

JRPP No:	2009STH020
DA No:	DA-2009/1636
PROPOSED DEVELOPMENT:	Resource Recovery Centre – 133-141 Five Islands Road and Jarvie Road, Cringila
APPLICANT:	Site Plus Pty Ltd
REPORT BY:	Planning Ingenuity Pty Ltd, Independent Planning Consultants

EXECUTIVE SUMMARY

Reason for consideration by Joint Regional Planning Panel

The proposal has been referred to Joint Regional Planning Panel pursuant to clause 13B(1)(e) of State Environmental Planning Policy (Major Development) 2005. The development is for “designated development” pursuant to Schedule 3 of the Environmental Planning and Assessment (EP&A) Regulation 2000. This report has been prepared by Planning Ingenuity Pty Ltd, Independent Planning Consultants

Proposal

The proposal seeks to develop and operate a resource recovery centre with capacity to process up to 70,000 tonnes per annum of construction and demolition waste into viable secondary materials for reuse. The proposal does not involve any emplacement of materials within the site.

Proposed building works will primarily involve construction of an entrance weighbridge, amenities building, site office accommodation and minor plant storage. Landscape and environmental rehabilitation works are also proposed.

The proposal will involve use of a crusher on site to process materials as well as front end loaders, a bobcat, excavator, soil sieve, truck and water tanker. The site will operate from 7.00am to 5.00pm Monday to Friday and 7.00am to 1.00pm Saturdays and will be accessed via Five Islands Road.

Permissibility

The subject development application was submitted in December, 2009. Subject to savings provisions under Clause 1.8A of Wollongong Local Environmental Plan (WLEP) 2009 which was gazetted on 26 February 2010, the application must be assessed under WLEP 1990. Under WLEP 1990, the subject site is zoned 7(b) Environmental Protection Conservation which prohibits light industry. Notwithstanding, the use is permitted pursuant to Clause 39 which refers to additional permitted uses in Schedule 2 – Additional Uses. The proposal is also permitted as an “additional use” under the recently gazetted WLEP 2009.

Consultation

Neighbour notification and advertising has been carried out in accordance with the requirements of the EP&A Act, 1979, EP&A Regulation 2000 and Council’s Notification Policy. In addition, the application was the subject of a Community Briefing Session on 10 August, 2010 which was held to provide information to the community on the proposal and the process for assessment. The application requires an environmental protection licence under the Protection of the Environment Operations (POEO) Act 1997 and a controlled activities permit under the Water Management Act (WMA) 2000 and is therefore

Integrated Development pursuant to Section 91 of the EP&A Act, 1979. The application has been referred to the Department of Environment, Climate Change and Water (DECCW) and the NSW Office of Water in this regard and General Terms of Approval (GTAs) have been provided. Consultation with the RTA, Department of Planning and internal divisions of Council has also occurred prior to and following submission of the development application. Director General's Requirements (Department of Planning) were provided to the applicant prior to submission of the application (see Attachment 6).

Main Issues

The main issues arising from the assessment of the application are:-

- Potential noise impacts of site operations which include use of a crusher for processing of waste materials, as well as other heavy machinery for sorting of waste;
- Traffic generation, particularly heavy vehicles, potential impacts on surrounding road network and general amenity of nearby residential uses;
- Environmental impacts particularly related to air quality (through dust emissions), water quality and habitat protection;
- General amenity impacts on nearby residential development including noise, dust and visual impacts;
- Control of operational management.

RECOMMENDATION

Despite significant public opposition to the proposed development application, it is considered that any potential significant amenity impacts can be avoided or mitigated through operation of the facility in accordance with strict conditions of development consent and an Environmental Protection Licence issued by DECCW. The main concerns of the community relate to traffic, noise and potential health impacts. In these respects, assessment of the proposal indicates that all relevant statutory standards can be met. Ongoing monitoring of the proposal will be undertaken in accordance with these standards.

The recommended conditions contained in Attachment 4 are significantly detailed to provide reasonable safeguards against potential amenity impacts such as noise, dust, water quality, traffic safety and environmental harm. It is recommended that these conditions be consolidated into an Operational Environmental Management Plan.

It is recommended that Development Application 2009/1636 be approved pursuant to Section 80 of the Environmental Planning & Assessment Act, 1979, subject to the conditions of consent contained within Attachment 4 to this report.

ASSESSMENT REPORT

1 Background

On 9 October, 1957 development approval was granted for a quarry on the subject site. It is understood that quarrying operations were undertaken on the site for approximately 20 years. During this period of use, the quarry was also used for storing equipment, mostly associated with the extractive industry. Storage of equipment continued beyond the quarrying operations ceasing.

On 28 December, 1990, Wollongong LEP 1990 was gazetted. The LEP zoned the site 7(b) Environmental Protection Conservation. The 7(b) zone permitted a limited range of uses with development consent including, inter alia, dwelling-houses, ecotourism facilities and leisure areas and subject to satisfaction of Clause 11 of the LEP, agriculture, child care centres, educational establishments, mines, recreation areas, and restaurants.

In 1993, Development Application (DA 1993/774) was submitted to Council for waste landfill (to serve the general public) and eventual rehabilitation of the site for recreation use. In January 1995 that DA had still not been determined and was modified to be a proposal for disposal of Council construction waste only and eventual rehabilitation.

In June 1995, DA 1993/774 was approved (Development Consent is provided in Attachment 5. It was approved to include two stages of development. Stage 1 allowed for “stockpiling, recycling and minor emplacement of Council construction waste”. Stage 2 allowed for “general builder’s refuse emplacement and rehabilitation” however prior to this stage commencing, several requirements for consultation with state government departments and criteria relating to rehabilitation were to be satisfied.

Stage 2 of the development consent also allowed for processing of waste, limiting processing volume to crushing of 200 tonnes per annum and wood-chipping to 4,000m³ per annum. The consent did not however place any limitation on the overall amount of waste that could be delivered to the site, sorted and then transferred elsewhere for Stage 1 or Stage 2.

Notwithstanding the absence of limitations in the development consent, the development assessment report considered by Council on this application noted that Stage 1 would involve stockpiling and reuse of up to 30,000 tonnes per annum and Stage 2 would accept up to 110,000 tonnes per annum. The report also notes that the use would likely generate an average of 15 trucks per day to the site for Stage 1 and 270 trucks plus 130 cars per day for Stage 2.

Only Stage 1 of development consent DA 1993/774 has been enacted. That is, no permanent emplacement of construction waste has occurred and the site has not been rehabilitated. The approval placed no timeframe on Stage 2 occurring and therefore the site could effectively continue to be used by Council for stockpiling and recycling indefinitely.

In 2005, WLEP 1990 was amended to allow for a resource recovery use as a permitted use within the 7(b) zone for operation not just by Council but also by a third party operator (note limitations on development consent 1993/774). The current LEP, WLEP 2009, which was gazetted in February 2010 also allows use of the site by a third party operator.

On 20 July 2007 an initial meeting was held with Council’s planning officers and the applicant’s consultants to discuss the current proposal.

On 18 March 2009, a “Planning Focus Meeting” was held between the applicant and Council staff to further discuss submission requirements for a development application. Following that meeting, the applicant obtained Director-General’s Requirements (Department of Planning) in accordance with Clause 73 of the EP&A Regulation 2000 which outlined the statutory matters that must be included in any Environmental Impact Statement (under Clauses 71 and 72 of the Regulation).

On 17 December, 2009, the subject development application was submitted to Council.

Between 18 January, 2010 and 22 February, 2010 the application was publicly notified to 1067 surrounding property owners, occupiers and other interested parties. The application was exhibited at Wollongong Council Chambers, Wollongong Central Library, Warrawong Library and the NSW Department of Planning offices in Sydney and Wollongong.

On August 10, 2010 a community briefing session was held at Cringila Community Hall in relation to the subject development application. The session was attended by the JRPP, Planning Ingenuity Pty Ltd (independent planning consultant), council representatives, the applicant and general community. The session was intended to clarify the proposal and process for assessment for the community’s benefit. The session was attended by approximately 60 community members. At that meeting, questions were taken on notice with the applicant undertaking to formally respond. The responses to these questions are contained in Attachment 6.

2 Site description

The proposal relates to use of Lot 2 in DP 217590 and relies on access via a sealed right of way across Lots 41 and 42 in DP 841437. Lot 2 is irregular in shape and has an area of 7.6 hectares. The site is located approximately 900m from the intersection of Jarvie Road and Lake Avenue and 550m from the access road entrance on Five Islands Road.

The site is a former rock (latite) quarry site. The area of excavation on the site sits towards the centre with vertical excavated walls up to 15m-20m in height. The quarry has been excavated into the original hillside and as a result the land naturally rises from the top of the excavated walls creating an amphitheatre type appearance when viewed from above.

The quarry floor has two distinct levels with a 10m difference between the levels. The north-eastern part of the excavated area is approximately at RL 55.0 and the south-western part is approximately at RL 65.0. The two levels are linked by a ramped informal roadway.

The subject site has been extensively cleared and highly degraded by its previous uses. The *Flora & Fauna Assessment* submitted by the applicant indicates that the site contains no natural vegetation despite having been originally covered by subtropical rainforest. The least disturbed areas are at the edges of the site where grassland, scattered trees and some weed infestation characterise the top of the quarry. These areas also include several “desire” trails which have further degraded the natural setting.

The site has most recently been used for the storage of recyclable construction materials by Council which is stockpiled within the two levels of the quarry.



View from the top of Jarvie Road, looking northwest towards Mt Kembla over the top of the project site



View from the edge of Jarvie Road looking west across the Berkeley Hills to the Illawarra Escarpment



View from the entrance road into the quarry (project site) looking south up to Jarvie Road. The power lines in the background are located along Jarvie road.

Figure 2: Site Photographs

The site is relatively isolated from surrounding properties as a result of its being excavated into the original hillside and being bordered by dense vegetation on its eastern side.

The nearest dwellings to the subject site are on Jarvie Road, on the ridge to the south-east of the site. These dwellings are approximately 35m from the south-eastern corner of the site however are approximately 130m from the part of the site that is proposed for use under this application. Given that the area of proposed use is excavated below the original hillside, the line of view from the properties is largely obstructed by the remaining hillside at the edge of the site.

To the west of the site is dense bushland and approximately 280m from the site entrance are local sportsgrounds which are accessed from Merrett Avenue. To the west of the bushland and the sportsgrounds is the village of Cringila, a low density residential suburb with detached dwellings occupying allotments generally along east-west streets stemming from Lake Avenue which contains the local commercial centre.

The nearest dwellings to the subject site, other than the aforementioned dwellings on Jarvie Road, are on Lackawanna Street, approximately 260m from the south-eastern corner of the site. View lines from these properties are generally limited to the upper parts of the quarry walls due to the existing excavation on the site and the existing access road. The nearest dwellings to the proposed access route are located 80m to the west on Merrett Avenue. The subject site is not visible from Merrett Avenue however the access road is partly visible.

To the north and north-west of the site are industrial uses accessed from Five Islands Road and Industrial Road, including BOC gases and an Integral Energy Depot. To the south-west is Sydney Water land incorporating a reservoir.

3 Proposal

The proposal seeks to use the subject site as a resource recovery centre which will sort, recycle and transfer a variety of construction and demolition waste sourced from private and public sector projects as shown in Table 1 below. The applicant submits that council/council works will be the source of 40% of waste, the private development industry will generate 50% and the operator (Recyclers NSW) will generate 10%.

Table 1: Source of Waste Material (extract from applicant's EIS)		
Source	Material	Percentage
Buildings	<ul style="list-style-type: none"> Building demolition materials including bricks, roof tiles, concrete slabs. Recovered bitumen, concrete curb, slabs and road base from road work replacement. Rock from excavation. 	50%
Road Works		
Excavation		
Public Reserves	<ul style="list-style-type: none"> Excavated uncontaminated material from road and footpath construction. Topsoil from building and construction sites. 	15%
Private Property		
Building Construction	<ul style="list-style-type: none"> General unsorted building waste. Soiled materials, paneling, packaging, timber, containers, paint tins, PVC piping, steel and copper piping etc. 	35%

The applicant seeks approval for receipt of a maximum of 70,000 tonnes per annum however states that initial operations will receive approximately 30,000 tonnes and will ramp up to the maximum capacity within 5 years. The materials received at the facility will be processed into reusable materials such as road

base or drainage materials, top soils will be certified then reused on site or transferred off site, and plastics, glass, timber and steel will be screened, sorted and transferred to a second phase recycler.

Proposed Site Layout

The proposed site layout is identified in the submitted site plans (refer to Attachment 3). Access to the site will be via the existing paved right of way from Five Islands Road. A site office/inspection point and weighbridge will be located at the entrance to the site. Adjacent to the site office will be a employee and visitor parking area comprising six spaces. From the main entrance, a circulation road will extend around the southern perimeter of the former excavated quarry, looping back to the front entrance.

Beyond the main entrance, the site is broken into three primary areas as follows:

- Receival area – accessed from the main loop road are receival bunkers allocated to separate materials where materials will await processing;
- Processing area – located towards the centre of the site and accommodating a crushing machine, this area will screen, sieve, crush and sort materials;
- Storage and despatch – materials will be stockpiled according to product type pending transfer upon sale.

In addition to these areas, a machinery storage area will be located off the south-eastern edge of the internal loop road. The northern part of the site, to the west of the proposed site office will be an area dedicated to Council for use as a compound for storage of materials used in engineering, building and maintenance functions (labelled as ‘Wollongong Council Area’ on the plans). This area will be fenced and accessed via a separate gate located adjacent to the proposed entrance to the waste recovery facility.

Proposed Machinery Use

The proposal will include use of the following machinery:

- Crusher and screen (applicant notes that at commencement of the operation this will be brought in for one week every six weeks);
- One bobcat for general clean-up;
- Two front end loaders for material transfer on site and loading of trucks;
- One excavator;
- Soil sieve;
- One truck for use on site to move materials and steel bins;
- One utility vehicle for general site operations; and,
- One water tanker for dust control.

It is noted that the crusher will be screened by acoustic barriers to assist with noise mitigation. Details of the potential noise generation of the crusher are discussed elsewhere in this report.

Operational Management

The proposal seeks to operate weekdays from 7am to 5pm, Saturdays from 7am to 1pm and will be closed on Sundays and public holidays. The site will operate with 5 full time employees and 2 part time employees including labourers, supervisor, operations director and machine operator.

The applicant indicates that the proposal will generate daily (over 10 hours) 20 inbound and 20 outbound truck movements. These movements will generally be 12 tonne trucks, however will also include an allowance of 24 tonne trailer trucks. Approximately 60-75% of trucks will leave the site loaded.

The likely breakdown of truck movements is included below:

Table 2: Origin of truck movements	
Origin	No. of Trucks per annum
Council Trucks	2350
Private Trucks	3000
Recyclers NSW	450
Total	5800 (inbound loaded trucks)

The applicant has indicated that the proposal will operate under an Operational Environmental Management Plan (OEMP) which will consolidate all conditions of approval and GTAs into one reference document. This Plan would deal with site security, procedures for materials checking (including policy on non-acceptance of asbestos or contaminated materials), environmental management such as placement of shaker pads at site entrance and policy on prohibition of site emplacement. The applicant notes that the status of all materials received will be checked at the site entrance and then transferred to a concrete pad for sorting and classification. If clean fill is brought to the site, the contractor will be required to produce a VENOM report which certifies that the material is not contaminated.

Site Amenities

Initially the site will be serviced by port-a-loo toilet facilities however within 5 years it is anticipated that an on-site pump-out system will be implemented. Potable water will be imported to the site however rainwater tanks will cater for toilet flushing (when implemented) and general washing. Where possible, water for dust control will be sourced from the on-site catchment pond that will collect site runoff.

Rehabilitation and Stormwater Management

The applicant has submitted a Landscape Plan that proposes partial rehabilitation of the subject site. The proposal will retain all areas of regrowth vegetation on the subject site and will provide additional planting to revegetate the southern part of the site, effectively from Jarvie Road to the top of the quarry wall. This revegetation will assist with screening views into to the site. Weed infestation will also be eradicated.

In addition, the proposal seeks to implement a sediment pond, south of the main entrance point. This pond will be at the end of a water treatment train comprising source controls such as bunds, catch drains and gross pollutant traps. The pond will be drawn down for use for dust suppression as needed. A number of frog habitat ponds are proposed along the western side of the sediment pond.

Environmental Management

As indicated, the applicant proposes that the use will operate in accordance with an Operational Environmental Management Plan which will address the following, as well as any other specific conditions of development consent or GTAs:

- Dust Management Plan;
- Stormwater Management Plan;
- Sediment Retention Pond Maintenance Plan;
- Noise Management Plan;
- Truck Management Plan;
- Waste Management Plan;
- Employee, Contractor and Subcontractor Induction Plan;
- Site Monitoring and Annual Reporting.

These matters are discussed in detail elsewhere in this report.

4 Environmental Planning and Assessment Act 1979

In determining a development application, the consent authority must take into consideration matters referred to in Section 79C(1) of the EP&A Act 1979 as are of relevance to the development. The following table summarises the relevant matters of consideration under section 79C(1) and the significant matters are discussed in further detail further in the report.

Section 79C(1) of the Environmental Planning and Assessment Act 1979	
(a)(i) any environmental planning instrument	
<u>State Environmental Planning Policies</u> <ul style="list-style-type: none"> SEPP (Major Development) 2005 SEPP (Infrastructure) 2007 SEPP No. 33 – Hazardous and Offensive Development SEPP No. 55 – Remediation of Land Illawarra REP No. 1 (deemed SEPP) <u>Local Environmental Planning Policies</u> <ul style="list-style-type: none"> Wollongong Local Environmental Plan (WLEP) 1990 <p><i>Detailed assessment is provided below the table.</i></p>	
(a)(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority	
<ul style="list-style-type: none"> Draft Wollongong Local Environmental Plan (DWLEP) 2009 (exhibited but not commenced prior to lodgement of this DA) <p><i>Detailed assessment is provided below the table.</i></p>	
(a)(iii) any development control plan	
<ul style="list-style-type: none"> Wollongong DCP No. 6 – commercial and Industrial Development <p><i>Detailed assessment is provided below the table.</i></p>	
(a)(iia) Any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F	
<p>There are no planning agreements entered into or any draft agreement offered to enter into under S93F which affect the development.</p>	
(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)	
<p>Clause 92:-</p> <p>The application does not involve demolition;</p> <p>The site is not located on land to which the Government Coastal Policy applies.</p>	

b) the likely impacts of development

Context and Setting:

The subject site is set within a disused quarry to the west of the Cringila village. The site is essentially wedged between industrial uses to the north and west, the Berkeley Hills and Sydney Water land to the south and public open space and residential properties within Cringila to the east and south-east. Despite the proximity of the subject site to residential uses, the landform characteristics of the site (being a quarry that sits below the Berkeley Hills, screened by dense vegetation on its northern and eastern sides) result in relative isolation in visual terms. The site is also isolated in terms of its access being via a private right of way directly accessed from Five Islands Road which is a major road. The physical isolation of the site also provides opportunities for minimisation of noise, dust and other potential amenity impacts.

Despite its 7(b) zoning, the site has been used for industrial uses of varying intensity since the 1950s, when quarrying operations commenced. In 2005 the site was specifically zoned for the use proposed, setting a direction for the long term planning context of the site. Whilst the community has expressed discontent with the zoning of the site, the assessment of the subject proposal must interpret the zoning of the site as an expression of Council's desired land use for the site and assess the impacts of development that is permitted by that zoning.

In this regard, it is considered that given the isolation of the subject site and that the use will essentially operate at the floor of a disused quarry, potential environmental and amenity impacts of the proposal can be effectively managed in a manner that will not adversely affect the setting of the village of Cringila. Should the application be supported, the applicant would be subject to a detailed set of recommended conditions as well as "General Terms of Approval" imposed by DECCW. Further, the applicant must obtain and operate in accordance with an Environmental Protection Licence issued under the *Protection of the Environment Operations Act 1997*. This licence would require compliance with environmental controls on noise, dust emissions, water quality and several other matters. The applicant has also proposed that an Operational Environmental Management Plan be prepared in accordance with all conditions and GTAs. This Plan would be reviewed over time and would address issues including:

- Air quality
- Noise
- Traffic
- Water Quality/Quantity Management
- Waste Management
- Site Security
- Flora and fauna protection
- Vegetation management
- Occupational health and safety
- Site compliance, monitoring and annual reporting

As detailed in the following sections, it is considered that subject to operation of the use in accordance with conditions of development consent, an Environmental Protection Licence and an Environmental Operations Management Plan, the proposal will not significantly alter the site's relationship with area context or setting.

Section 79C(1) of the Environmental Planning and Assessment Act 1979

Access, Transport and Traffic:

The applicant indicates that the proposal will generate daily (over 10 hours) 20 inbound and 20 outbound truck movements. These movements will generally be 12 tonne trucks, however will also include an allowance of 24 tonne trailer trucks. Approximately 60-75% of trucks will leave the site loaded.

The Traffic Impact Assessment submitted with the application reviewed three possible entrance points to the site, being Five Islands Road, Merrett Avenue and Jarvie Road. Due to the potential for significant impacts on residential amenity within the Cringila village from the latter two options, the proposal provides that all vehicles will enter the site via an access road (right of way) from Five Islands Road.

In terms of the intensity of traffic generation it is noted that the current development consent (DA1993/774) on the site limits the amount of waste that can be processed on the site however does not place any limitation on the overall amount of waste that may be delivered to the site, sorted and transferred elsewhere. The development assessment report considered by Council on this application noted that the use would likely generate an average of 15 trucks per day to the site for Stage 1 and 270 trucks plus 130 cars per day for Stage 2 however did not reflect any limitations in conditions of consent for either stage. Whilst Stage 2 of the current consent for the site has not been enacted, it is still a valid consent, and the traffic estimates for truck movements associated with Stage 2 are six times that proposed under the current application.

Despite the projected vehicle movements for the site, and whilst no specific data is available for current or former operations on the site in terms of vehicle movements, the applicant submits that the current operation provides on average up to 5 to 10 truck movements during a typical peak morning period (noting that operations on the site are sporadic and there will be no movements for certain periods of time).

Whilst the RTA Guide to Traffic Generating Development suggests that only 10% of the daily trips to the site are likely to occur in the peak for the current proposal, the Traffic Impact Assessment submitted by the applicant takes a more conservative approach and indicates that a worst case peak would involve 8 trucks entering and 8 trucks leaving the site. Approximately 5 car movements will occur throughout the day. Accordingly, the increase in actual movements is not significant and is far less than what was envisaged under Stage 2 of the current approval that applies to the site. The most significant change likely is that truck movements will occur across a longer period of time during the day, as the applicant submits that truck movements currently cease by approximately 4pm. Notwithstanding, based on the worst case peak identified above, the remainder of the day would involve long periods of very low traffic generation.

The development application, several plan amendments and a Traffic Impact Assessment submitted by the applicant have been considered by the RTA and Council's Traffic Engineer. Initially, the proposal provided for a right turn into the accessway to the site from Five Islands Road however since that time truck routes have been revised and now involve east bound trucks looping back to the site rather than turning right into the site. Additional information submitted by the applicant's Traffic Consultant includes travel routes for different sized vehicles. The RTA and Council's traffic engineer have considered these documents and support the proposal subject to conditions of approval being imposed. Most relevantly, it is recommended that a "Truck Movement Plan" be submitted prior to issue of a Construction Certificate for the site works that incorporates these proposed routes.

It is considered that subject to the Operational Environmental Management Plan being implemented, as discussed elsewhere in this report, the amenity impacts associated with truck movements to and on the site will not be significant.

Section 79C(1) of the Environmental Planning and Assessment Act 1979

Public Domain:

The proposal will not directly affect the public domain. The proposal relies on an existing access road from Five Islands Road to the entrance of the site which is largely concealed from public view, other than being partially visible to the rear of the sporting fields and from some dwellings at the western edge of the Cringila residential area. The upper parts of the quarry are partially visible from Jarvie Road however the base of the quarry which is the primary area of use is not visible and in any case the proposed operations will not differ significantly from previous operations on the site in a manner that will alter visual impacts in the public domain. The proposal also seeks to revegetate the southern part of the site which will assist with improving the appearance of the site particularly from Jarvie Road.

Utilities:

The applicant indicates that existing utility services are available to the subject site and will be adequate to service the proposal.

Heritage:

No heritage items will be impacted by the proposal. There are no heritage items or conservation areas within proximity of the site. The site is not identified as having any aboriginal cultural significance.

Other land resources:

The proposal is not envisaged to impact upon any valuable land resources subject to the requirements of an Operational Environmental Management Plan being implemented during operations. The proposal will utilise a former quarry for an economic use that will also encourage sustainability through recycling and reuse, thereby conserving land resources in a broad sense. The proposal does not involve the emplacement of waste or any further excavation on the site that would affect the characteristics or capabilities of the land.

Water:

The applicant has submitted a Stormwater Management Plan, designed to minimise potential water quality impacts from contaminated stormwater runoff. The system includes a sediment retention basin and a gross pollutant trap to prevent pollutants entering the water course. The sediment retention basin will be used as a source of water for dust suppression, site cleanup and landscape irrigation. The proposal is integrated development under Section 91 of the EP&A Act, 1979 as a “controlled activity approval” is required under the *Water Management Act* 2000. The concept for stormwater management has been considered by Council and the NSW Office of Water and subsequent to the submission of additional information by the applicant, was considered acceptable. The NSW Office of Water has issued “General Terms of Approval” and Council’s Stormwater Engineer has provided recommended conditions of development consent.

DECCW’s General Terms of Approval do not include any requirements for water quality monitoring or preparation of an Operational Environmental Management Plan. Discussions with DECCW revealed that an OEMP is not a requirement for a resource recovery centre, and that if an OEMP was produced for the proposed resource recovery centre, DECCW would be able to review the OEMP, but would not be able to endorse or approve the OEMP. Council’s Environmental Officers however consider that an OEMP is an essential mechanism (in addition to conditions of development consent) to control operations on the site over time. A condition of consent is recommended in this regard and includes a requirement that an OEMP address water quality/water quantity management (including management of the bunded areas and the management of spills and leaks) to the satisfaction of Council. Furthermore, annual reporting to DECCW will be required in accordance with the Environmental Protection Licence.

Soils:

The subject site is a disused quarry that sits below the ridge of the Berkeley Hills. The original topsoil and approximately 20m of underlying rock material has been excavated and therefore the natural topography of the site has been substantially modified. The site also contains some areas of controlled fill as a result of previous use by Council as a refuse disposal depot. The current proposal does not involve significant changes to the existing site topography. The application has been considered by Council's Geotechnical Engineer and is considered to be acceptable subject to conditions of development consent.

Contamination issues are discussed in detail in relation to State Environmental Planning Policy No. 55, elsewhere in this report.

Air and Microclimate:

The subject site is located in close proximity to the Port Kembla industrial area and as a result, air quality is reflective of an area characterised by heavy industry. Emissions from vehicles associated with the site operation are controlled by the *Fuel Quality Standards Act* and it is considered that the intensity of use is not significant enough to warrant further compliance initiatives in this regard. As indicated, Stage 2 of the current approval on the site anticipated a higher number of daily heavy vehicle trips and therefore the proposal will not exceed the likely impacts if that use were implemented.

In terms of the site operations, dust presents the main potential impact on air quality. The applicant has submitted an *Air Quality Impact Assessment* prepared in accordance with the DECCW *Approved Methods for Modelling and Assessment of Air Pollutants in NSW (2005)*. The assessment considers the potential dust emissions for the site used at full capacity (70,000 tonnes, including 700 hours of crushing and screening) and takes into account all potential weather conditions, thereby providing a theoretical worst case scenario. The modelling takes into account standard mitigation measures such as watering of trafficked surfaces, water sprays to operate on the crusher, bunded product areas and watering of loose surfaces on an as-needed basis.

The assessment concludes that the proposed development would have a small contribution to dust levels in the area and that compliance with NSW DECCW objectives for air quality will be met with low risk of potential exceedances. The report has been reviewed by DECCW and subject to "General Terms of Approval" issued by DECCW, the proposal is considered to be acceptable. DECCW notes that details of the proposed actions to monitor dust and particulates against DECCW's criteria will be determined by the General Terms of Approval issued by the DECCW in their Environmental Protection Licence for the use. Accordingly, the applicant will be obligated to meet DECCW standards at all times and any perceived breaches would be investigated.

As indicated, Council's Environmental Officers consider that an OEMP is an essential mechanism (in addition to conditions of development consent) to control operations on the site over time. Measures relating to management of dust will be required to be incorporated into the OEMP for the project site and reported to the DECCW and the consent authority in accordance with any conditions of consent and the Environmental Protection Licence.

The proposal is not expected to have any negative impact on microclimate.

Section 79C(1) of the Environmental Planning and Assessment Act 1979

Flora and Fauna:

Flora and fauna assessment has been undertaken as part of the applicant's Environmental Impact Statement and has been reviewed by Council and DECCW. The submission includes a Flora and Fauna Study which was completed at the time of rezoning of the site in 2005. Given the use of the site in recent times, DECCW agreed that the flora characteristics of the site are unlikely to have significantly changed since 2005. The 2005 study included a flora survey and concluded that there is no natural vegetation on the subject site having been cleared during the quarrying operations. The assessment considered that the site was originally covered by the Illawarra Subtropical Rainforest which is listed as an endangered ecological community under the *Threatened Species Conservation Act, 1995*. Species remnant of the Illawarra Subtropical Rainforest are found in two small regrowth areas on site however these area will not be included in the lease area.

A Vegetation Management Plan has not been prepared at this stage. It is considered that management issues should be considered in a Vegetation Management Plan once the lease area has been defined and a condition of approval is recommended in this regard.

Updated targeted frog surveys were undertaken in October 2009 on site and did not locate the threatened Green and Golden Bell Frog. The original 2005 study and its update concluded that the proposal is not likely to have a significant effect on any species or communities listed under the *Environmental Protection and Biodiversity Conservation Act*. Review of the submission concurs with this assessment.

Construction Waste:

The proposal does not involve significant construction works other than internal road preparation and drainage/sedimentation control and landscape works. The proposal will therefore not result in any significant construction waste and the construction phase can be adequately controlled through enforcement of compliance with Council's standard conditions of consent relating to construction management.

The applicant has provided detailed information relating to the existing materials found on site and a plan for removing these to appropriate destinations. These materials include concrete, bricks, natural rock, bitumen, tree stumps, concrete pipes and some site structures. Many of these materials will be crushed and reused on-site or sold and transferred for construction projects in the region.

Ongoing Waste Management

The proposal is for a waste recycling facility which will receive waste streams from the demolition and construction industry, sort and transfer for reuse. The use will not produce any additional waste streams on site. The way in which waste will be managed on site is discussed in detail in "The Proposal" section of this report and will be further developed as part of an Operational Environmental Management Plan which will track waste streams from origin to destination. In essence, the proposed use will assist with meeting local and state policies relating to recycling and reuse by minimising materials going to landfill. Council, in rezoning the subject site, recognised a need for additional waste facilities within the local government area and the current proposal responds to this land use strategy for waste management.

Section 79C(1) of the Environmental Planning and Assessment Act 1979

Energy:

The proposal has been assessed against the principles of ecologically sustainable development (ESD) identified in Section 6(2) of the *Protection of the Environment Administration Act 1991* (as amended by the POEO Act 1997 and Schedule 2 of the EP&A Regulation, 2000). These principles and assessment are as follows:

The Precautionary Principle – The potential impacts of the process have been identified and assessed. The application does not involve any significant irreversible changes on the environment of the site in that it does not involve any significant changes to the landform or erection of substantial structures. The proposal has also taken measures to ensure promotion of habitat for the green and golden bell frog, despite not having been identified on the site. The application will assist in minimising the use of landfill facilities for waste disposal which will create long term environmental benefits. It is considered that potential impacts of the proposal can be managed in a way that is unlikely to result in significant environmental or amenity impacts in the locality.

Intergenerational Equity – The minimisation of waste being transferred to landfill as well as the opportunities for recycling and reuse of waste are consistent with the notion of maximising waste capacity across generations and minimising use of non-renewable resources. It is considered that potential impacts of the proposal can be managed in a way that is unlikely to result in significant environmental or amenity impacts in the locality.

Biological Diversity and Ecological Integrity – As discussed elsewhere in this report, the site does not contain any significant biological diversity. However, the proposal will enhance opportunities through the introduction of habitat for the green and golden bell frog and through new landscaping that will provide habitat and assist with establishing green corridors across the Berkeley Hills in the medium to longer term.

Improved Valuation, Pricing and Incentive Measure – The proposed cost of implementing environmental protection measures such as a stormwater management system will provide environmental benefits considered to be of a higher priority or resultant value.

Noise and vibration:

Noise impact assessment was undertaken on the site in 2005 at the rezoning stage for the site, taking into account all proposed activities on the site. This report was updated for the current proposal taking into account new ambient noise monitoring data.

The noise impact assessment models the potential noise emissions from the subject site taking into account all the proposed activities involving the crusher, excavators, loaders and trucks loading and unloading on site. The potential noise impacts were analysed at the three nearest residential locations being dwellings at the top of Jarvie Road to the south-east, dwellings to the south-east in the vicinity of Jarvie Road/Lackawana Street intersection and 70m east of the site entrance on Merrett Avenue. Essentially, the methodology of noise testing involves assessment of the existing background noise levels in the locality. The NSW Industrial Noise Policy then stipulates that noise sources may be up to 5 dBA above the background noise level before being considered offensive (subject to correction factors for the type of noise).

The predicted noise impacts, without any mitigation, show that the use of a crusher on the site would exceed the background noise levels by more than 5 dBA at Lot 1 Jarvie Road, to the south of the site. The applicant's acoustic assessment therefore proposes mitigation measures to address the potential noise impacts and comply with the DECCW and NSW Industrial Noise Policy requirements. Subject to these recommendations being imposed, the proposal will meet the relevant noise criteria.

It is noted that DECCW regulates noise and vibration emissions from Scheduled premises under the *Protection of the Environment Operations Act 1997* through the Environmental Protection Licence. DECCW is satisfied with the noise and vibration assessment that has been submitted and has issued "General Terms of Approval". The GTAs set operational noise limits to be adhered to at all times, measured at the nearest residential properties as follows:

Section 79C(1) of the Environmental Planning and Assessment Act 1979

- Lot 1, Jarvie Rd (the nearest property on the ridge to the south of the site) – daytime LAeq (15 minute) 46;
- Residences 400m south-east of centre of site (in vicinity of 49 Jarvie Road and 51 Lackawanna Street) - daytime LAeq (15 minute) 40; and,
- 70m east of the site entrance (near Five Islands Road) - daytime LAeq (15 minute) 45.

The GTAs provide a methodology for testing of these noise levels and require that prior to commencement of operations, a monitoring program is established that shall include provision of at least quarterly reporting of noise levels. The reports shall include corrective and preventative action where noise levels are established to exceed the limits stipulated.

The GTAs also require that the recommendations in Section 7 of the applicants *Environmental Noise Impact* report are implemented. These include the following:

- Limit the sound power level of the crusher to not more than 115 dBA or a sound pressure level more than 90 dBA;
- Construct a sound barrier just south and east of the crusher to a total height of 5.5m (2m above the top of the crusher); and
- Limit the sound power level of the excavator and/or loader to not more than 110dBA or a sound pressure level of not more than 85dBA when measured at 7m.

Accordingly, whilst there is a perception by the local community that noise levels from the proposed use will be unacceptable, acoustic impact assessment indicates that subject to the management provisions outlined above, the proposal is capable of meeting DECCW requirements, the NSW Industrial Noise Policy and will not cause an “offensive noise” as defined by the *Protection of the Environment Operations Act, 1997*. DECCW, upon issue of an Environmental Protection Licence for the site, will be responsible for regulation of noise on the site. Given that this Licence must be renewed during the operation of the site, breaches of the noise limitations would necessitate changes in operation to achieve compliance. It is considered that the regulatory framework within which the use must operate will reasonably minimise potential for adverse noise impacts in the locality.

The applicant has also considered vibration impacts in accordance with the DECCW policy *Assessing Vibration: A Technical Guideline, 2006*. The assessment concludes that the vibration from the movement of trucks and machinery and the operation of the crusher on site will not have a significant impact on the locality due to the facility being located within a disused quarry, being far enough from the nearest residence to meet DECCW criteria.

Natural hazards:

There are no natural hazards affecting the site that would prevent the proposal. The natural conditions on the site and responses to those are discussed throughout this report. Of most relevance is water quality, which has been considered by Council and DECCW and is considered to be acceptable subject to “General Terms of Approval” from the NSW Office of Water and recommended conditions of approval.

Technological hazards:

There are no technological hazards affecting the site that would prevent the proposal.

Safety, Security and Crime Prevention:

Given the internal, private nature of the subject site, site security is of most importance in the sense of ensuring permanent barriers to unauthorised entry and dumping. In this respect, the subject site will be fenced and will be under 24 hour security and surveillance. Traffic safety has been assessed in detail elsewhere in this report.

Section 79C(1) of the Environmental Planning and Assessment Act 1979

Social Impact:

In terms of social impacts, the local community has expressed significant concern as to the impact that the proposal may have on human health and the character and social fabric of the Cringila Village. The proposed land use is of a nature that understandably raises such concerns. However assessment of the application must be undertaken in accordance with the planning controls that apply to the site and relevant Section 79C considerations. In this regard, the proposed development has been assessed to comply with relevant environmental controls and is considered acceptable by the RTA in terms of potential traffic impacts and DECCW in terms of noise and environmental impacts. Despite community opposition to the location of the facility in relatively close proximity to residential areas, it is considered that the operation can be managed in such a way that will minimise adverse social impacts.

In the general community, the proposal will assist with management of waste, encouraging material recycling and reuse and minimisation of landfill. There has been an identified need for additional waste facilities in Wollongong and the subject site has been zoned for this purpose. The proposal will therefore have beneficial impacts in the wider community. The question of suitability of alternative sites for the development is not a matter for assessment under Section 79C of the EP& A Act, 1979 and the zoning of the site is taken as an expression of Council policy that has taken such factors into account and was subject to extensive community consultation as required by the EP& A Act, 1979.

Economic Impact:

The proposal will provide economic benefit to the Illawarra region in terms of providing a service to the construction industry. In particular, cost savings are typically evident in resource recovery facilities due to avoidance of waste levies that apply to landfill facilities. The proposal will also assist in meeting ongoing demand for such facilities on a site that is zoned specifically for the purpose. The proposed use will employ 6 persons assisting with local employment to a small extent.

The local community has raised concerns that the proposal will adversely affect the Cringila commercial centre. It is considered that subject to mitigation measures being imposed as identified throughout this report, impacts of the proposal will be minimised so as to not affect the general character or operations of the commercial centre. In particular, contrary to initial understanding of the community, the proposal does not rely on access along Jarvie Road and therefore traffic movements will be isolated to Five Islands Road and the private access road to the site.

Site Design and Internal Design:

The site design is purpose specific. The proposal effectively relates to the existing site characteristics, utilising the former quarry base as the location for storage and processing of waste. By locating the main components of the use on the quarry floor, the visual impacts associated with the use are not significantly different to existing and former operations on the site. Further, the proposal will involve the revegetation of the southern part of the site, improving the existing sparse buffer to nearby residential development and aesthetically enhancing the site. The site design has been considered by Council officers and external state government agencies covering a range of disciplines. Subject to the imposition of conditions of approval, it is concluded by all referral officers or agencies that the proposed site design and internal design is acceptable for the use proposed and will not generate significant adverse impacts on surrounding development subject to operational management controls being set in place.

Construction:

The proposal does not involve significant construction works in terms of actual buildings or other infrastructure. The proposal does however involve the preparation of internal roadways, drainage systems (including retention ponds) and large scale landscape works. It is considered that the proposed construction works will be of a nature and intensity that will not result in any significant adverse impacts subject to compliance with Council's standard conditions of consent that relate to matters such as hours of work, implementation of erosion and sedimentation controls and other environmental safeguards.

Section 79C(1) of the Environmental Planning and Assessment Act 1979

Cumulative Impacts:

The proposal is for a relatively unique land use type. It is unlikely that similar development will occur on surrounding lands or in the locality. Notwithstanding, any proposal for such development on other sites, or intensification of the subject site, would be subject to the relevant development assessment processes at which time impacts could be considered on a merit basis. Several submissions received in response to notification raise concern relating to the cumulative impact of several large scale industrial operations bordering Cringila. Whilst this situation may have certain overall amenity implications for Cringila, it is largely a product of land use zoning under former (and current) environmental planning instruments. The subject site is zoned for the purpose for which development is proposed and therefore could have reasonably been expected to be developed in the manner proposed, subject to addressing a plethora of environmental and planning requirements under local, state and commonwealth legislation.

c) the suitability of the site for development

Does the proposal fit in the locality?

The subject site currently operates under development consent DA 1993/774 which included two stages of development, Stage 1 allowing for “stockpiling, recycling and minor emplacement of Council construction waste” and Stage 2 allowing for “general builder’s refuse emplacement and rehabilitation”. The site was rezoned specifically in 2005 to permit development for the purposes of a resource recovery facility. In the context of the zoning and existing approvals, the proposed use is to be reasonably expected from a land use perspective. Notwithstanding, detailed assessment must consider whether the scale and nature of the actual proposal is suitable to the site.

The proposal is likely to result in an increase in intensity of use compared with the most recent use of the site by Council for storage of construction materials however will not exceed the intensity of use permitted under the existing approval (which has not been exercised to its full capacity). The proposal has been the subject of detailed environmental review and it is concluded that subject to stringent operational management conditions and licence requirements, it will not result in any significant adverse environmental impacts in the locality or significantly affect the amenity and character of the surrounding area. The proposal does in fact involve extensive landscaping of the quarry perimeter which will have benefits compared with the existing situation and provides for promotion of fauna habitat in the form of retention ponds on site.

Should the application be approved, the proposed operation will be subject to far more stringent operational conditions, environmental management requirements, obligations for monitoring and regular reporting than the current approved use on the site. Accordingly, far greater control can be exerted to ensure that the proposal will fit with the locality.

Are the site attributes conducive to development?

Despite the subject site’s proximity to residential uses within Cringila, the subject site has some unique characteristics that assist with minimising conflict between the proposal and those uses. In particular, the site enjoys access directly from Five Islands Road which is separated from and not readily visible from the majority of nearby residential properties and the use will generally operate at the base of a disused quarry that is set some 15 to 20m below the surrounding hillside. Further, the western and northern sides of the former quarry provide mature planting that assists with screening the useable area of the site from surrounding properties to a large extent. Subject to stringent operational management conditions and licence requirements, it is considered that the site attributes are conducive to the development proposed.

d) any submissions made in accordance with this Act or the regulations

The application was notified in accordance with Section 79 of the EP&A Act, 1979 and Council’s “Development Assessment and Compliance Notification Policy”. Twenty one (21) individual letters of objection, petitions containing 1455 signatures and 65 pro-forma letters were received and are discussed in section 21.1 of this report. In addition, Council hosted a Community Briefing Session on August 10,

Section 79C(1) of the Environmental Planning and Assessment Act 1979

2010 to provide a forum for details of the proposal to be discussed and questions asked by the community. The meeting was chaired by the JRPP and questions were taken on notice with an undertaking that the applicant would respond to these. The questions and responses to these from the applicant are contained in Attachment 6.

Submissions from public authorities

The application requires an environmental protection licence under the Protection of the Environment Operations Act 1997 and a controlled activities permit under the Water Management Act 2000 and is therefore Integrated Development pursuant to Section 91 of the EP&A Act, 1979. The application has been referred to the Department of Environment, Climate Change and Water and the NSW Office of Water in this regard and General Terms of Approval have been provided. Consultation with the RTA, Department of Planning (including receipt of Director General's Requirements for preparation of an EIS) and internal divisions of Council has also occurred prior to and following submission of the development application. The comments provided are detailed below in Section 20.3.

e) the public interest

The public interest aspects of the proposed development can be considered at the local and wider context. In the wider context, the need for recycling and reuse programs and facilities is well understood. The proposal responds to an identified need within Wollongong for waste recovery facilities and will occupy a site specifically zoned for this purpose.

At the local context, the more direct impacts of the proposed development must be considered. In this regard it is noted that the subject site has been used for industrial purposes since the 1950s and most recently has been operated in accordance with development consent for a waste facility, albeit for Council use only. The subject site was specifically rezoned to allow a waste facility in 2005 and this specific zoning was reiterated by the recently gazetted WLEP 2009. The permissibility of the use, and in fact encouragement of a specific use on the site, has clearly been considered in detail by Council as a strategic planning exercise on two occasions since 2005 and has been endorsed by Council and the NSW Department of Planning (as recently as February 2010). The zoning must be seen therefore as a clear expression of Council's intent for use of the site.

The suitability of the site for its zoned purpose has been raised in several public submissions. It is not however the role of development assessment under Section 79C to assess the suitability of a zoning, but rather to assess the merits of a proposal under the relevant planning controls and matters for consideration under the Act. In this regard, the application has been through a rigorous assessment involving input from professionals of several disciplines. Subject to several clarifications, refinement of the proposal and submission of additional information relating to several environmental issues, the proposal is considered to meet the statutory requirement that apply or compliance can be achieved through implementation of conditions of approval.

It is considered that the recommended conditions contained in Attachment 4 are significantly detailed to provide reasonable safeguards against potential amenity impacts such as noise, dust, water quality, traffic safety and environmental harm. It is recommended that these conditions be consolidated into an Operational Environmental management Plan which will be subject to review each 5 years. The facility will operate under an Environment Protection Licence which will carry with it a further set of conditions and obligations for the applicant to adhere to. The EPL will also be reviewable at regular intervals.

Based on these environmental safeguards, it is considered that the proposal can operate in a manner that is consistent with statutory requirements and that will not result in significant adverse impacts on surrounding properties. In fact, should this application be approved, the stringent conditions that are recommended for imposition far exceed any of the requirements under which the site could continue to operate in accordance with its current development consent.

Accordingly, the proposal is considered appropriate with consideration to the zoning and the character of the area and approval is not considered contrary to the public interest.

5 Environmental Planning and Assessment Act 1979 Designated development.

Section 77A of the EP&A Act, 1979 states that designated development is development that is declared to be designated development by an environmental planning instrument or the regulations. Schedule 3 of the EP&A Regulation 2000 includes “waste management facilities or works” with an intended handling capacity of more than 30,000 tonnes per year of waste such as glass, plastic, paper, wood, metal, rubber or building demolition material as designated development and as such the proposal is for designated development.

Section 79 of the Act sets out notification requirements for designated development which have been followed in assessment of the subject application.

Section 91 of the Act relates to Integrated Development. The application requires an environmental protection licence under the Protection of the Environment Operations Act 1997 and a controlled activities permit under the Water Management Act 2000 and is therefore Integrated Development pursuant to Section 91 of the EP&A Act, 1979. The application has been referred to the Department of Environment, Climate Change and Water and the NSW Office of Water in this regard and General Terms of Approval have been provided.

Section 77 of the Regulation states that the consent authority must give written notice of a development application for designated development to such public authorities (other than relevant concurrence authorities or approval bodies) as, in the opinion of the consent authority, may have an interest in the determination of that development application. The Department of Planning was notified of the application and prior to its lodgement provided Director General's Requirements for submission of the EIS. The RTA has also been consulted as a requirement of the SEPP (Infrastructure) 2007.

Sections 78 to 80 of the Regulation include requirements for notification of designated development applications to relevant agencies and the general public. These requirements have been adhered to. Section 81 of the Regulation requires that the consent authority must, immediately after the relevant submission period, forward to the Director-General a copy of all submissions received in response to the public exhibition of a development application for designated development. This notice has been given and no response has been received.

6 State Environmental Planning Policy (Major Development) 2005

The Joint Regional Planning Panel is the determining authority for this proposal pursuant to Clause 13F as the proposed development is for “designated development” pursuant to Schedule 3 of the Environmental Planning and Assessment Regulation 2000.

7 State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 was introduced to facilitate the delivery of infrastructure across the State by improving regulatory certainty and efficiency.

The SEPP provides a consistent planning regime under the EP&A Act, 1979 (the Act) in relation to certain types of land use and most importantly provides greater flexibility in the location of infrastructure and services by identifying a broad range of zones where types of infrastructure are permitted. In the case of the subject development application, the proposed use is permissible and does not rely on the flexibility in the SEPP. In fact, if it were not for the use being “scheduled” as permissible under the LEP, the SEPP would not permit the use in the 7(b) zone.

Clause 104 of the SEPP relates to traffic generating development and applies to certain types and scale of development. Pursuant to Schedule 3 of the SEPP, the Clause applies to recycling facilities or waste transfer stations of any size. Subclause (3) requires that before determining a development application for development to which this clause applies, the consent authority must give written notice of the application to the RTA and take into consideration any submission that is made in response. Council must also take into account:

- “
 - (ii) *the accessibility of the site concerned, including:*
 - (A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*

(iii) any potential traffic safety, road congestion or parking implications of the development.”

The RTA has reviewed the proposed development and has provided comments which are outlined in Section 20.3 below. Prior to final comment being made, the RTA and council’s traffic engineers sought additional information and clarification of the proposal. The proposal is now satisfactory subject to conditions being imposed.

8 State Environmental Planning Policy No. 33 – Hazardous and Offensive Development

State Environmental Planning Policy No. 33 is an enabling instrument that links the permissibility of an industrial development proposal to its safety and environmental performance. The SEPP establishes definitions for and applies to development for the purposes of “potentially hazardous industry”, “potentially offensive industry”, “hazardous industry” and “offensive industry” and establishes a comprehensive test known as Preliminary Hazard Analysis (PHA) to assess risk of such development to people, property and the environment.

Clause 8 of the SEPP states that in determining whether a development fits these definitions, consideration must be given to current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development. The Department of Planning “Applying SEPP 33” Guidelines include a risk screening procedure to assist in whether development fits in these categories.

Based on the outcomes of the environmental assessment of the proposal it is not considered to be a potentially hazardous or offensive industry. Accordingly, a Preliminary Hazard Analysis is not required to be submitted. Notwithstanding, the Environmental Impact Statement which has been submitted undertakes detailed review of environmental impacts.

9 State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 introduces planning controls for the remediation of contaminated land and requires an investigation to be made if land contamination is suspected.

Detailed contamination assessment was undertaken by Council at the time of rezoning the subject site (in 2005). Apart from several fragments of fibre cement sheeting containing asbestos, which have since been removed, no contamination was found on site and it was concluded that the site is appropriate for the proposed resource recovery facility. Given that the site use has not significantly changed since that time, it is considered that ground conditions are unlikely to have changed.

However given the possibility that some additional contaminated materials may have been transferred to the site, an additional assessment of the site has recently been undertaken with a view to detect any possible asbestos contamination. Soil samples were tested and asbestos was not detected. It is noted however that the assessment does not guarantee that all asbestos hazards have been detected.

Council’s Environmental Officer and DECCW consider it reasonable that the OEMP, required as a response to recommended conditions of approval, would contain procedures related to removal of asbestos if encountered on site.

10 Illawarra Regional Environmental Plan No. 1

Illawarra REP No. 1 (now a deemed State Environmental Planning Policy) applies to the subject site however does not contain any specific planning controls or objectives relating to the type of use or the subject site. The REP however contains broad objectives, policies and principles, of most relevance being the aim to establish parameters and controls relating to development, particularly as they relate to the environmental quality and social well-being of residents of the region. These matters are required for consideration under the gamut of planning controls that apply to the site and are discussed in detail throughout the report.

11 Wollongong Local Environmental Plan 1990

The subject development application was submitted in December, 2009. At that time, the applicable local environmental planning instrument was Wollongong Local Environmental Plan (LEP) 1990. The proposal falls within the LEP definition of “light industry”. Under LEP 1990, the subject site is zoned 7(b) Environmental Protection Conservation which prohibits light industry. Notwithstanding, the use is permitted pursuant to Schedule 2 – Additional Uses.

The site is currently zoned E3 Environmental Management under Wollongong LEP 2009 which was gazetted on 26 February, 2010. The proposed use is prohibited within the E3 zone however Schedule 1 – Additional Permitted Uses specifically permits the use. The application is subject to savings provisions under Clause 1.8A of WLEP 2009 and therefore must be determined under WLEP 1990.

The objectives of the 7(b) Environmental Protection Conservation zone under the LEP are as follows.

The objectives of the zone are:

- (a) to identify, protect and enhance areas that have special conservational, aesthetic or scenic qualities that enhance the environment, and*
- (b) to identify and protect escarpment areas that enhance the visual amenity and possess special aesthetic or conservational value, and*
- (c) to allow some diversity of activities on degraded land that will not prejudice achievement of the objectives referred to in paragraphs (a) and (b) or significantly detract from the environmental or visual quality or character of the locality or the amenity or operation of any existing or proposed development in the locality.”*

In relation to objective (a), the environmental assessment of the site has not identified any “special” conservational, aesthetic or scenic qualities due to the degradation of the site by prior uses. Notwithstanding, the proposal will not further degrade the site and will in fact enhance the environment through the provision of additional landscaping, stormwater management initiatives and promotion of habitat for the green and golden bell frog.

In relation to objective (b), the subject site is not considered to “enhance the visual amenity” or “possess special aesthetic or conservational value” within the escarpment area. The site forms part of the Berkeley Hills corridor however has been substantially degraded by quarrying operations. In any case, the “sunken” nature of the quarry floor means that visually, the area of proposed use within the site is concealed from many vantage points. Views from surrounding residential development is generally limited to the upper parts of the “quarry top”. The proposal will assist with revegetating the site in order that over time the site will better contribute to the Berkeley Hills Corridor.

Objective (c) is particularly relevant to the subject proposal. It recognises that some areas within the 7(b) zone which are degraded may be used for a diversity of activities if objectives (a) and (b) can be achieved and the activity does not significantly detract from visual or environmental amenity. These matters for assessment are detailed throughout this report and it is considered that the proposal meets the objective. Of particular relevance, the use will not cause further degradation of the site and will not prejudice the long-term potential for the site to be rehabilitated in its entirety.

Pursuant to Clause 39, the proposed use is permissible with development consent by virtue of Schedule 2 of the LEP which lists uses permitted in addition to those permitted generally in the 7(b) zone.

Clause 17 of the LEP relates to development in zones 7(a), 7(b) and 7(d) and requires that the consent authority considers the following in determination of a development application to which it applies:

- “ (1) In deciding whether to grant consent to a development application to carry out development of any land within Zone No 7 (a), 7 (b) or 7 (d), the Council shall:
 - (a) consider the visual impact of the proposed development when viewed from a public place, and take such measures as will, in its opinion, minimise any visual impact, and*
 - (b) be satisfied that the development minimises any detrimental impact on the environment by way of vegetation clearance, drainage pollution or bushfire risk.*

- (2) *The Council shall not grant development consent to an application to carry out development on land within Zone No 7 (a), 7 (b) or 7 (d) unless it is satisfied that:*
- (a) *the development will not have a detrimental effect on the rainforest or rainforest species, or*
 - (b) *any detrimental effect on the rainforest or rainforest species can be justified by other factors.*
- ...
- (5) *The Council must not grant consent to an application to carry out development on land within Zone No 7 (a), 7 (b) or 7 (d) which, in the opinion of the Council, will involve significant tree felling or vegetation clearance unless it is satisfied that:*
- (a) *the development will be so managed as not to have any long term detrimental impact on opportunities for wildlife movement,*
 - or*
 - (b) *any detrimental effect on opportunities for wildlife movement can be justified by other factors."*

In terms of 17(1)(a), visual impacts have been considered in relation to the proposal. As discussed elsewhere in this report, the subject site is effectively cut in up to 20m below natural ground. The impact of this is that the area proposed for use is concealed from view from most vantage points. Whilst some residential properties to the south, south-east and east have opportunities for views across the site, these views typically take in the upper parts of the quarry walls and vegetation above the quarry rather than the quarry floor. Similarly, the quarry is not visible from the sporting fields to the east or from Five Islands Road. The access road to the subject site is visible from some vantage points include properties in the vicinity of Merrett Road and some properties on the upper parts of Jarvie Road, however this is an existing situation. The proposed landscape works on the site as part of this application will in fact improve visual screening of the site and therefore meet the intent of 17(1)(a).

In relation to 17(1)(b), the proposal does not involve removal of any significant vegetation and proposed stormwater management works, discussed elsewhere in this report, will ensure that water quality is not adversely affected by the proposal. The subject site is not bushfire affected.

With regard to 17(2), as discussed elsewhere the subject site originally contained Illawarra Subtropical Rainforest which is listed as an endangered ecological community under the *Threatened Species Conservation Act, 1995*. Species remnant of the Illawarra Subtropical Rainforest are found in two small regrowth areas on site however these areas will not be included in the lease area. The proposal will therefore not impact on rainforest or rainforest species.

In terms of 17(5), the proposal does not involve any significant tree felling or clearing and therefore is acceptable in this regard.

Clause 30 of the LEP requires that the Council shall not consent to the carrying out of development on any land unless a water supply and facilities for the removal or disposal of sewage and facilities for drainage are available to that land, arrangements satisfactory to the Council have been made for the provision of that supply and those facilities. The applicant proposes to rely on port-a-loo toilets initially (serviced every 1 to 2 weeks) and onsite holding tank for one internal shower and one additional external safety shower with an on- site/pump out system within 5 years providing for 2 internal toilets and showers. Potable water will be imported and a rainwater tank will be provided for toilet flushing and general washing. Power source from a solar power facility backed up by a portable on-site generator to amenities building and weigh bridge until power supply can be connected via overhead power system. This arrangement is considered to be acceptable subject to conditions requiring an on- site/pump out system, connection to a Sydney Water potable water supply, and connection to the overhead power supply within 5 years

Clause 32 of the LEP requires that in respect of an application to carry out development on land within view of any waterway or adjacent to any main road, railway, public reserve or land zoned as open space, take into consideration the probable aesthetic appearance of the proposed building or work on that land when used for the proposed purpose and viewed from that location. The access road and parts of the subject site will be visible from open space areas to the west and south of the site and from Five Islands Road. However, as discussed above, due to the use essentially occupying the quarry floor, that the site is already used for waster operations and that the proposal will significantly revegetate the site perimeter, the views to the site will not be significantly affected in terms of aesthetics.

12 Draft Wollongong Local Environmental Plan 2009

At the time of submission of the subject development application, Draft Wollongong LEP 2009 had been exhibited but not gazetted. The LEP was since gazetted on 26 February, 2010 and therefore can be considered as “imminent and certain”. The site is zoned E3 Environmental Management under the Draft LEP which does not permit resource recovery uses. The Draft LEP however maintains a “scheduled use” clause that specifically permits a resource recovery centre on the subject site.

The objectives of the E3 zone are as follows:

- “
- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values; and
 - To provide for a limited range of development that does not have an adverse effect on those values.”

The subject site has been identified as having little ecological, cultural or aesthetic value, and the proposal will not further degrade the land in these respects. The proposal will in fact enhance landscaping and vegetation and will provide for a formal stormwater management system to assist with water quality. The proposal therefore involves a use that does not adversely affect the values which are to be protected.

The Draft LEP does not contain any other specific provisions that would preclude the proposed development.

13 Wollongong Development Control Plan No. 6 – Commercial and Industrial Development

Wollongong DCP No. 6 applies to the subject site however it is noted that the DCP does not contain any specific requirement relating to resource recovery development. The DCP contains a limited number of controls relating to industrial development in Part 3, Section 2, none of which are of direct relevance to the proposal except for car parking requirements with which the proposal complies. The objectives and controls of the DCP are far less onerous than the considerations that have been required to be addressed in the applicant’s submission by the Director-General’s requirements and therefore satisfaction of those matters is considered to clearly meet the intent of the DCP.

14 Wollongong Development Control Plan 98/1 – Berkeley Hills

Wollongong Development Control Plan 98/1 – Berkeley Hills was revoked in 2006, repealed by Wollongong DCP No. 49 – Residential Development. The provisions of DCP 98/1 were essentially transferred directly to DCP No. 49 however that DCP applies only to residential development and therefore does not apply to the proposal.

15 Protection of the Environment Operations Act 1997

Schedule 1 of the POEO Act 1997 specifies activities for which an Environment Protection Licence (EPL) is required from DECCW. These activities include crushing, grinding or separating works as well as waste facilities. The proposed resource recovery centre is therefore a “scheduled activity” and will require an EPL under Section 55 of the POEO Act 1997. The requirement for a licence also deems the proposal integrated development under Section 91 of the EP&A Act. Concurrence has been granted by DECCW.

16 Water Management Act 2000

As indicated the proposed development requires a “controlled activity” permit under the Water Management Act 2000 for works near the existing watercourse on the site. The application has been referred to the NSW Office of Water and GTAs have been provided.

17 Threatened Species Conservation Act 1995

The Threatened Species Conservation Act (TSC) 1995 identifies threatened, vulnerable or endangered species as well as environments that should be regarded as critical habitats. A Flora and Fauna Study was submitted with the subject development application and concluded that there were no threatened, vulnerable or endangered species or endangered ecological communities on the subject site. This

assessment has been reviewed by DECCW and Council and subject to additional information being submitted is considered to be acceptable. The TSC Act therefore does not apply to the proposal.

18 National Parks and Wildlife Act 1974

The National Parks and Wildlife (NPW) Act 1974, inter alia, provides legal protection for and management requirements for sites of Aboriginal significance and incorporates provisions for the protection and conservation of items or places with high cultural significance. Council's heritage officer has reviewed the application and concludes that due to the site being largely a disused quarry, it is unlikely to contain any sites of Aboriginal significance. The NPW Act therefore does not apply to the proposal.

19 Environment Protection and Biodiversity Conservation Act 1999

The Environment Protection and Biodiversity Conservation (EPBC) Act 1999 aims to protect environmental diversity, particularly of national significance, to promote conservation of biodiversity and ESD. The Act lists matters that constitute national environmental significance including works within world heritage areas, Ramsar wetlands, nationally threatened species or communities and migratory species under international agreements. The subject site does not embody national significance in any of these respects and as such the EPBC Act does not apply.

20 Wollongong Section 94A Development Contributions Plan (2009)

The estimated cost of works is \$25,000 which is below the \$100,000 threshold, as such as section 94A levy of 1% of the development cost is not applicable.

21 Consultation

21.1 Notification

The application was notified in accordance with Section 79 of the EP&A Act, 1979 which requires an exhibition period of 30 days. The notification period ended on 22 February, 2010. At the conclusion of the notification period, there were 21 individual letters of objection, petitions containing 1455 signatures and 65 pro-forma letters.

The comments contained within submissions and a response to these are provided below.

1. Request for a community consultation session

Comment: In response to this request, Council held a Community Briefing Session on 10 August, 2010 at the Cringila Community Hall. Notice of this session was provided to residents by letter (in several languages) and in local media. The session was used to provide information in relation to the proposal, the assessment process for the application and as an opportunity for the community to voice their concerns. Translators were present at the session to assist residents. Questions were taken on notice by the applicant at this session and responses provided in writing to Council (refer to Attachment 6).

2. There is no guarantee that the size of the facility will not grow in the future onto surrounding land

Comment: The current application relates to the identified parcel of land and provides a maximum capacity for operation of the facility. Were the applicant to seek to expand the site or increase the intensity of the operation in the future, a separate application would be required and would proceed through the development assessment process in the same manner as the current application.

3. The proposal will result in adverse noise and vibration impacts on surrounding residential development

Comment: The potential noise and vibration impacts of the proposal have been considered in detail in this assessment. The applicant has undertaken acoustic testing and assessment has been undertaken by Council and DECCW against relevant statutory standards. Whilst there is a perception by the local community that noise levels from the proposed use will be unacceptable, acoustic impact assessment indicates that subject to the management provisions required by recommended conditions of approval, the proposal is capable of meeting DECCW requirements, the NSW Industrial Noise Policy and will not cause an "offensive noise" as defined by the *Protection of the Environment Operations Act, 1997*. DECCW, upon issue of an Environmental Protection Licence for the site, will be

responsible for regulation of noise on the site. Given that this Licence must be renewed during the operation of the site, breaches of the noise limitations would necessitate changes in operation to achieve compliance. It is considered that the regulatory framework within which the use must operate will reasonably minimise potential for adverse noise impacts in the locality.

DECCW has also considered potential vibration impacts. The assessment concludes that the vibration from the movement of trucks and machinery and the operation of the crusher on site will not have a significant impact on the locality due to the facility being located within a disused quarry, being far enough from the nearest residence to meet DECCW criteria.

Concern was also raised that approval of the current application would result in background noise levels which will effectively allow for incremental increase in noise levels for future applications (ie. 5 dBA above background noise levels being acceptable). The Industrial Noise Policy requires consideration of noise impacts on amenity and requires assessment of “noise creep”. The Policy requires that the existing noise level from industry is measured and if it approaches the criterion value, then noise levels from new industries need to be designed so that the cumulative effect does not produce noise levels that would significantly exceed the criterion.

4. The proposal will result in adverse health impacts on the local community as a result of dust, contamination and other toxic impacts

Comment: The proposal will not receive toxic waste. All materials received will be checked at the site entrance and then transferred to a concrete pad for sorting and classification. If clean fill is brought to the site, the contractor will be required to produce a VENOM report which certifies that the material is not contaminated. The requirements of any Environmental Protection Licence from DECCW will provide further stringent requirement in relation to screening of waste being received at the site.

The potential impacts of dust have been considered in detail in this report. The assessment concludes that the proposed development would have a small contribution to dust levels in the area and that compliance with NSW DECCW objectives for air quality will be met with low risk of potential exceedances. The report has been reviewed by DECCW and subject to “General Terms of Approval” issued by DECCW, the proposal is considered to be acceptable. DECCW notes that details of the proposed actions to monitor dust and particulates against DECCW’s criteria will be determined by the General Terms of Approval issued by the DECCW in their Environmental Protection Licence for the use.

5. The traffic associated with the proposal will cause adverse safety impacts on local streets

Comment: Traffic impacts have been assessed in detail by Council and the RTA and are found to be acceptable. The access route to the subject site is directly from Five Islands Road and will not traverse the centre of the Cringila Village as was originally misunderstood by some members of the community.

6. The proposal will exacerbate poor amenity caused by existing industry in the locality

Comment: The subject site is specifically zoned for a resource recovery facility and has been used for waste operations since 1995. Accordingly, the proposal will not result in a significant change in the nature of use on the site. It is considered that if the application were to be approved, the recommended conditions of approval will provide environmental safeguards well in excess of those that are applicable under the current development consent.

7. The proposal will affect rainforest on the site and green and golden bell frog habitat

Comment: Flora and fauna assessment has concluded that no remnant rainforest remains on site and the green and golden bell frog was not located.

8. The proposal will adversely affect the character of the locality

Comment: Issues related to area character have been discussed in detail throughout this report. In essence, the proposal will continue use of a site as a waste facility that has been used in this manner for many years. Subject to imposition of strict operational requirements, it is considered that the current proposal will not result in any significant impacts on area character.

9. The proposal will adversely affect water and air quality (odours and dust) in the locality

Comment: These matters have been discussed in detail in this report. Potential impacts on air and water quality have been considered by Council and DECCW and have found to be acceptable subject to recommended conditions of approval being complied with.

10. House prices in the locality will be devalued as a result of the proposal

Comment: Impact on property prices is not a matter for consideration under Section 79C of the EP&A Act, 1979. However, the basis on which this comment is made is neighbourhood amenity which has been discussed in detail throughout this report.

11. The proposal is not fully understood by non-English speaking residents

Comment: In response to these comments, Council undertook to hold a Community Briefing Session which was notified to the community in several languages. Translators were present at this meeting to assist with explanation of the proposal.

12. Risk of asbestos materials being accepted at the facility

Comment: This matter is addressed in detail in the applicant's submission contained in Attachment 6 and the comments made are supported. The proposal will operate in accordance with strict waste screening procedures which will detect asbestos at entry to the site. However, it is unlikely that asbestos materials would even be transferred to the site given strict Workcover and Council requirements relating to disposal of asbestos from construction sites.

13. There are more suitable locations for the facility

Comment: The assessment of suitability of alternative sites for the proposal is not a matter for consideration under Section 79C of the EP&A Act, 1979. In any case, the site is specifically zoned for the purpose proposed and the suitability of the site for the proposal has been assessed in detail against all relevant statutory requirements in this report and has found to be acceptable.

14. The proposal will result in adverse visual impacts

Comment: Potential visual impacts have been discussed in detail in this report. In essence, given that the proposal will operate at the base of an existing quarry, the use will be largely concealed from the surrounding area. In any case, the proposal is not vastly different from the use that currently occurs on site under previous development consent.

15. The proposal will replace existing green space on the site

Comment: The subject site cannot be considered a "green space". The majority of the site contains a disused quarry which has degraded the existing site qualities. The edges of the quarry contain some scattered vegetation and scrub and this will not be affected by the proposal. The proposal will in fact enhance the landscape qualities of the site through significant landscape rehabilitation.

16. The proposal will result in a sandwich effect on Cringila, being wedged between industrial uses

Comment: The use of the site is consistent with its zoning and previous use of the site and could be reasonably expected by the local community. The amenity impacts of the proposal have been considered and have found to be acceptable subject to strict operational conditions being complied with.

17. The accuracy of acoustic testing provided with the application is questioned

Comment: The acoustic testing submitted with the application has been reviewed by officers with relevant expertise at Council and DECCW and was found to be acceptable.

18. The road surfaces in the locality are not capable of accommodating the proposed heavy vehicle traffic

Comment: The application has been considered by Council's traffic engineer and the RTA and is considered to be acceptable. The roads network in the surrounding locality serves several large scale industrial uses and is clearly capable of accommodating heavy vehicle traffic. The access road to the subject site has been used by heavy vehicles for many years and shows no signs of distress.

19. Adverse impact on Berkeley Hills riparian corridor

Comment: The proposal will utilise a disused quarry for a purpose similar to that which currently operates on the site. Whilst the quarry represents a scar on the Berkeley Hills landscape, the current proposal does not preclude the rehabilitation of the site in the long term. In the short term, the proposal involves rehabilitation works in the form of mass landscaping that will assist with improving the appearance of the site as well as contributing to local habitat, linking with the Berkeley Hills.

20. There are better land use options for the site

Comment: The assessment of land use alternatives is not a matter for consideration under Section 79C of the EP&A Act, 1979.

21. The application does not include Lots 41 and 42 as part of the proposal and impacts on these lots have not been assessed

Comment: Lots 41 and 42 have been considered in the assessment as they provide only access to and from the site, both Council's traffic division and the RTA have provided satisfactory referrals in this regard. Furthermore a condition is proposed to ensure that the access way is constructed in such a way as to minimise the generation of dust.

22. The proposed truck access route involves encroachment of BlueScope Steel land (loop road) and representation has not been made to the owner of the land

Comment: This issue has been raised with the applicant and an alternative truck route has been developed that does not rely on the loop road. The alternative route is acceptable to Council's traffic engineer and the RTA. Use of the loop road is a matter for the applicant and affected landowner to resolve however the application does not rely on its use.

23. The site has been used for purposes beyond which the current development consent covers

Comment: This is not a matter for current assessment but rather is a matter for Council's compliance division should any formal complaints be received.

24. Concerns relating to potential capacity of the facility being exceeded

Comment: The applicant will be limited in relation to capacity by conditions of approval. An Environmental Protection Licence from DECCW would also provide capacity limitations.

25. Materials to be accepted at the site have the potential to cause adverse air quality impacts

Comment: These construction waste to be received has been reviewed by Council's Environment division and DECCW and subject to proper management has been considered to be acceptable.

26. Contamination has not been adequately addressed by the applicant

Comment: The applicant's submission has been considered by Council's Environment division and DECCW and is considered to be acceptable. Following the initial submission, the applicant was requested to undertake further assessment of materials currently stored on the subject site and provided this assessment to Council.

27. The proposed Council use of part of the site has not been taken into account in the traffic assessment submitted

Comment: The northern part of the site, to the west of the proposed site office (labelled as 'Wollongong Council Area' on the plans) will be an area dedicated to Council for use as a compound for storage of materials used in engineering, building and maintenance functions. This area will be fenced and accessed via a separate gate located adjacent to the proposed entrance to the waste recovery facility. The subject proposal does specifically seek consent for use of this land, the nature of any use and impacts have not been identified by the applicant nor have they been assessed. A draft condition has been proposed to ensure that the use of this portion of the site is the subject of a separate application.

As indicated, the proposal was also the subject of a community briefing session. The session was intended to clarify the proposal and process for assessment for the community's benefit. At that meeting, questions were taken on notice with the applicant undertaking to formally respond. Responses to the issues raised are contained in Attachment 6. Several of the issues overlap those outlined above and do not require further discussion.

21.2 Internal consultation

The subject development application was referred internally to officers of several disciplines upon initial lodgement of the application and again following submission of additional information where relevant. Given the substantial detail of some of the referral comments, in the interests of brevity, some have been included at Attachment 7. The following section however summarises the final referral from each officer and refers to the Annexure as appropriate.

Environment

The application was referred to Council's Environment Division on several occasions. The final response from this Division concluded that the proposed development is acceptable subject to the imposition of detailed conditions of approval, including the GTAs from DECCW. Given the detail included in this referral, it has been included as Attachment 7. The Environment Division recommends a condition of approval that an Operational Environmental Management Plan be submitted prior to commencement of the use. This is considered to be an appropriate way to consolidate all conditions of approval, GTAs and operational management controls into one document that may be easily referred to by Council and DECCW for ongoing compliance monitoring. It is considered that whilst it may be favourable to have such a document completed prior to determination of the application, this would defeat the purpose of having it respond to several detailed stringent conditions of approval.

Geotechnical Engineer

No concerns have been raised subject to the imposition of standard conditions of approval.

Stormwater

Initial concerns raised in relation to flooding and stormwater management have been resolved through the submission of amended plans and additional information. The proposal is now satisfactory subject to conditions. DECCW has also considered stormwater management issues and addresses these in GTAs.

Landscaping

Following the submission of amended landscape plans in response to preliminary review, no concerns have been raised subject to the imposition of conditions as recommended.

Traffic

Following the submission of additional information in relation to several matters, including those raised by the RTA, no concerns is raised subject to the imposition of conditions as recommended.

Heritage

No concerns were raised in relation to the application.

Property

No concerns raised subject to appropriate conditions relating to leasing and licensing arrangements which are to be entered into prior to the issue of a construction certificate.

21.3 External consultation

Department of Planning

In accordance with Clause 73 of the EP&A Regulation 2000, the applicant obtained the Director-General's Requirements which outlined the statutory matters that must be included in any Environmental Impact Statement (under Clauses 71 and 72 of the Regulation) (refer to Attachment 8). The application has been prepared in accordance with these requirements and was referred to the Department following submission for public exhibition in accordance with Clause 50(6) of the EP&A Regulation 2000. The Department has also been provided with copies of all submissions in relation to the proposal in accordance with the requirements of the Act. Notwithstanding, the Department has not been involved in the assessment of the application, does not perform a concurrence role and is not responsible for determination of the application.

RTA

The application was referred to the RTA as the proposal constitutes traffic generating development under Schedule 3 of SEPP (Infrastructure) 2007. The RTA requested several items of additional information and clarification during the assessment process. The and provided the following final comments:

"The applicant has submitted additional information addressing issues relating to existing and post development traffic generation, truck travel routes and concept design of a possible upgrade to the site's access. Given the additional information has stated that post development traffic generation is conservatively a minimal increase on existing traffic generation on some days and the applicant has supplied truck travel routes that eliminate the weaving manoeuvre from Springhill Road to the site the RTA would not require the proponent to provide an upgrade to the site's access. Therefore the RTA would not object to the development application subject to the following comments being included in the conditions of development consent:

- *The travel routes as stated in the Bitzios consulting traffic report dated April 2010 which eliminate the right turn from Springhill Road into Five Islands Road shall be contained within the Truck Management Plan. This is to include different travel routes for different sized vehicles as suggested within the abovementioned report."*

DECCW

DECCW has granted concurrence in accordance with Section 91A of the EP&A Act, 1979. GTAs have been provided which address general operating conditions, noise control, construction noise requirements, flora and fauna protection, air quality, types of waste that are permitted for receipt and financial assurance.

NSW Office of Water

The NSW Office of Water has granted concurrence in accordance with Section 91A of the Act. GTAs have been provided which address water quality matters.

15 **Conclusion & Recommendation**

The proposed development has been assessed having regard to the relevant matters for consideration prescribed by Section 79C of the Environmental Planning & Assessment Act 1979. The proposal has also been considered in light of the Director General's requirements issued under Clause 73 of the EP&A Regulation 2000.

Despite significant public opposition to the proposed development application, which is understandable given the nature of the proposed use, it is considered that any potential significant amenity impacts can be avoided or mitigated through operation of the facility in accordance with strict conditions of development consent and an Environmental Protection Licence issued by DECCW. The main concerns of the community relate to traffic, noise and potential health impacts. In these respects, assessment of the proposal indicates that all relevant statutory standards can be met. Ongoing monitoring of the proposal will be undertaken in accordance with these standards.

The subject site has been used for industrial purposes since the 1950s and most recently has been operated in accordance with development consent for a waste facility, albeit for Council use only. The subject site was specifically rezoned to allow a waste facility in 2005 and this specific rezoning was reiterated by the recently gazetted WLEP 2009. The permissibility of the use, and in fact encouragement of a specific use on the site, has clearly been considered in detail by Council as a strategic planning

exercise on two occasions since 2005 and has been endorsed by Council and the NSW Department of Planning (as recently as February 2010). The zoning must be seen therefore as a clear expression of Council's intent for use of the site.

Whilst the community have expressed a preference that the proposed facility be located elsewhere, assessment of alternative locations is not a matter for consideration under Section 79C of the EP&A Act, 1979. Implicit in the zoning of the land is that these alternatives have previously been explored in the strategic planning phase. In essence, the recommended conditions contained in Attachment 4 are significantly detailed to provide reasonable safeguards against potential amenity impacts such as noise, dust, water quality, traffic safety and environmental harm. It is recommended that these conditions be consolidated into an Operational Environmental Management Plan.

It is recommended that the Joint Regional Planning Panel approve Development Application 2009/1636 pursuant to Section 80 of the Environmental Planning & Assessment Act 1979, subject to recommended conditions, as detailed in Attachment 4.

ATTACHMENTS

1. Arial map
2. Zoning map
3. Plans
4. Draft conditions of approval
5. Development consent (DA 1993/774)
6. Responses to community questions (at Community Briefing Sessions – 10 August 2010)
7. Environment Division - Internal referral
8. Director General's Requirements (Department of Planning)