New South Wales Government
Independent Planning Commission

FELICITY CADWALLADER		**OBJECT**	Submission ID: 218287
Organisation:	*N/A*	Key issues:	*Social impacts,Visual impacts, design and landscaping,Land use compatibility (surrounding land uses),Traffic,Other issues*
Location:	*New South Wales 2576*		
Attachment:	*Attached overleaf*		

Submission date: 11/25/2024 2:09:30 PM

Please see attached document.

Planning Commissioners
NSW Independent Planning Commission
By Website Upload

25 November 2024

Dear Commissioners,

Submission – Moss Vale Plastics Recycling Facility (SSD-9409987)

I am writing to express my strong opposition to the proposed State Significant Development for the construction and operation of a plastics reprocessing facility in Moss Vale, with the capacity to process up to 120,000 tonnes of mixed waste plastic per annum and store up to 20,000 tonnes of mixed plastic (known as **Plasrefine**).

I refer to the case referral documents from the Department of Planning, Housing and Infrastructure (**Department**), including the recommended conditions of consent dated 10 October 2024 (**Conditions**) and the assessment report dated 10 October 2024 (**Assessment Report**).

I am a local resident (within the Secondary Study Area, being between 800 metres and 5 kilometres of the proposed site) and mother to two children. My son attends Oxley College and my husband teaches there, also located within the Secondary Study Area. I am also a projects lawyer with a focus on renewable energy.

I do not agree with the Department's assessment that the environmental, health and social impacts of Plasrefine can be mitigated and/or managed to ensure an acceptable level of environmental performance, subject to the recommended Conditions.

Unintended Consequences

Economists have long criticised policy makers and regulators for causing unintended consequences in the market with their regulatory interventions.

And here we have a Government desperately scrambling to meet an arbitrary 2030 plastic recycling target by attempting to shove a bad square peg into an unfortunate round hole.

This is evidenced by the sheer number of conditions and mitigations the Department has had to impose on Plasrefine in an attempt to get the proposed project up to an acceptable level of risk in terms of environmental, health and social impacts. Further, most of these conditions are so ambiguous that they are arguably unenforceable or are so qualified that they are of no practical benefit.

Or actually, the conditions do not even exist. For example, there is nothing "spelt out in the conditions" prohibiting the operation of the facility while the doors are open, contrary to verbal advice from Mr Chris Ritchie to the Commission, as set out on page 71 of the day 3 transcript:

> *"In terms of the period of 5 hours that you mention, I might take that particular time and question on notice and I'll come back with a response, because that's – as I've said before, generally it's fast and closed and then while that facility is operating, which is spelt out in the conditions, the doors have to remain closed while they're operating. But again, I'll take that question on notice and I'll come back with some more detail."*

And further, that:

> *"…there are doors that will primarily be closed, but our conditioning will be saying that only while those doors are closed can the site be operating. So, from a noise impact, from an air impact, because they have to be shut while it's operating, I would say that the outcomes of the assessment would remain that those criteria would be addressed."*

These criteria **<u>have not</u>** been addressed because these conditions **<u>do not</u>** exist in the Conditions. This is just one example of the quality of the review performed by the Department on this proposal,

which appears to, at best, have been a desk top assessment and predominately based on box ticking. The Commission **cannot rely** on advice provided by the Department on this proposal.

I also note the letter from the Commission to the Department dated 28 October 2024, requesting further clarification from the Department on advanced manufacturing, with a request for response by 1 November 2024. To date, a response has either not been provided by the Department or is not available to the public.

A further example of poorly considered box ticking (of which there are many) relates to fire risk. As extracted below, the Conditions include B60 and B61 with respect to hazards and risk and the applicant has included FS1 and FS3 in its management and mitigation measures. In my view, these have no practical impact on the prevention or mitigation of an actual fire.

HAZARDS AND RISK

Fire Safety Study

B60. At least one month prior to the commencement of construction the Applicant must prepare a Fire Safety Study for the development to the satisfaction of Fire and Rescue NSW and the Planning Secretary. This study must:

(a) cover the relevant aspects of the Department's Hazardous Industry Planning Advisory Paper No. 2, 'Fire Safety Study Guidelines' and the New South Wales Government's Best Practice Guidelines for Contaminated Water Retention and Treatment Systems (NSW HMPCC, 1994); and

(b) consider the operational capacity of local fire agencies and the need for the development to achieve an adequate level of on-site fire and life safety independence.

B61. The Applicant must comply with all reasonable requirements of the Planning Secretary in respect of the implementation of any measures arising from the report submitted in respect of conditions B60, within such time as the Planning Secretary may agree.

Fire and incident management		
FS1	*Fire safety*	The fire safety system for the proposal will be refined during detailed design and developed in consultation with FRNSW.

Fire and incident management		
FS3	*Fire risks*	Prior to commencement of operations, the following will be developed: – an operations plan for stockpile management, with a copy to be included within the Emergency Services Information Package – an Incident Response Management Plan for staff and other persons at the facility in the event of fire – an Emergency Services Information Package for firefighters in accordance with the FRNSW (2019) guideline *Emergency services information package and tactical fire plans.*

Practically speaking, this means that the obligation to consider the operational capacity of local fire agencies and the need for adequate on-site fire safety independence only arises **after** consent to the project has been given and only one month prior to construction.

Further, Plasrefine only has the obligation to comply with the **reasonable** requirements of the Planning Secretary with respect to implementing measures from the report. The timing of the report would obviously play into what would be considered "reasonable", given a potential construction start date of one month.

This also does not change the essential fact, **which cannot be mitigated**, that this facility has no appropriate buffer zone, has consent to store up to 20,000 tonnes of mixed plastic and is located on bushfire prone land. This is notwithstanding that we know that there is **no** operational capacity of local fire agencies to deal with a plastics fire.

We can assume that if the Planning Secretary tried to impose any measures that would properly address the fire risk and lack of local operational capacity (and which would presumably have an economic impact on the project), this would likely be deemed unreasonable given the scale of what would be required to address the fire risk at this site and would not have to be implemented by Plasrefine in any event.

Prevention is better than cure, or class actions

There is an increasing body of evidence that shows that plastics recycling facilities are an incredible health risk to those living near them and the surrounding environment. There is a growing number of class actions related to plastic waste, microplastics and PFAS contamination.

Here in Australia, we have the potential class action based on PFAS contamination of the Cascade water filtration plant arising from fire fighting foam used on a tanker fire in 1992 and the general PFAS contamination class actions against the Department of Defence.

Overseas, in its recent lawsuit against ExxonMobil, the State of California has noted that "significant health harms to communities can result from fires fuelled by plastic waste".[1]

In April 2024, the US EPA announced the final National Primary Drinking Water Regulation for six PFAS and it has stated that it expects that over many years this final rule will prevent PFAS exposure in drinking water for approximately 100 million people, prevent thousands of deaths, and reduce tens of thousands of serious PFAS-attributable illnesses.[2] The final rule requires that public water systems must monitor for the six specific PFAS, including initial monitoring (by 2027) and ongoing compliance monitoring, and also provide the public with information on the levels of these PFAS in their drinking water beginning in 2027.

Further, the US EPA announced funding of $1 billion to help ensure that all people have clean and safe water by helping states and territories implement PFAS testing and treatment at public water systems and to help owners of private wells address PFAS contamination.

If Plasrefine is approved, we can only hope that the Government will extend its Safe and Secure Water Program. This is a $1 billion regional infrastructure co-funding program aimed at prioritising projects that address the highest risks and issues for regional NSW water so that we can clean up the inevitable contamination of the riparian zones located on the site of Plasrefine, to the extent it can be.

Given PFAS contamination, and the cost of cleaning it up (including the cost of defending class actions), is emerging as a huge regulatory and liability issue for Governments and business around the world, the precautionary principle should be applied to prevent such contamination in the first place. A plastics recycling plant should not be built on a site that has the potential to contaminate Australia's largest urban water supply dam and Sydney's drinking water.[3]

Intended Consequences

The Commission has heard from a number of speakers across three days of public meetings and I understand that there are well over 1000 written submissions, with more to be lodged by the end of the submission period, including submissions by community members who are experts in their field and expert reports commissioned by local, concerned community members.

These submissions cover a range of issues relating to risks associated with fire, pollution (air, water, toxic smoke and microplastic), truck movements, facility design and manifest errors in the project documentation that all lead to the same conclusion that this facility **should not** be built on this site.

If the Plasrefine project is approved by the Commission, there can be no doubt that both the Commission and the Department were made aware of these risks and that it was likely that one or all of them would occur during the life of the project.

As a result, when (and not if) there is:

- a plastics fire at Plasrefine;
- contamination of Sydney's drinking water catchment; and / or
- an increase in pollution related illnesses in the local region,

[1] https://oag.ca.gov/system/files/attachments/pressdocs/Complaint_People%20v.%20Exxon%20Mobil%20et%20al.pdf
[2] Per- and Polyfluoroalkyl Substances (PFAS) | US EPA
[3] Warragamba Dam - WaterNSW

this **will not** be a case of unintended consequences or the result of the “invisible hand” but will be **direct and causal** - the Government and the Commission approved this facility on this site in the face of overwhelming expert advice, scientific evidence and plain common sense that **this is not the right site**.

Best regards,

Felicity Cadwallader.