

**JOINT REGIONAL PLANNING PANEL
HUNTER & CENTRAL COAST REGION**

Panel Reference	2016HCC052 DA
DA Number	DA-16/1805
LGA	Maitland City Council
Proposed Development	Designated/ Integrated Development – Construction and operation of a Waste Transfer and Recycling Facility at the existing Mt Vincent Waste Management Centre including: • Small vehicle waste and recycling facility; • Material segregation facility; • New gatehouse to support the existing weighbridges; and • Administration building.
Street Address	109 to 110 Mt Vincent Road, East Maitland
Applicant/Owner	GHD / Maitland City Council
Date of DA lodgement	29 th July 2016
Number of Submissions	3 public submissions
Recommendation	Approval with conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Council related development over \$5 million.
List of all relevant s4.15(1)(a) matters	• Environmental Planning & Assessment Act 1979; • Environmental Protection & Biodiversity Conservation Act 1999; • National Parks & Wildlife Act 1974; • Heritage Act 1977; • Local Land Services Act 2013; • Threatened Species Conservation Act 1995; • Protection of the Environment Operations Act 1997; • Coal Mine Subsidence Act 2017; • Roads Act 1993; • Rural Fires Act 1997; • Water Management Act 2000; • State Environmental Planning Policy (State and Regional Development) 2011; • State Environmental Planning Policy No 33 – Hazardous and Offensive Development;

	• State Environmental Planning Policy No 44 – Koala Habitat Protection; • State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55); • State Environmental Planning Policy (Infrastructure) 2007 (ISEPP); • Maitland Local Environmental Plan 2011; and • Maitland Development Control Plan 2011.
List all documents submitted with this report for the Panel's consideration	• Draft Conditions • Revised Plans Cover Letter – GHD – March 2019 • Detail Plan with Aerial Overlay – Sheets 1 to 3 – GHD – August 2019; • Proposed Plans – GHD – 2016 & 2019 • Council Green Waste Data - 2019 • RMS Referral; • GTAs – Mine Subsidence NSW; and • GTAs – NSW Environment Protection Agency.
Report prepared by	SJB Planning, consultant town planners to Maitland City Council.
Report date	5 November 2019

Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	N/A
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	No
Conditions Have draft conditions been provided to the applicant for comment?	Yes

<i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	
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PURPOSE OF REPORT

The purpose of this report is to seek determination by the Hunter and Central Coast Joint Regional Planning Panel (JRPP) of a development application (DA) for DA-16/1805 which proposes the construction and operation of a Waste Transfer and Recycling Facility at the existing Mt Vincent Waste Management Centre at 109 to 110 Mt Vincent Road, East Maitland.

The Panel is the determining authority for this DA as, pursuant to Schedule 7 of State Environmental Planning Policy (State and Regional Development) (SEPP SRD) 2011, the application is council related development that has a capital investment value (CIV) of \$14,000,000 which exceeds the CIV threshold of \$5 million for Council to determine the DA.

SUMMARY OF RECOMMENDATION

That the Panel:

1. Determine DA-16/1805 for the construction and operation of a Waste Transfer Facility at the existing Mt Vincent Waste Management Centre and associated works pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979* by granting consent subject to the conditions contained in this report;
2. That the objectors be notified of this decision; and
3. That a copy of the development consent is forwarded to the NSW Environment Protection Agency, Subsidence Advisory NSW, and Roads and Maritime Services.

EXECUTIVE SUMMARY

Council is in receipt of a Development Application (DA) which proposes the construction and operation of a Waste Transfer and Recycling Facility at the existing Mt Vincent Waste Management Centre at 109 to 110 Mt Vincent Road, East Maitland.

The consent authority for the purposes of determining the application is the Hunter and Central Coast Joint Regional Planning Panel (JRPP) as the proposal has a Capital Investment Value (CIV) over \$5 million for a Council related development.

The DA was publicly exhibited for 30 days (15 August 2016 until 16 September 2016). A total of three (3) submissions were received with the key issues raised relating to view impacts, lack of consultation with adjoining landowners, lawfulness of existing operations and accuracy of the proposed plans. The matters raised in the submissions are discussed in detail in the report.

The proposed Waste Transfer Station has been designed to extend the limited life of the existing landfill coupled with the lack of alternate sites within the Local Government Area (LGA). The proposal will enable Council to increase quantities of waste segregation and recycling which in turn will reduce the amount of waste requiring transportation and landfill disposal.

Issues relating to vegetation removal, residential amenity, traffic and visual impact have been suitably addressed within the application. The development also represents employment opportunities both during the construction and during operation.

The DA has been assessed against the *Environmental Planning and Assessment (EP&A) Act 1979*, the Environmental Planning and Assessment (EP&A) Regulation 2000, relevant Environmental Planning Instruments (EPIs), Development Control Plans (DCPs) and policies. The outcome of this assessment is detailed further in this report.

Based on the assessment, it is recommended that the DA be approved subject to conditions contained in this report.

APPLICATION DETAILS

Name of Applicant: GHD Pty Ltd

Owner(s) of the site: Maitland City Council

Estimated value of works: \$14,000,000

Disclosures: Council related project

1 SITE DESCRIPTION

The site is occupied by the Mt Vincent Waste Management Centre, within the Maitland City Council LGA in East Maitland. The existing site is accessed from the west via Mt Vincent Road.

To the west of the site is the NSW Rural Fire Service (RFS) Lower Hunter Fire Control Centre whilst to the south is the Bloomfield Colliery Mining Lease and tailing dam. To the north of the site lies a rural property and further to the north east (approximately 450m) lies the residential suburb of Ashtonfield.

The site is owned by Maitland City Council and is known as 109 and 110 Mt Vincent Road, East Maitland. The land is legally described as Lot 2220 in DP 1095387 (formerly Lot 201 in DP 520191 and Lot 2220 in DP 1095387).

The site is operated by Maitland City Council as a Waste Disposal Facility. The facility is licensed to dispose of a maximum of 100,000 tonnes per annum of general solid waste, including clean fill, inert waste, putrescible waste, asbestos waste, and tyres.

The site is located within a proclaimed Mines Subsidence District. The western portion of the site is mapped as inundated in a one (1) in 100 year flood event, however the location of landfill activities is not mapped as affected by the one (1) in 100 year flood event. The site is mapped as bushfire prone land.

The site is adjoined to the north, east and south by land zoned RU2 Rural Landscape under Maitland Local Environmental Plan (MLEP) 2011. It is noted that a portion of the land to the north and north west is identified in the Maitland Urban Settlement Strategy 2001-2020 (MUSS) as part of a Category 2 Residential Investigation Area.

As an outcome of court proceedings in early 2019, Council now owns the land immediately to the north of the site (Lot 2 in DP 1228477 – formerly known as Lot 1012 in DP 1103879).

The site is also immediately adjoining RU2 zoned land to the west, and beyond this is the existing settlement of Louth Park which is zoned R5 Large Lot Residential. The closest R1 Residential zoned land is located approximately 400m from the northern boundary of the site. A location plan of the site and project area is illustrated below in Figures 1 and 2.

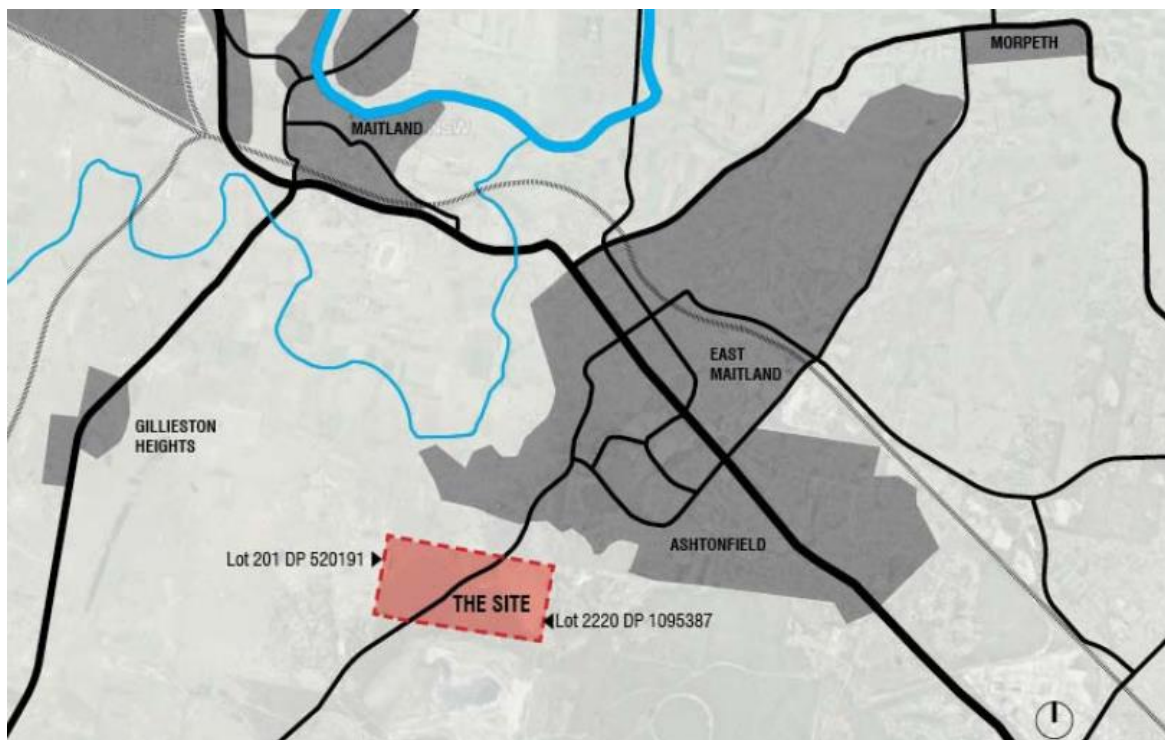


Figure 1. Location plan of the site (Source: Visual Impact Analysis prepared by The Design Partnership 2016)



Figure 2. Project boundary area (Source: Visual Impact Analysis prepared by The Design Partnership 2016)

2 SITE DETAILS

Total site area: 640,000m² / 64ha (approx.)
Project area: 70,000m² / 7ha (approx.)
Frontage to Mount Vincent Road: 1,100m (approx.)
Land use zone: SP1 – Special Activities

3 BACKGROUND

On 29 July 2016, a development application relating to construction and operation of a Waste Transfer and Recycling Facility at the existing Mt Vincent Waste Management Centre at 109 to 110 Mt Vincent, East Maitland (see DA-17/1805) was approved.

The application is identified as both Designated Development and Integrated Development. As such, the application is required to be advertised for a statutory period of 30 days. The application was advertised from 15 August 2016 to 16 September 2016.

On 1 September 2016, a Community Information session was held at Shamrock Hill Community Centre. Three (3) members of the public attended.

On 12 September 2016, Maitland City Council appointed SJB Planning to undertake an independent planning assessment of the DA for the subject site.

A total of three (3) submission letters have been received to date. Further details of the issues raised during notification are outlined in Section 8.0 of this report.

On 11 October 2016, a request for information letter was issued to the applicant. The letter sought clarification regarding Council's new Green Waste Policy and to the extent of proposed landscaping and tree removal relative to the existing conditions of the site.

In March 2017, the applicant submitted a 'Response to Submissions' document including a photo overlay relative to the proposed plans and addressing both public submissions and Government referrals.

Since 2017 the current application has been largely on hold due to Land and Environment Court matters associated with the property immediately to the north of the site known as Lot 2 in DP 1228477 (formerly 1012 in DP 1103879). These matters related to the current and approved operations of the existing Mt Vincent Waste Management Centre and associated impacts to the adjoining property to the north. It is noted that Lot 2 in DP 1228477 was subject to a separate Planning Proposal and DA relating to rezoning of the site from RU2 Rural Landscape to R1 General Residential and associated property ownership access issues.

The LEC matters were the subject of a confidential settlement in late January 2018 which resulted in all proceedings being discontinued and Council acquiring ownership of Lot 2 in DP 1228477. As such the Planning Proposal has been formally withdrawn.

In March 2019, the applicant submitted revised plans relating to the following:

- Administration building – Meeting room and outdoor classroom area deleted; façade and roof design changes, minor reduction in footprint and associated internal design changes (i.e. reduction in WCs etc). Visitor car park (1) and educational component deleted;
- Waste Transfer Area (small vehicle waste and recycling area) – The area between the recycling area and push-pit has increased noting that the recycling bays have been repositioned approximately 2m towards the access road;
- Segregation building – Minor increase in footprint relative to structural design requirements, relocation of car parking from northern to southern side and associated hardstand area changes, building material and design modifications; and
- Civil works – The ramp from the unloading area east of the segregation building has been altered to create a level area in front of the entry door. Deletion of visitor carpark, deletion of green waste storage area, and alterations to stormwater pipe locations.

In August and September 2019, the Applicant submitted revised photo overlays and supporting diagrams to confirm the building footprint changes relative to that of the original DA submission. It is noted that the revised footprint results in the loss of 0.71ha of Spotted Ironbark Forest relative to that original DA proposal (0.73ha). Further discussion regarding vegetation clearance is outlined in Section 9 of this report.

4 SITE DEVELOPMENT – HISTORY

The site has been primarily used as a solid waste landfill site since 1993. Prior to commencement of waste operations, the site was used for both open cut and underground coal mining.

The current site layout and facilities are shown in Figure 3. Entrance to the facility is from Mount Vincent Road at the western site boundary.

An overview of this history of the site is provided below:

- DA 91-117 for a Waste Management facility was approved on 28 June 1991.
- The approval was the subject of a Land and Environment Court appeal against the validity of the DA consent. The appeal was dismissed in 1992 (see Land and

Environment Court Judgement (40202 of 1991) *Cooper and Wilton v Maitland City Council*.

- Prior to commencement of operations in 1993 as a Waste Facility, the site was used for both open cut and underground coal mining. The landfill area is located in the north east portion of the site where reject material from mining was placed and rehabilitated as grassland.
- A Section 96 modification to DA 91-117 was sought to address inconsistencies within and between the requirements of the Plan of Management, Schedule of Conditions, EPA license conditions, DA conditions and historic site operations. The modification was approved on 9 August 2016.
- A Section 4.55 modification to DA 91-117 was sought to increase the landfill volume by 320,000m³. The modification was approved on 12 June 2018.

5 DESCRIPTION OF PROPOSAL

The proposal entails the construction and operation of a new waste transfer and recycling facility at the MVWMC. The new facility will provide improved waste segregation and recycling facilities and reduce the amount of waste requiring landfilling.

To support the waste and recycling infrastructure the proposal also includes the construction of an administration building and a new gatehouse.

The new waste transfer and recycling facility (as revised in March 2019) includes the following key components as identified in figures 3 to 5 and listed below:

- Small vehicle waste and recycling facility;
- Material segregation facility;
- New gatehouse to support the existing weighbridges; and
- Administration building (NB: the education component has been deleted).

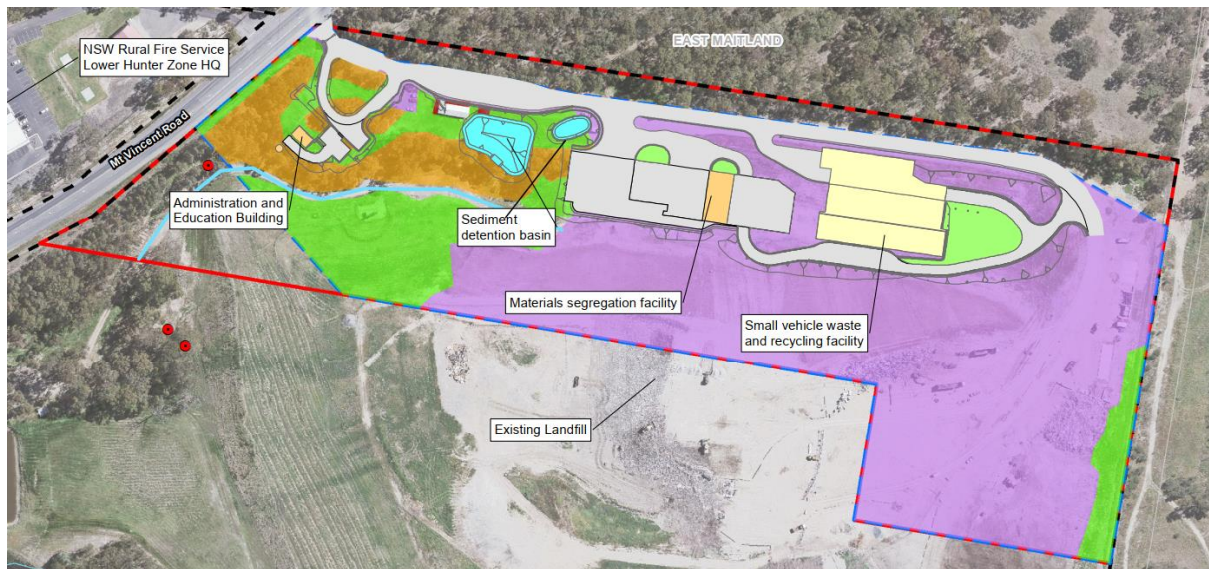


Figure 3. Conceptual project layout (Source: GHD 2019)

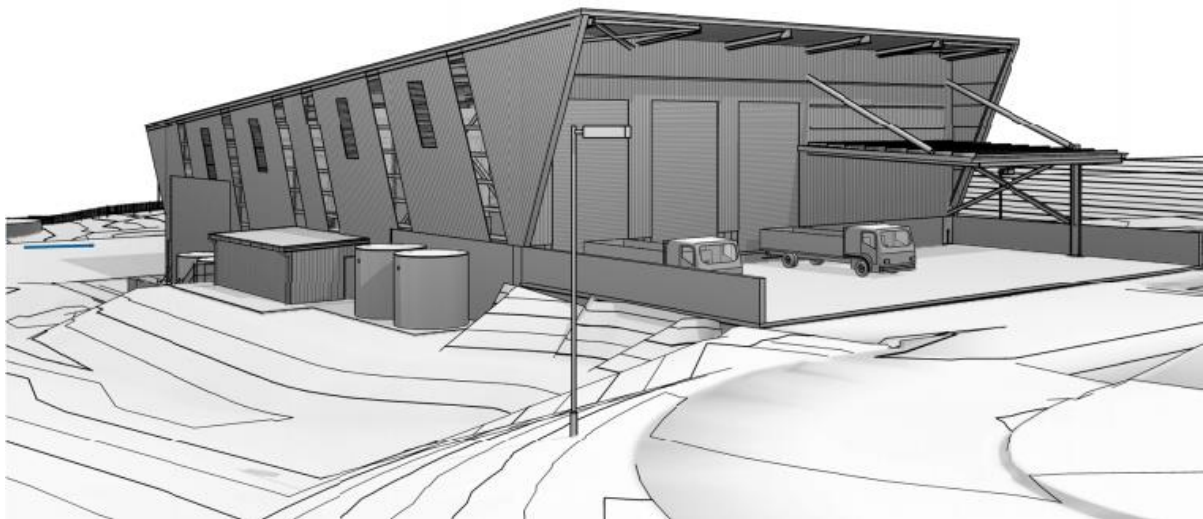


Figure 4. 3D image of the proposed Materials Segregation building (Source: GHD 2019)

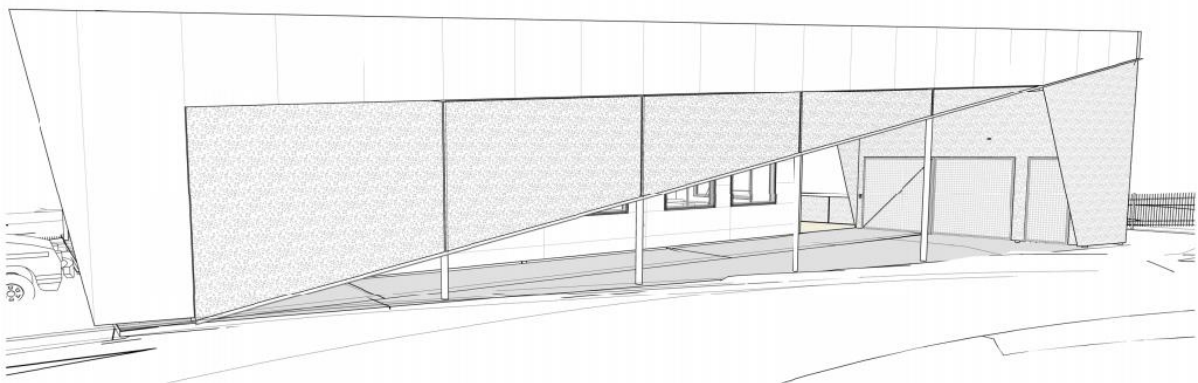


Figure 5. 3D image of the proposed Administration building (Source: GHD 2019)

The application is classified as 'Designated Development' under the provisions of Part 1 Schedule 3 of the Environmental Planning and Assessment Regulation 2000, as the proposal falls within the specified category of 'waste management facilities or works'.

The application is also classified as Integrated Development in accordance with Section 4.46 of the *EP&A Act 1979* and requires referral to the following government agencies:

- Subsidence Advisory NSW under the *Coal Mine Subsidence Compensation Act 2017*; and
- NSW Environment Protection Agency under the *Protection of the Environment Operations Act 1977*.

6 APPLICABLE PLANNING CONTROLS

The following Commonwealth legislation, State legislation and Environmental Planning Instruments are of relevance to the development.

- *Environmental Planning and Assessment (EP&A) Act 1979*;
- *Environmental Protection and Biodiversity Conservation (EPBC) Act 1999*;
- *National Parks and Wildlife Act 1974*;
- *Heritage Act 1977*;
- *Local Land Services Act 2013*;
- *Threatened Species Conservation Act 1995*;
- *Protection of the Environment Operations Act 1997*;
- *Coal Mine Subsidence Act 2017*;
- *Roads Act 1993*;
- *Rural Fires Act 1997*;
- *Water Management Act 2000*;
- State Environmental Planning Policy (State and Regional Development) (SEPP SRD) 2011;
- State Environmental Planning Policy No 33 – Hazardous and Offensive Development (SEPP 33);
- State Environmental Planning Policy No 44 – Koala Habitat Protection (SEPP 44);
- State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55);
- State Environmental Planning Policy (Infrastructure) (ISEPP) 2007;
- Maitland Local Environmental Plan (MLEP) 2011; and
- Maitland Development Control Plan (MDCP) 2011.

7 REFERRALS

External referrals

NSW – EPA

The EPA have issued General terms of approval (GTAs) for the proposal subject to a number of standard conditions. It is noted that separate approval will be required to vary the current Environment Protection Licence 6116 (EPL) to include the construction and operation of the proposed waste transfer and recycling facility at the site. Accordingly, the GTAs form part of the recommended conditions of consent.

Mine Subsidence Advisory NSW

The Mine Subsidence Advisory have issued GTAs and associated stamped plans for the proposal subject to a number of standard conditions. Accordingly, the GTAs form part of the recommended conditions of consent.

NSW Roads and Maritime Services (RMS)

Clause 104 of the ISEPP relates to traffic generating development. It is noted that Schedule 3 of the ISEPP specifies that a landfill, recycling facilities or waste transfer station of any size or capacity is a traffic generating development.

In light of the above, the development was been referred to the RMS for comment. RMS has reviewed the information provided and raises no objection to or requirements for the proposed development it is considered that there will be no significant impact on the nearby classified (State) road network.

RMS did however, recommend a number of issues for Council assessment including reference to traffic modelling and potential queuing impacts as reproduced below:

- *Based on historic traffic volume growth trends on Mt Vincent Road, Roads and Maritime believes that an assumed 2% growth rate is too conservative due to the expected growth in traffic generated by the re-development of Stockland Greenhills, the expansion of the site and the general growth in the LGA.*
- *Crashes quoted in the assessment have been noted as being in the vicinity of the site from 2009-2013. Current crash history to today's date indicates no reported crashes at the access to the site, however there were two injury crashes to the north of the access – an 'emergency from driveway' in 2011 and a 'head on' in 2014.*
- *The 85th percentile speeds, particularly southbound, are likely to be closer to the posted limit, due to the uphill gradient.*

- *It is unclear from the traffic report where the 'third part disposal / processing facility' is located. The location of the destination would be beneficial in Council's assessment as it would provide a clearer picture of the expected distribution of traffic at the access.*
- *Traffic modelling is typically forecasted for a 10 year (2017) intersection performance. A 23 year forecast (2040) is considered too ambitious for Maitland LGA's changing urban environment.*
- *The traffic assessment does not identify the potential impacts and a linear increase in trip numbers / tonnage deposited resulting from the change to the site's acceptance in general waste disposal rates. Council should have consideration for the possible changes as it would affect the number of domestic vehicle trips (householder disposal trips) into the site and the performance of the intersection.*
- *The use of 2015 traffic volume data (relevant to HEX being open since March 2013) is considered a reasonable assumption however changes in traffic volume can be expected since the commencement of work at the Stocklands Greenhills site. An assessment of the expected changes at the completion date of Stockland Greenhills should be undertaken in a sensitivity analysis.*
- *Council should ensure that appropriate traffic measures are in place during the construction phase of the project to minimise the impacts of construction vehicles on traffic efficiency and road safety within the vicinity.*
- *Council should have consideration for appropriate sight line distances in accordance with the relevant Australian Standards (i.e. AS2890:1:2004) and should be satisfied that the location of the proposed driveway promotes safe vehicle movements.*
- *Roads and Maritime has no proposal that requires any part of the property.*

In March 2017, GHD responded to the abovementioned issues raised by RMS. A summary of the GHD response is noted below:

- The traffic assessment is forecast to operate in line with the capacity of the existing landfill to 2040. An assessment assuming a 4% growth in traffic along Mt Vincent (inline with LGA growth) identifies that satisfactory operation in the PM peak hour services and Saturday peak is maintained.
- The available sight distance is suitable for speeds between 90-100km per hour.
- At this point in time the third party disposal facility is not known. However, the overall volume of truck activity between the site and a third party location is relatively low in the context of existing traffic volumes.
- The forecast of activity has been based on an increase in vehicle arrivals for domestic waste in line with population growth.

- A specific assessment of the Greenhills development is not considered necessary. The assessment included the overall growth in the LGA (including the Greenhills development) in estimating traffic demand and activity.
- It is agreed that a Construction Traffic Management and Traffic Management Plan is required.

It is noted that since March 2017 Council has implemented a kerbside organics collection service. Up until this point organics were accepted at the site free of charge. Due to the introduction of the kerbside service demand for depositing green waste at the site has substantially decreased. If residents wish to drop-off organics at the site (in addition to kerbside collection) this is subject to fees and charges.

Council's Waste Service Coordinator has confirmed that the number of vehicle movements between 8am and 9pm have decreased from an average of 22 vehicles delivering organics on Saturday (prior to kerbside collection) to an average of 4 (post introduction of kerbside collection). Furthermore, since July 2017 it is noted that an estimated 3-4 vehicles queue prior to the site opening. These vehicles can be accommodated within the existing site and therefore will not disrupt traffic on Mt Vincent Road.

As such, the projected traffic and queuing impacts are no longer applicable to the project as revised in 2019.

In light of the above, Council's Traffic Engineer has no objection to the standard conditions regarding Construction and Operational Traffic Management Plans and procedures.

Internal referrals

Traffic / Engineering

As noted above, Council's Traffic Engineer has no objection to the standard conditions regarding Construction and Operational Traffic Management Plans and procedures.

With regard to stormwater plans, Council's Engineer has recommended standard conditions regarding stormwater management and associated erosion and sediment controls.

Environmental Health – Waste

Council's Waste Services Coordinator has confirmed that Council implemented a kerbside organics collection service in March 2017 (i.e. approximately six (6) months after the lodgement of the subject DA).

As noted above, due to the introduction of the kerbside service demand for depositing green waste at the site has substantially decreased. If residents wish to drop-off organics at the site (in addition to kerb side collection) this is subject to fees and charges. Accordingly, the average number of vehicles visiting the site on Saturdays for organic drop-off has substantially decreased from an average of 22 vehicles between 8am and 9am to 4 vehicles.

It is understood that organics received will be removed on a monthly basis and transported to a composting facility for processing. No processing of organics will be undertaken at the facility and therefore the vegetation drop-off area to the eastern site boundary will no longer be required (see proposed plans as revised).

With regard to the future operational use of the facility, this will be controlled by way of standard conditions including GTAs from the EPA and the required variation to the EPL.

8 PUBLIC NOTIFICATION AND SUBMISSIONS

The DA was publicly exhibited during the period of 15 August 2016 to 16 September 2016. During this time three (3) submission letters were received.

Key issues raised within the submissions are summarised below:

- A lack of coordinated community consultation with adjoining landowners;
- Concerns regarding the accuracy of information identified on the proposed plans including lack of dimensions and topographic information;
- The proposal will adversely impact the lots located to the north;
- The existing waste facility emissions are unlawful as no licence has been obtained from the EPA;
- The existing site access is unlawful as no landowners consent has been obtained;
- The proposal should be relocated to the south and away from neighbouring properties;
- View corridors will be impacted from the proposal; and
- The proposal will result in visual impacts to neighbouring properties due to the lack of appropriate screening / landscaping.

A response to the public submissions are addressed in Section 9 of this report.

9 PLANNING ASSESSMENT

Environmental Planning and Assessment Act 1979 – Section 4.15

In determining a DA, the consent authority is to take into consideration the following matters as are of relevance in the assessment of the DA on the subject property:

(a)(i) The Provisions of any Environmental Planning Instrument

The Environmental Planning Instruments that relate to the proposed development are:

- *Environmental Planning and Assessment (EP&A) Act 1979;*
- *Environmental Protection and Biodiversity Conservation (EPBC) Act 1999;*
- *National Parks and Wildlife Act 1974;*
- *Heritage Act 1977;*
- *Local Land Services Act 2013;*
- *Threatened Species Conservation Act 1995;*
- *Protection of the Environment Operations Act 1997;*
- *Coal Mine Subsidence Act 2017;*
- *Roads Act 1993;*
- *Rural Fires Act 1997;*
- *Water Management Act 2000;*
- State Environmental Planning Policy (State and Regional Development) (SEPP SRD) 2011;
- State Environmental Planning Policy No 33 – Hazardous and Offensive Development (SEPP 33);
- State Environmental Planning Policy No 44 – Koala Habitat Protection (SEPP 44);
- State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55);
- State Environmental Planning Policy (Infrastructure) (ISEPP) 2007;
- Maitland Local Environmental Plan (MLEP) 2011; and
- Maitland Development Control Plan (MDCP) 2011.

An assessment of the proposed development against these Environmental Planning Instruments is detailed below.

Environment Protection and Biodiversity Conservation (EPBC) Act 1999

The *EPBC Act 1999* provides a mechanism for regulating the environmental impact of activities and requires the approval of the Commonwealth Minister for the Environment where an action is likely to have a significant effect on a matter of National Environmental Significance (NES). This includes consideration of impacts on nationally listed threatened species and ecological communities.

The ecological assessment undertaken by GHD identifies that the proposal will not have and is not likely to have a significant impact on matters of NES or on Commonwealth land. As no potential adverse impacts were identified, no referral under the *EPBC Act 1999* is required.

Environmental Planning and Assessment Act 1979 – Designated Development

The proposed development constitutes Designated Development as defined in Schedule 3, Part 1, 32 – Waste management facilities or works in the EP&A Regulation 2000 as it consists of a waste transfer station with an intended capacity of more than 30,000 tonnes of waste per year.

In light of the above, the applicant made a request to the Department of Planning, Industry and Environment (DPI&E) for the Secretary's Environmental Assessment Requirements (SEARs) for the preparation of an Environmental Impact Statement (EIS) for the proposal.

A summary of the SEARs issued for the proposal by the DPI&E are outlined in Table 1 below. Overall, it is considered that the EIS and supporting documentation addresses compliance with the SEARs to enable the assessment and determination of the application.

Key Issues – SEARs No. 911 – dated April 2015	Comments
Strategic context – including: - A detailed justification for the proposal and suitability of the site for the development; - A demonstration that the proposal is consistent with all relevant planning strategies, environmental planning instruments, development control plans (DCPs), or justification for any inconsistencies; and - A list of any approvals that must be obtained under any other Act or law before the development may lawfully be carried out.	Satisfactory. The DA is supported by an EIS prepared by GHD in 2016. The EIS addresses the strategic context applicable to the site including an assessment against all relevant planning legislation, controls and associated approvals It is noted that GHD prepared a detailed cover letter (dated March 2019) outlining minor changes to the proposed

Key Issues – SEARs No. 911 – dated April 2015	Comments
	development and consistency relative to the original EIS.
Waste Management – including: - Details of the type, quantity and classification of waste to be received at the site; - Details of the resource outputs and any additional processes for residual waste; - Details of waste handling including, transport, identification, receipt, stockpiling and quality control; and - The measures that would be implemented to ensure that the proposed development is consistent with the aims, objectives and guidelines in the NSW Waste Avoidance and Resource Recovery Strategy 2014-21.	Satisfactory The EIS notes that the project will have the potential to handle up to 60,000 tonnes of waste per annum. On the basis of the outcomes of an economic assessment of transporting waste, MCC has identified that domestic waste collection trucks transport waste directly to a third part location. Furthermore, the EIS references details for handling of waste and associated segregation.
Hazards and risk – including: - A preliminary risk screening completed in accordance with State Environmental Planning Policy No. 33 - Hazardous and Offensive Development and Applying SEPP 33 (DoP, 2011), with a clear indication of class, quantity and location of all dangerous goods and hazardous materials associated with the development. Should preliminary screening indicate that the project is "potentially hazardous" a Preliminary Hazard Analysis (PHA) must be prepared in accordance with Hazardous Industry Planning Advisory Paper No. 6 - Guidelines for Hazard Analysis (DoP, 2011) and Multi-Level Risk Assessment (DoP, 2011).	Satisfactory A SEPP 33 Risk Screening Analysis was prepared by GHD for the proposal. The report identified that the proposed development will not result in exceedance of SEPP 33 amenity impacts. As such the proposal is not considered to be "potentially hazardous".
Mine Subsidence – including: - Mine subsidence design parameters; - A description of mine subsidence zones on the site and the structures and buildings in each zone; - A mine subsidence risk assessment; and	Satisfactory The EIS is supported by a Mine Subsidence Impact assessment prepared by GHD. The report notes that the site is located within the influence zone of abandoned mine workings to the north and south. The report specifies MSB design parameters.

Key Issues – SEARs No. 911 – dated April 2015	Comments
- Assign mitigation measures for each affected structure and building.	It is noted that the revised plans were referred to Subsidence Advisory NSW and GTAs have been issued.
Air Quality – including - A description of all potential sources of air emissions; - An air quality impact assessment in accordance with relevant Environment Protection Authority Guidelines; and - A description and appraisal of air quality impact mitigation and monitoring measures.	Satisfactory The EIS is supported by an Air Quality and Odour Assessment prepared by Pacific Environment Limited. The report identifies all potential sources of air emission and relevant assessment guidelines and mitigation measures.
Noise and vibration – including - A description of all potential noise and vibration sources during - Construction and operation, including road traffic noise; - A noise and vibration assessment in accordance with the relevant - Environment Protection Authority guidelines; and - A description and appraisal of noise and vibration mitigation and monitoring measures.	Satisfactory The EIS is supported by a Noise Impact Assessment prepared by GHD. The report identifies all potential sources of noise and vibration emissions and relevant assessment guidelines and mitigation measures.
Soil and water – including: - A description of local soils, topography, drainage and landscapes; - The details of stormwater, leachate and wastewater management; - Details of sediment and erosion controls; - The details of water usage including water supply and licences; - An assessment of impacts to surface and groundwater resources, soil and agricultural resources, flooding impacts, and impacts to groundwater dependent ecosystems; and - A description and appraisal of impact mitigation and monitoring measures.	Satisfactory The EIS is supported by a Soil and Water Assessment prepared by GHD. The report identifies details of stormwater management, associated impacts and mitigation measures.

Key Issues – SEARs No. 911 – dated April 2015	Comments
Traffic and transport – including - Details of road transport routes and access to the site; - Road traffic predictions for the development during construction and operation; - An assessment of impacts to the safety and function of the road network.	Satisfactory The EIS is supported by a Traffic and transport Assessment prepared by GHD. The report includes traffic and parking aspects of the proposal relative to the safety of the local road network.
Biodiversity – including - Accurate predictions of any vegetation clearing on site or for any road - Upgrades; - A detailed assessment of the potential impacts on any threatened species, populations, endangered ecological communities or their habitats, groundwater dependent ecosystems and any potential for offset - Requirements; - A detailed description of the measures to avoid, minimise, mitigate and offset biodiversity impacts.	Satisfactory The EIS is supported by a Flora and Fauna Assessment prepared by GHD. The report includes a detailed assessment relative to vegetation clearance and potential impacts on threatened species and recommended mitigation measures.
Visual – including: - An impact assessment at private receptors and public vantage points.	Satisfactory The EIS is supported by a Visual Impact Assessment prepared by the Design Partnership. The report identifies eight (8) viewpoints within the locality to assess the potential visual impacts of the proposal.
Heritage - A heritage impact assessment, a contextual and curtilage study and an interpretation study in accordance with Office of Environment and - Heritage Guidelines; and - Aboriginal cultural heritage.	Satisfactory The EIS is supported by a Heritage Assessment prepared by Baker Archaeology. The report includes a review of all relevant heritage registers and guidelines.

Key Issues – SEARs No. 911 – dated April 2015	Comments
Environmental Planning Instruments and other policies	
The EIS must assess the proposal against the relevant environmental planning instruments, including but not limited to: - Maitland Local Environmental Plan 2011; - State Environmental Planning Policy (infrastructure) 2007; - State Environmental Planning Policy No. 33 Hazardous and Offensive Development; - State Environmental Planning Policy No. 55 Remediation of Land; and - Relevant development control plans and section 94 plans.	Satisfactory The EIS has referenced all relevant planning legislation and controls.
Consultation	
During the preparation of the EIS, you must consult the relevant local, State and Commonwealth government authorities, service providers and community groups, and address any issues they may raise in the EIS. In particular, you should consult with the: - Environment Protection Authority; - Department of Primary industries; - Roads and Maritime Services; - NSW Mine Subsidence Board; - Rural Fire Services; - Office of Environment and Heritage; - Division of Resources and Energy; and - The surrounding landowners and occupiers that are likely to be impacted by the proposal. Details of the consultation carried out and issues raised must be included in the EIS.	Satisfactory The EIS identifies consultation undertaken with relevant State Agencies and surrounding landowners.

Table 1. SEARs requirements – Department of Planning, Infrastructure and Environment

Environmental Planning and Assessment Act 1979 – Integrated Development

The proposed development constitutes Integrated Development pursuant to Section 4.46 of the *EP&A Act 1979* as the site is located within a Mine Subsidence District. As such consent from Mine Subsidence NSW is required in accordance with Section 22 of the *Coal Mine Subsidence Compensation Act*. In addition, proposal requires an EPL from the EPA in accordance with Section 58 of the *POEO Act*.

It is noted that the Subsidence Advisory NSW and the EPA have provided the general terms of approval which will be included as recommended conditions of consent.

NSW National Parks and Wildlife Act 1974

The objectives of this Act are to conserve nature, objects, places or features of cultural value within the landscape. With regard to native flora and fauna, a detailed assessment has been undertaken by GHD. The reporting identifies that the project will not result in any unacceptable impacts in this regard.

Section 86 of the *NPW Act* identify that is an offence to harm or desecrate an aboriginal object or place. The proposal is located on heavily disturbed land with no identified heritage objects or places. Accordingly, no adverse impacts are considered to arise from the proposal subject to the imposition of conditions regarding vegetation clearance and mitigation strategies.

Heritage Act 1977

The objectives of this Act are to conserve the State's heritage items through the identification and registration and where required interim protection measures. It is noted that there are no items in proximity to the project area listed under the Act.

Native Vegetation Act 2003

The objectives of the Act are to regulate broad scale clearing of native vegetation in NSW and to improve the regional native vegetation management and revegetation of land. The act was repealed on 25 August 2017. As such clearing of vegetation on rural land is addressed by the *Local Land Services Act 2013* and the *Threatened Species Act 1995*.

Local Land Services Act 2013

The object of the act is to establish a statutory authority with responsibility for management and delivery of local land services in the social, economic and environmental interests of the State. Furthermore, it is to ensure the proper management of resources in accordance with

ecological sustainable development. In accordance with Part 5A of the Act, the Native Vegetation Regulatory Map designates where clearing of native vegetation is regulated or not regulated. The subject site is identified as Land Excluded from the *LLS Act*. Accordingly, the provisions of the Act are not applicable.

Threatened Species Act 1995

The Act was repealed by Schedule 10 to the *Biodiversity Conservation Act 2016* with effect from 25 August 2017. However, as of 25 February 2018, any new application for development consent or modification to an approved development under Part 4 of the *EP&A Act 1979* (not including state significant development) will be subject to the biodiversity assessment requirements of the *BC Act 2016*, and transitional arrangements no longer apply.

Notwithstanding, it is noted the subject DA was lodged in July 2016. As such the *TSC Act* prevails over the *BC Act 2016* including the Biodiversity Offsets Scheme in this instance.

A Flora and Fauna Impact Assessment has been prepared by GHD in accordance with the requirements of the *TSC Act* in relation to the proposal. Whilst the proposal would result in the clearance of 1.93ha of vegetation (comprising Spotted Gum Ironbark Forest, Exotic grassland and planted vegetation) and associated disturbance to local habitat the assessment of significance (7 part test) concludes that the project is not 'likely' to have 'a significant effect' on any threatened species or communities listed in the *TSC Act*. Accordingly, a species impact statement is therefore not required. A number of mitigation measures are proposed including the development and implementation of a revegetation plan to reinstate and improve the quality of Spotted Gum Ironbark Forest EEC across the site.

Further details regarding the impact to flora and fauna are addressed in the Impacts section of this report.

Roads Act 1993

The objective of this Act is to regulate the carrying out various activities on public roads. The proposal consists of the construction of Waste Recycling facility and ancillary buildings works within the site. As such, the proposal does not involve works within a public or classified road. Accordingly, the proposed development does not require consent from the RMS under Section 138 of the *Roads Act*.

Rural Fires Act 1997

The majority of the site including the project area is mapped as Bush Fire Prone Land – Vegetation Category 1 with a 100m buffer. However, approval under Section 100B of the act is not required as the site is not located on land that can be lawfully used for residential or rural residential land. Furthermore, no subdivision is proposed. Accordingly, the proposed development does require consent from the RFS.

Water Management Act

The objectives of this Act are to provide for the sustainable and integrated management of water sources, for the benefit of both present and future generations. The proposal is not located within 40m of waterfront land which is defined as a “Controlled Activity”. Accordingly, a “Controlled Activity” is not required in this instance.

State Environmental Planning Policy (State and Regional Development) 2011 (SEPP SRD)

The proposed waste transfer facility (designated development) and has a CIV of \$14,000,000. Therefore, in accordance with Schedule 3 of the *EP&A Act 1979*, the proposal is defined as Regional development as it consists of Council related development exceeding the CIV threshold of \$5 million and is designated development. As such, the Hunter and Central Coast JRPP is the determination authority.

State Environmental Planning Policy No.33 – Hazardous and Offensive Development (SEPP 33)

SEPP 33 applies to any proposal which falls under the definition of a “potentially hazardous industry or potentially offensive industry.

A SEPP 33 Risk Screening Analysis was prepared by GHD for the proposal. The report identified that the proposed development will not result in exceedance of SEPP 33 amenity impacts. As such the proposal is not considered to be “potentially hazardous”.

State Environmental Planning Policy (Infrastructure) (ISEPP) 2007

In accordance with Clause 120 (Division 23 Waste or resource management facilities) of the ISEPP the proposed Waste Transfer Facility is permissible with consent within the SP1 prescribed zone.

Clause 104 of the ISEPP relates to traffic generating development. It is noted that Schedule 3 of the ISEPP specifies that a landfill, recycling facilities or waste transfer station of any size or capacity is a traffic generating development.

In light of the above, the development was been referred to the RMS for comment. As previously stated RMS had no objection but did raise a number of issues for Council assessment including reference to traffic modelling and potential queuing impacts. As noted previously in the referrals section of this report, the proposed development as revised is considered satisfactory by Council's traffic engineer subject to standard conditions regarding Construction and Traffic Management Plans. Such details will be required by way of condition.

State Environmental Planning Policy No 44 – Koala Habitat Protection (SEPP 44)

SEPP 44 prescribes a statutory process to encourage the following:

“...proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline...”

Schedule 1 lists the LGAs to which SEPP 44 applies, including the Maitland Council LGA. The applicant assessed the project area for impacts to flora and fauna and it was concluded that the site did not constitute koala habitat.

State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)

The SEPP requires Council to be satisfied that the site is suitable for its intended use (in terms of contamination) prior to granting Development consent.

Given the landfill history of the site is governed by Development Consent DA 91-117 and associated licensing from the EPA, it is considered that the proposed development is suitable for the site being a work associated with continuing the existing use of the wider site as a waste facility. Notwithstanding, SEPP 55 requires the consideration of the contamination of the land and its suitability for its intended use.

The EIS prepared by GHD notes the following with regard to contamination of land and suitability for the proposed use within an existing landfill site:

“Based on the preliminary contamination of soil, reported analytical results are below the adopted assessment criteria for the proposed use (commercial / industrial criteria). Therefore, soil is considered suitable to be reused onsite as part of the Project.

Should any soils be required to be removed off-site as a result of the Project, further testing of the soils should be undertaken to confirm the waste classification...”

In light of the above, it is considered that the site is consistent with the requirements of SEPP 55, and is suitable for the proposed land use.

Maitland Local Environmental Plan (MLEP) 2011

The subject site is zoned the SP1 Waste Disposal Facility as illustrated in the extract of the Land Zoning Map in Figure 6 below.

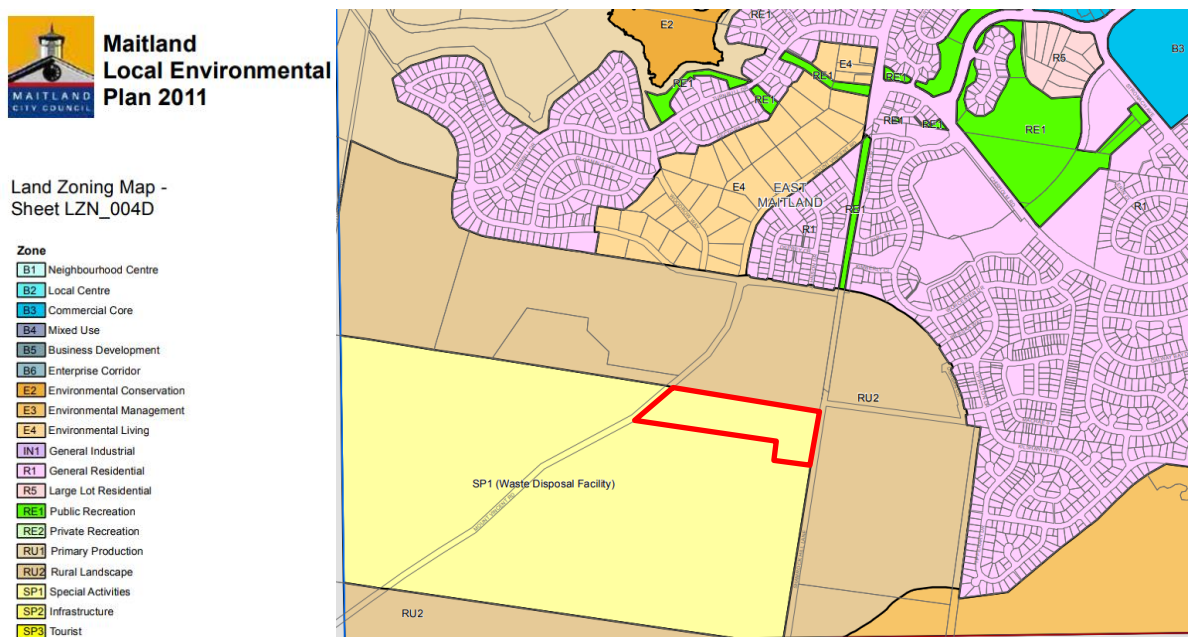


Figure 6. Extract of MLEP 2011 Zoning Map (site outlined in red).

The proposed development is defined as a "Waste Transfer Station" by the LEP which is a permissible land use in the zone. The Waste Transfer Station is an ancillary component of the development as contemplated by the Waste Disposal Facility land use definition.

Noting the above, the DA is assessed against the following relevant clauses of the MLEP outlined in Table 2 below.

MLEP 2011	Comment	Complies
Clause 2.2 Land Use Zoning: SP1 Waste Disposal Facility	The subject site is zoned SP1 Waste Disposal Facility which is defined as: <i>"a building or place used for the disposal of waste by landfill, incineration or other means, including such works or activities as recycling resource recovery and other resource management activities, energy generation from gases, leachate management, odour control and the</i>	The site subject to this DA is zoned SP1 (Waste Disposal Facility) under the provisions of the LEP. The proposed development is defined as a "Waste Transfer Station" by the MLEP which is a permissible land use in the zone pursuant to Division 23 of ISEPP. The Waste Transfer and Recycling

MLEP 2011	Comment	Complies
	<i>winning of extractive material to generate a void for disposal of waste or to cover waste after its disposal.”</i> The objectives of the SP1 zone are: - <i>To provide for special land uses that are not provided for in other zones.</i> - <i>To provide for sites with special natural characteristic that are not provided for in other zones.</i> - <i>To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts in surrounding land.</i>	Facility is an ancillary component of the development as contemplated by the Waste Disposal Facility land use definition. The proposed development is consistent with the SP1 zone objectives in that it supports the functions of the existing Waste Transfer Station to provide services to the community.
Clause 4.3 Height of Buildings	A maximum building height does not apply to the site.	N/A
Clause 4.4 Floor Space Ratio	A maximum FSR does not apply to the site.	N/A
Clause 5.10 Heritage	The site is not listed as a heritage item and is not located within a conservation area.	The proposed development is sited within an operational waste management facility. The site formerly contained coal mining operations and therefore has been heavily disturbed with no identified heritage objects or places. Accordingly, no heritage impacts are considered to arise in this instance.
Clause 5.11 Bush fire hazard reduction	The subject site is located on Council's bush fire prone land map as "Vegetation Category 1". As noted previously, the site contains several vegetation communities including - Spotted Gum-Narrow leaf Ironbark,	Yes – subject to conditions

MLEP 2011	Comment	Complies
	- Shrub-Grass Open Forest of the Central and Lower Hunter; and - Exotic grassland. In response, the following mitigation methods are proposed: - An APZ has been provided which surrounds the materials segregation facility and small vehicle waste and recycling facility. - Identification and incorporation of construction standards for buildings and refuge areas. - Fire prevention design methods in accordance with the BCA and AS1851-2012 Routine Service of Fire Protection Systems and Equipment, and - Bushfire management procedures. It is noted that as the proposal does not involve subdivision, no formal referral to RFS is required. However, given RFS headquarters is located immediately to the west of the site, the RFS was notified of the proposal through public advertising.	
Clause 7.1 Acid Sulfate Soils	The Acid Sulfate Soils Map sheet ASS_004D indicates there is no known occurrence of acid sulfate soils in the vicinity of the site.	N/A
Clause 7.2 Earthworks	The objective of Clause 7.2 is to ensure that earthworks will not have a detrimental impact on environment including neighbouring uses, and cultural and heritage items or features.	An Erosion and Sedimentation Plan has been prepared by GHD for the proposal. The plan details the various measures including earthworks that will be implemented on site during demolition and construction phases to minimise

MLEP 2011	Comment	Complies
		environmental impacts including water quality.
Clause 7.3 Flood planning	The western portion of the site is mapped as inundated in a 1 in 100 year flood event however, the location of landfill activities is not mapped as affected by the 1 in 100 year flood event.	N/A

Table 2. Relevant provisions of MLEP 2011

a)(ii) The Provisions of any Draft Environmental Planning Instrument (that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

There are no draft Environmental Planning Instruments applicable to the proposed development.

(a)(iii) The Provisions of any Development Control Plan

Maitland Development Control Plan (MDCP) 2011

The DA was assessed against the following relevant clauses of the MLEP outlined in Table 3 below.

MDCP 2011	Comment	Complies
A.4 Notification		
1. Where a development application is to be advertised, advertising will occur as follows: - A notice is published at least once in the Maitland Council news section of the local newspaper. - Written notice of the proposal, including a notification plan, is to	The DA was placed on public exhibition for 30 days from 15 August to 16 September 2016. The documentation was on display at both Council and the Department of Planning at Newcastle.	Yes

MDCP 2011	Comment	Complies
be provided to all adjoining landowners - The application and supporting material is available for inspection at the Administration Building for a minimum period of 14 days from the date of the published notice.		
11. If a development application is amended prior to determination, and - Council has notified / advertised the original application, and - Council is of the opinion that the amended application differs only in minor respects from the original application, and - The application does not result in a greater environmental impact; Council may decide to dispense with further notification / advertising in relation to the application.	Amended plans were submitted to Council in March 2019 in relation to minor design changes to the administration building, waste transfer area, segregation building and associated civil works including the deletion of a visitor car park, green waste storage area and alterations to stormwater pipe locations. Given the minor nature of the changes which are not considered to result in greater environmental impact to that of the original application, the amended plans were not notified in this instance.	Yes
2.2.2 Integrated Development		
In addition to any consent issued under the <i>EPA Act</i>, some Projects will also require approval (or licences) from other statutory authorities or agencies before commencing work or undertaking the activity.	The application is classified as Integrated Development in accordance with Section 4.46 of the <i>Environmental Planning and Assessment Act 1979</i> and requires referral to the following government agencies: • Subsidence Advisory NSW under the <i>Coal Mine</i>	Yes – GTAs have been received from Subsidence Advisory NSW and the EPA. It is recommended that the GTAs form part of the conditions of the consent.

MDCP 2011	Comment	Complies
	<i>Subsidence Compensation Act 2017</i>; and Office of Environment & Heritage under <i>Protection of the Environment Operations Act 1977</i>.	
2.2.3 Bushfire Prone Land		
Any Development Application over land that is classified as 'bush fire prone land' on Council's Bush Fire Prone Map is required to comply with the NSW Rural Fire Service's publication titled 'Planning for Bushfire Protection' (2006). Where the development is 'integrated development', the application will be referred to NSW Rural Fire Service for comment.	The subject site is located on Council's bush fire prone land map as "Vegetation Category 1". As noted previously, the site contains several vegetation communities including: - Spotted Gum-Narrow leaf Ironbark, - Shrub-Grass Open Forest of the Central and Lower Hunter; and - Exotic grassland. In response, the following mitigation methods are proposed: - An APZ has been provided which surrounds the materials segregation facility and small vehicle waste and recycling facility. - Identification and incorporation of construction standards for buildings and refuge areas. - Fire prevention design methods in accordance with the BCA and AS1851-2012 Routine Service of Fire Protection Systems and Equipment, and	Yes – subject to standard conditions of consent

MDCP 2011	Comment	Complies
	- Bushfire management procedures. It is noted that as the proposal does not involve subdivision, no formal referral to RFS is required. However, given RFS headquarters is located immediately to the west of the site, the RFS was notified of the proposal though public advertising. The site contains fire fighting dams to the western side of Mt Vincent Road.	
2.2.4 Clearing native vegetation		
The <i>Native Vegetation Act 2003 (NV Act)</i> and Regulation came into force in 2005. This Act regulates the clearing of native vegetation on all land across NSW except for land excluded in that Act (including certain urban zones). This Act is administered by the Hunter-Central Rivers Catchment Management Authority (CMA) as the consent authority.	The objectives of the Act are to regulate broad scale clearing of native vegetation in NSW and to improve the regional native vegetation management and revegetation of land. The act was repealed on 25 August 2017. As such clearing of vegetation on rural land is legislated by the <i>Local Land Services Act 2013</i> and the <i>Threatened Species Act 1995</i> .	N/A
2.2.5 Consent authority		
In most cases, Council is the relevant consent authority for applications within the LGA. State Environmental Planning Policy (Major Developments) 2005 establishes the Minister for Planning (or by delegation the Department of Planning) as the consent authority for development categorised as Major Projects / State Significant Development.	The proposed development is Council related and has a CIV in excess of \$5 million. Accordingly, the consent authority is the Hunter and Central Coast Regional Planning Panel.	Yes

MDCP 2011	Comment	Complies
Other subordinate panels have also been established under the EPA Act, including the Planning Assessment Commission (PAC) and Joint Regional Planning Panels (JRPP).		
Part B – Environmental Guidelines		
B.5 Vegetation Management		
3.1 What approvals are required?		
Significant Trees A number of trees within Maitland LGA have particular significance. Some trees are listed as heritage items or are located within Heritage Conservation Areas in the Maitland LEP 2011 (see Schedule 5). Any proposed activity to a tree to which clause 5.10 in the Maitland LEP 2011 applies or any tree listed on the Register of Significant Trees requires development consent of Council. The development application must be accompanied by a report from a qualified arborist.	The provisions of Clause 5.10 of the MLEP are not applicable in this instance as the site does not contain significant trees listed as Heritage items or within Heritage Conservation Areas.	N/A
Appendix A – Car Parking Requirements for Specific Land Uses		
Business Premises and Office Premises – 1 space per 40m2 GFA	The proposal features an administration building (approximately 400m2) for onsite employees. The proposed development incorporates the provision of ten (10) parking spaces with satisfies Council car parking requirements.	Yes – subject to conditions

Table 3. Relevant provisions of MDCP 2011

(a)(iia) The Provision of any Planning Agreement that has been entered into under Section 94F, or any draft Planning Agreement that a developer has offered to enter into under Section 93F

No relevant agreement exists or has been proposed as part of this DA.

(a)(iv) The Regulations

The Regulations prescribe several matters that are addressed in the conditions contained in this report.

(b) The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Mine Subsidence

The proposed development constitutes Integrated Development pursuant to Section 4.46 of the *EP&A Act 1979* as the site is located within a Mine Subsidence District. As such consent from Mine Subsidence NSW is required in accordance with Section 22 of the *Coal Mine Subsidence Compensation Act*.

It is noted that the Subsidence Advisory NSW has provided the general terms of approval which will be included as recommended conditions of consent.

Hazards and Risk

A SEPP 33 Risk Screening Analysis was prepared by GHD for the proposal. The report identified that the proposed development will not result in exceedance of SEPP 33 amenity impacts. As such the proposal is not considered to be “potentially hazardous”.

Contamination

Given the landfill history of the site is governed by Development Consent DA 91-117 and associated licensing from the EPA, it is considered that the proposed development is suitable for the site being a work associated with continuing the existing use of the wider site as a waste facility. Notwithstanding, SEPP 55 requires the consideration of the contamination of the land and its suitability for its intended use.

The EIS prepared by GHD notes the following with regard to contamination of land and suitability for the proposed use within an existing landfill site:

“Based on the preliminary contamination of soil, reported analytical results are below the adopted assessment criteria for the proposed use (commercial / industrial criteria). Therefore, soil is considered suitable to be reused onsite as part of the Project.

Should any soils be required to be removed off-site as a result of the Project, further testing of the soils should be undertaken to confirm the waste classification...”

In light of the above, it is considered that the site is consistent with the requirements of SEPP 55, and is suitable for the proposed land use subject to conditions.

Soil and Water

The EIS is supported by a Soil and Water Assessment prepared by GHD. The report identifies details of stormwater management, associated impacts and mitigation measures as outlined below.

The proposal consists of three (3) single storey buildings, parking, loading bays and associated paved areas for vehicle access and landscaping. Stormwater generated by the hard stand areas will be collected by a pit and pipe system and directed to a detention basin (including gross pollutant removal devices) located to the west of the proposed segregation building. The detained flows will be directed to the stormwater drain flowing to Sediment Dam 1. Furthermore, it is expected that the Project will not result in any increase in potable water demand.

Construction and operation may have the potential to impact on water quality due to the increase in stormwater runoff and leachate generation. The capacity of the sediment dams and Leachate pond will be reviewed as required but extrapolation of the water balance model indicate that discharge frequencies and volumes are unlikely to be subject to significant change.

In light of the above, a number of mitigation and management controls are proposed:

- Erosion and sediment control;
- Sediment dam management and
- Monitoring.

Council’s Engineers have reviewed the proposed stormwater plans and have no objection to recommended conditions relating to works during demolition, construction and operating phases to minimise environmental impacts including water quality.

Air Quality and Odour

The EIS is supported by an Air Quality and Odour Assessment prepared by Pacific Environment Limited in 2016. The report identifies all potential sources of air emission and relevant assessment guidelines and mitigation measures.

With regards to potential amenity impacts, it is important to identify sensitive receptors within the locality. A sensitive receptor is defined as *“a location where people are likely to work or reside, and may include a dwelling, school, hospital office or public recreational area in addition to known or likely future locations”*.

The Air Quality and Odour Assessment identifies a total of 16 sensitive receptors as shown in Figure 7 below.



Figure 7. Location of sensitive receptors (Source Pacific Environment Limited)

Details of the three (3) closest receptors include:

- R14 (Lot 2 in DP 1228477):
 - Site located directly to the north.

- Between 2015 and 2016 a Site compatibility certificate (SSC) for Seniors housing and a Planning Proposal to change zoning from RU2 to R1 were lodged.
- In 2018 the site was acquired by Council under a confidential deed of agreement.
- R15 (Lot 141 DP 1225076):
 - Site subject to DA approval for a single dwelling on 22 September 2009 (DA 09-451). It is noted that whilst a dwelling has not been constructed, Council's records indicate that the DA has been substantially commenced and is therefore valid.
 - A Planning Proposal was lodged in 2014 to convert zoning from RU2 to R1. Department of Planning issue Gateway approval in 2017 subject to further reporting.
 - A Site Compatible certificate (SSC) for Seniors Living was approved on 25 November 2016 (NB: 24 months validity)
 - A new Site Compatibility certificate (SSC) for Seniors Living was refused in June 2019.
- R16 (110 Mt Vincent Road):
 - Council owned property occupied by the NSW RFS Control Centre for the Lower Hunter

The abovementioned description of neighbouring properties has been provided to demonstrate the change in circumstances regarding receptors since the completion of the original Air Quality and Odour Assessment.

The Air Quality and Odour Assessment notes that the predicted odour levels at the sensitive receivers due to the proposal is less than 1 OU (i.e. the theoretical level of detection of an odour). On a cumulative basis with both the existing operation and proposes, there is less than 1 OU difference. On this basis it is considered unlikely that there is any change to the existing odour levels in the vicinity of the late.

Although the report notes that R14 is also above the 2 OU level, this site has since been acquired under Council ownership. Accordingly, no further sensitive uses are likely to be located on this site. Over 90% of the predicted odour levels are below 1 OU and an odour level of less than 2 OU will occur 95% of the modelled year at all receptors.

With regard to dust, there are no sensitive receivers that are predicted to experience dust deposition above the assessment criteria due to the proposal or cumulatively with existing operations on site.

In light of the above it is considered the proposal is acceptable subject to the recommended mitigation measures including traffic management, complaints procedure and minimising storage time of waste where possible. Furthermore, odour and air quality impacts will be controlled by EPL licence requirements.

Noise and Vibration

The EIS is supported by a Noise Impact Assessment prepared by GHD. The report identifies all potential sources of noise and vibration emissions and relevant assessment guidelines and mitigation measures.

The assessment notes that there may be some short term, temporary noise impacts during construction relative to some of the nearest sensitive receivers. However, any exceedance in noise levels is only anticipated for short periods and will blend in with the ambient noise of the surrounding area.

During operation of the proposal, noise levels are expected to comply with relevant criteria both for the project and cumulatively with the existing operation.

In light of the above it is considered the proposal is acceptable subject to the recommended mitigation measures including traffic management, complaints procedure and operational measures.

Views

The site is located in a predominantly rural / bushland setting with limited viewpoints from residential receivers. The landfill's western embankment is partially visible from Cessnock Road at Gillieston Heights, approximately 4.7km to the north west. Partial views of the site are also possible from Gullivers Lane approximately 1 km to the west of the site. Views of the site can also be obtained from passing traffic along Mt Vincent Road.

The subject application is supported by a Visual Impact Assessment (VIA) prepared by GHD. The VIA identified eight (8) viewpoints to investigate the potential impacts of the site as identified in Figure 8 and listed below:

- VP1: Corner of Watergum Street and Johnson Drive, Rathluba Ridge
- VP2: Worcester Drive near Prieska Way, Ashonfield
- VP3: Tipperary Drive, Ashtonfield
- VP4: Mt Vincent Road, southern entry to RFS Headquarters
- VP5: Mt Vincent Road, northern exit of RFS Headquarters
- VP6: Gullivers Lane, Louth Park

- VP7: Corner of Hillcrest Drive and Horizon Street, Gillieston Heights
- VP8: Darcy's Lookout, Darcys Circuit, Gillieston Heights



Figure 8. Visual Assessment locations. NB: Subject site in red (Source: GHD 2016)

The assessment notes that overall the site has low visibility to the public (NB: not visible by half the potential viewpoints), it has high visibility in relation to the entry and existing points of NSW RFS Headquarters (see VP4 and VP5). Notwithstanding, these views are obtained by drivers for a short period. However, noting the site is generally screened by the existing landscape including vegetation directly to the north (Lot 1012 which is owned by Council) any visual impacts resulting from one (1) storey buildings are not considered significant.

It is noted that the assessment recommends a number of mitigation measures including landscaping, low reflective materials and lighting requirements. As such, it is recommended that such measures are incorporated by way of the recommended conditions.

Traffic and Transport

The EIS is supported by a Traffic and transport Assessment prepared by GHD. The report includes traffic and parking aspects of the proposal relative to the safety of the local road network.

As previously stated, the proposal is classified as Traffic Generating Development in accordance with Clause 104 of the ISEPP. It is noted that Schedule 3 of the ISEPP specifies that a landfill, recycling facilities or waste transfer station of any size or capacity is a traffic generating development.

Accordingly, the development was been referred to the RMS for comment. As previously stated RMS had no objection but did raise a number of issues for Council assessment including reference to traffic modelling and potential queuing impacts. As noted previously in the referrals section of this report, the proposed development as revised is considered satisfactory by Council's traffic engineer subject to standard conditions regarding Construction and Traffic Management Plans. Such details will be required by way of condition.

Biodiversity

The EIS is supported by a Flora and Fauna Assessment prepared by GHD. The report includes a detailed assessment relative to vegetation clearance and potential impacts on threatened species resultant from a literature review and subsequent field work observations as outlined below.

Existing environment

Surveys recorded the following fauna species within the project area:

- Woodland birds including, Grey Fantail (*Rhipidura albiscapa*), Australian Magpie (*Cracticus tibicen*), Willie-wagtail (*Rhipidura leucophrys*), Brown Gerygone (*Gerygone Mulki*) and Superb Fairy-wren (*Malurus cyaneus*).
- Urban birds commonly found in disturbed areas including landfills including Silver Gull (*Chroicocephalus novaehollandiae*), Australian Raven (*Corvus coronoides*), Straw-necked Ibis (*Threskiornis spinicollis*), Australian ibis (*Threskiornis Molucca*) and Noisy Miner (*Marnorina melanocephala*).
- Birds of including Wedge-tailed Eagle (*Aquila audax*) and Black Kite (*Milvus migrans*).

One mammal (Eastern Grey Kangaroo (*Macropus giganteus*)) was also recorded foraging within the Project area. In addition, two frog species (Common Froglet (*Crinia signifera*) and Spotted Grass Frog (*Limnodynastes tasmaniensis*) were heard calling along a drainage area. No reptile, owl or arboreal mammal species were recorded during field surveys.

With regard to vegetation, three distinct vegetation types were identified in the project area as noted in the Table 4 and Figure 9 below:

Vegetation type	Area (Ha)	Conservation Significance
Spotted Gum-Narrow-leaf Ironbark-Red Ironbark Shrub grass Open Forest of the Central and Lower Hunter	2.93	Endangered Ecological Community (EEC) listed under the TSC Act as Lower Hunter Spotted Gum Ironbark Forest of the Sydney Basin Bioregion
Exotic Grassland	3.18	N/A
Planted trees and shrubs	0.03	N/A
Disturbed land	11.88	N/A
Total	18.03	

Table 4: Vegetation types in project area (Source GHD 2016)

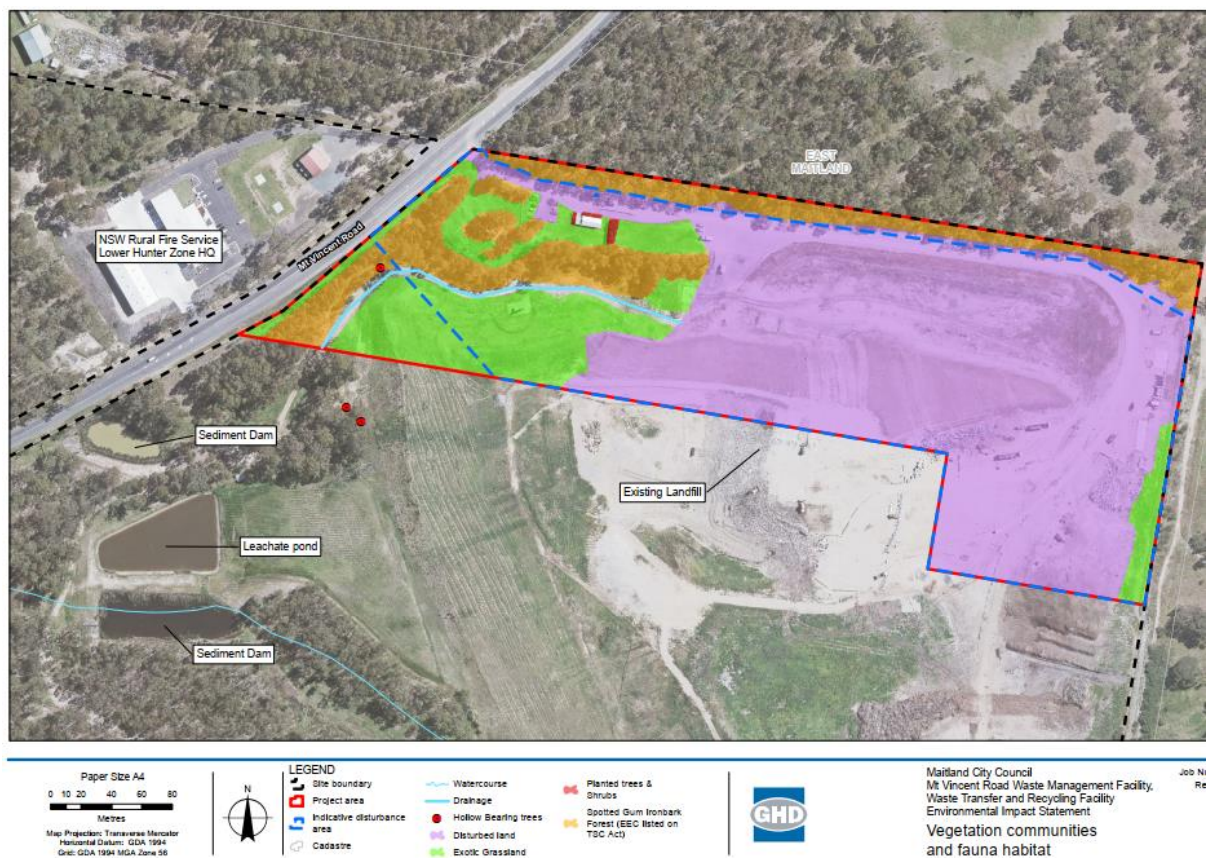


Figure 9: Vegetation communities and fauna habitat (Source GHD 2016)

Impact assessment

The project involves the clearing of approximately 1.93ha of vegetation including portions of exotic vegetation, planted native vegetation and remnant native vegetation. The indicative disturbance area includes 0.73ha of remnant native vegetation, which comprises Lower Hunter Spotted Gum Ironbark EEC. Vegetation clearing will involve removal of a moderately diverse range of non-threatened native plants, including mature trees. A summary of the extent of vegetation clearing is outlined in Table 5 below:

Vegetation type	TSC Act	EPBC Act	Area impacted (Ha)	Area within Locality (Ha)
Spotted Gum Ironbark Forest	Lower Hunter Spotted Gum Ironbark EEC	Not listed	0.73	13,730
Exotic Grassland	Not listed	Not listed	1.19	N/A
Planted trees and shrubs	Not listed	Not listed	0.02	N/A
Total			1.98	

Table 5: Proposed area of vegetation clearing (Source GHD 2016)

As previously stated, the proposed development including siting of buildings was revised in March 2019 (i.e. after the original flora and fauna assessment was completed in 2016). GHD have confirmed that the proposal as revised would result in a reduction to the potential impact to Spotted Gum Ironbark Forest from 0.73ha to 0.71ha. The main point of the difference between the original and revised proposal relates to the deletion of the car park area towards Mt Vincent Road. An updated diagram regarding vegetation clearance is provided in Figures 10 and 11 below.



Figure 10. Proposed vegetation clearance relative to original proposal (Source GHD 2019)

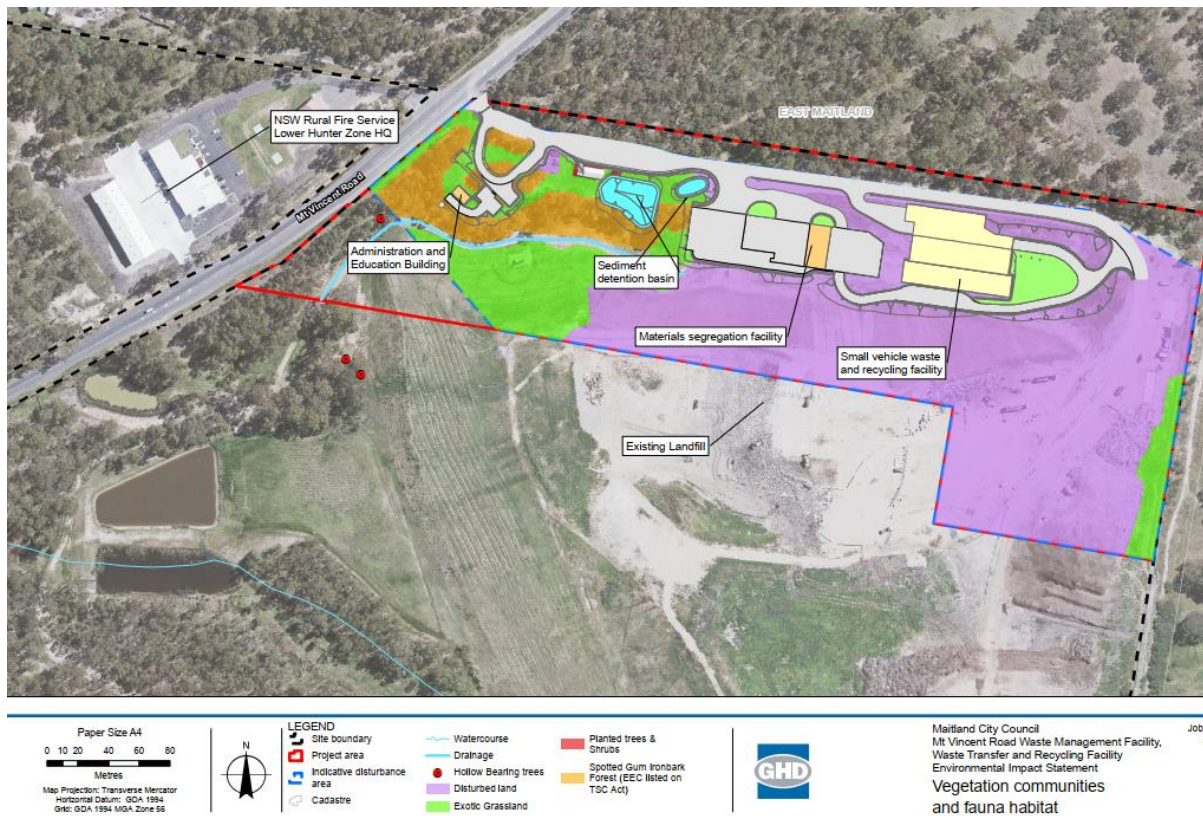


Figure 11. Proposed vegetation clearance as per revised proposal (Source GHD 2019)

Noting the abovementioned design changes, GHD have recommended that the original clearance total is maintained for assessing purposes. This conservative approach will ensure that Council has flexibility regarding detailed design of hard stand areas.

Direct impacts - Vegetation

The project would result in the clearing of approximately 0.73 ha (0.71ha best case) of Spotted Gum Ironbark Forest within the indicative disturbance area. This vegetation would be removed from an existing disturbed edge of a much larger community (approx. 100ha) that extends to the west and south west of the site. The larger community within the locality could provide habitat for any displaced species. The proposed clearance represents a decrease of 0.005% of this EEC within the locality (existing 13,730ha).

Given the small area of community sought to be removed coupled with the extensive areas adjacent to the site, the degraded understorey and the presence of existing noxious weeds (i.e. Lantana) the project is not likely to have a significant effect on this EEC.

Direct impacts – Fauna

With regard to fauna, no fauna species listed as threatened under the EPBC Acts were recorded with the Project area, however, there is suitable foraging habitat for two EPBC species to occur, namely the Grey-headed Flying fox (*Pteropus poliocephalus*) and the Swift

Parrot (*Lathamus discolor*). However, the assessment of significance for these species notes that the project is unlikely to have a significant impact due to the following:

- There is no evidence of important breeding, roosting or sheltering habitat for any of these species at the site.
- The project would have a minor effect on migration and dispersal ability as vegetation within the site is already disrupted by existing clearings and roads.
- The proposed 0.73ha of native vegetation to be removed is unlikely to adversely impact potential habitat available relative to the wider community in the locality.

The Flora and Fauna assessment notes the proposal and associated vegetation may result in disturbance to potential habitat for Woodland birds (grey-crowned Babbler, Swift Parrot and Black-chinned Honeyeater, Threatened microbats (Eastern Freetail bat, Greater Broad-nosed bat, Yellow-bellied Sheath-tail bat and Eastern Bentwing-bat), and Hollow dependant mammals (Squirrel Glider). Accordingly, 7-part tests were undertaken and found that the proposal is unlikely to impose a significant impact of the abovementioned fauna as summarised below:

- The project is highly unlikely to fragment an existing population as these are all highly mobile species
- The project would not form a barrier to movement to the species.
- There are large areas of alternate native vegetation present within adjoining areas to the site to provide suitable habitat
- No hollow bearing trees will be removed.

Indirect impacts

It is noted that a number of indirect impacts associated with the project could affect locally occurring flora and fauna in the retained vegetation including the degradation of surface waters, sediments, dust and runoff, weed invasion and pests. Mitigation measures include the preparation of Construction Management Plan to limit the spread of invasive weed species, invasive fauna species (i.e. foxes or cats), revegetation planting, pollutant management, monitoring etc. It is recommended that such mitigation will be required by way of condition.

Overall, it is considered that the proposed vegetation clearance and associated works will not result in a significant impact to flora and fauna with the site or locality. The consideration of the 7 part test undertaken by GHD concludes that... *“the proposed works are not likely to have a significant effect on any threatened species or communities listed on the TSC Act and a species impact statement is therefore not required”*.

Heritage

The proposed development is sited within an operational waste management facility. The site formerly contained a quarry and therefore has been heavily disturbed with no identified heritage objects or places. Accordingly, no heritage impacts are considered to arise in this instance.

(c) *The suitability of the site*

As demonstrated by the above assessment, the site is considered to be suitable for the proposed development.

- The zoning of the site permits the proposed use;
- The size and dimensions of the site are appropriate for accommodating the proposed development;
- Subject to conditions the proposed car parking arrangement and queuing will not adversely impact Mt Vincent Road and surrounding locality;
- The proposal will provide a well-designed waste management and recycling facility within the Mt Vincent Waste Management Centre; and
- The proposal is consistent with the objectives and provision of the Maitland LEP 2011 and Maitland DCP 2011.

(d) *Any submissions made in accordance with this Act or the Regulations*

The DA was originally notified to adjoining property owners for 30 days between 15 August 2016 to 16 September 2016 in accordance with the DCP. A total of three submissions were received (all objecting to the proposed development).

Key issues raised within the submissions are summarised below:

- A lack of coordinated community consultation with adjoining landowners;
- Concerns regarding the accuracy of information identified on the proposed plans including lack of dimensions and topographic information;
- The proposal will adversely impact the lots located to the north;
- The existing waste facility emissions are unlawful as no licence has been obtained from the EPA;
- The existing site access is unlawful as no landowner's consent has been obtained;
- The proposal should be relocated to the south and away from neighbouring properties;
- View corridors will be impacted from the proposal; and

- The proposal will result in visual impacts to neighbouring properties due to the lack of appropriate screening / landscaping.

Officer Comment

- As noted in the EIS prepared by GHD extensive community consultation was undertaken prior to the submission of the application including a community phone line, email contacts, website, public information sessions, factsheets, print media advertisements and meetings. Furthermore, a drop-in session was held during the exhibition of the application on 1 September 2016 at the Shamrock Multi-purpose Centre in Ashtonfield.
- The proposed plans including revisions have been drawn to scale and include relevant topographic information.
- As previously stated, the site directly to the north has been acquired by Council under a confidential deed of agreement. Furthermore, a Site compatibility certificate (SSC) for Seniors housing and a Planning Proposal to change zoning from RU2 to R1 has since been withdrawn. Accordingly, the site to the north is not classified as a sensitive receptor.
- The site currently operates under Environment Protection Licence 6166 issued by the EPA. It is noted that separate approval will be required to vary the current Environment Protection Licence 6116 (EPL) to include the construction and operation of the proposed waste transfer and recycling facility at the site. Accordingly, the GTAs issued by the EPA form part of the recommended conditions of consent.
- As previously stated, land to the north has since been acquired by Council. Accordingly, the land owners consent issue has been resolved.
- The position of the proposal adjacent to the existing access road is seen as the most viable location noting that relocation to the south would require greater construction costs noting the continual settlement of the landfill. In addition, relocation to the south would result in greater vegetation clearance.
- A detailed view impact analysis notes the site is generally screened by the existing landscape including vegetation directly to the north (Lot 1012 which is owned by Council) any visual impacts resulting from one (1) storey buildings are not considered significant. Notwithstanding, it is recommended that mitigation measures including landscaping, low reflective materials and lighting are required by way of condition.

The public interest

The application was notified to all adjoining land owners and publicly exhibited for a period of 30 days. Council received three submissions to the proposed development. The issues raised in the submissions have been suitably addressed above.

The proposed Waste Transfer and Recycling Facility has been designed to extend the limited life of the existing landfill coupled with the lack of alternate sites within the Local Government Area. The proposal will enable Council to increase quantities of waste segregation and recycling which in turns will reduce the amount of waste requiring transportation and landfill disposal. Issues relating to vegetation removal, residential amenity, traffic and visual impact have been suitably addressed within the application. The development also represents employment opportunities both during the construction and during operation.

The public interest is served through the detailed assessment of this DA under the *EP&A Act 1979*, the EP&A Regulation 2000, EPIs, DCPs and policies. Based on the above assessment, the proposed development is consistent with the public interest and is considered to accord with the principles of Environmentally Sustainable Development.

10 CONCLUSION

The subject site has been primary used as a solid waste landfill site since 1993. Prior to commencement of waste operations, the site was used for both open cut and underground coal mining.

The proposed waste transfer and recycling facility has been designed to extend the limited life of the existing landfill coupled with the lack of alternate sites within the Local Government Area (LGA). The proposal will enable Council to increase quantities of waste segregation and recycling which in turn will reduce the amount of waste requiring transportation and landfill disposal.

Issues relating to vegetation removal, residential amenity, traffic and visual impact have been suitably addressed within the application. Furthermore, the operation of the facility will be governed by EPA licence requirements as outlined in the GTAs.

The issues raised in public submissions have been adequately considered and addressed within the report and via conditions of consent regarding construction and operational.

It is recommended that the application be approved subject to conditions.

11 RECOMMENDATION

Pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*, the following is recommended:

- A. That the Hunter & Central Coast Joint Regional Planning Panel grant consent to Development Application DA-16/1805 as provided in Attachment 1.
- B. That the objectors be notified of this decision; and
- C. That a copy of the development consent is forwarded to the NSW Environment Protection Agency, Subsidence Advisory NSW, and Roads and Maritime Services.

Report prepared by:

SJB Planning

Report approved by:

Maitland City Council