstrate consistency with the State Environmental Planning Policy No 33—Hazardous and Offensive Development.
5. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development has failed to demonstrate compliance with the provisions of Wollongong City Council's Development Control Plan 2009.
6. Pursuant to the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development failed to demonstrate the absence of adverse environmental or social impacts.
7. Pursuant to the provisions of Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, the application has failed to demonstrate that the proposed development site is suitable for the proposed development.
8. Pursuant to the provisions of Section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979 it is considered that in the circumstances of the case, approval of the development would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.