

SUPPLEMENTARY REPORT
HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSHCC - 134 - DA2022/00572 - PAN-224723
PROPOSAL	Site preparation works including bulk earthworks to prepare and remediate the site and the construction and operation of an Organic Processing Facility (OPF).
ADDRESS	Lot 2 DP 1208481 120 Summerhill Road, Wallsend
APPLICANT	COVA Thinking Pty Ltd on behalf of City of Newcastle (CN)
OWNER	City of Newcastle (In this report City of Newcastle means Newcastle City Council)
DA LODGEMENT DATE	27 May 2022
APPLICATION TYPE	Designated Development Application
SEARS	Reference no. 1138 was issued on 11 April 2017 and updated on 7 March 2019 and 12 March 2021.
REGIONALLY SIGNIFICANT CRITERIA	Clause 3, Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021 as <i>Council related development over \$5 million</i>
CIV	\$54,080,000.00 (excluding GST)
CLAUSE 4.6 REQUESTS	<ul style="list-style-type: none"> • None
KEY SEPP/LEP	<ul style="list-style-type: none"> • <i>Heritage Act 1977</i> • <i>Protection of the Environment Operations Act 1997</i> • <i>National Parks and Wildlife Act 1974</i> • <i>Biosecurity Act 2015</i> • <i>Rural Fires Act 1997</i> • <i>Contaminated Land Management Act 1997</i> • <i>Waste Avoidance and Resource Recovery Act 2001</i> • <i>Water Management Act 2000</i> • <i>Fisheries Management Act 1994</i> • <i>Coal Mine Subsidence Compensation Act 2017</i> • <i>Hunter Water Act 1991</i> • <i>Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)</i> • <i>Biodiversity Conservation Act 2016 (BC Act)</i>

	<ul style="list-style-type: none"> • <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act) • <i>Environmental Planning and Assessment Regulation 2021</i> (EP&A Regs) • <i>State Environmental Planning Policy (Planning Systems) 2021</i> (SEPP PS) • <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> (SEPP BC) • <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> (SEPP RH) • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> (SEPP TI) • <i>Newcastle Local Environmental Plan 2012</i> (NLEP) • Newcastle Development Control Plan 2012 (NDCP) and Technical Manuals • Section 7.12 Development Contributions Plan
AGENCY REFERRALS	<p>Referrals (Non-integrated)</p> <ul style="list-style-type: none"> • Transport for NSW (TfNSW) – SEPP TI - Section 2.122 – Traffic Generating Development • NSW Rural Fire Service (RFS) – s4.14 of EP&A Act <p>Referrals (Integrated)</p> <ul style="list-style-type: none"> • NSW Environment Protection Authority (EPA) – <i>Protection of the Environment and Operations Act 1997</i> - s43(b), s48 & s55 - scheduled activity • Subsidence Advisory NSW (SA) – <i>Coal Mine Subsidence Compensation Act 2017</i> - s22
PUBLIC SUBMISSIONS	One
DOCUMENTS SUBMITTED FOR CONSIDERATION	<ul style="list-style-type: none"> • Amended Environmental Impact Statement by COVA Thinking Pty Ltd dated 30 March 2023 • Submissions Report by COVA Thinking Pty Ltd dated 18 August 2023 • Secretary's Environmental Assessment Requirements (SEARS) • Capital Investment Value Report by Muller Partnership QS dated 28 March 2023 • Design Drawings by The ELLIS Group Architects dated 7 March 2023 • Stormwater Management Plan by Flussig dated 29 November 2023 • Subsidence Advisory Approval by NSW Subsidence Advisory dated 18 February 2022 • Mine Subsidence Grout Remediation Strategy by Douglas Partners dated December 2021 • Community Engagement Report by ERM Stakeholder Engagement dated January 2022

	<ul style="list-style-type: none"> • Pre-DA Meeting Notes dated 14 May 2021 • Consultation undertaken with Agencies • Ecological Assessment prepared by AEP dated 8 March 2023 • Arborist Report prepared by AEP dated 15 March 2023 • Noise and Vibration Impact Assessment by ERM dated 18 August 2023 • Aboriginal and Historical Cultural Heritage Report by ERM dated 29 March 2023 • Traffic and Transport Assessment by Transport and Traffic Planning Associates dated March 2023 Issue F • Supplementary Traffic Memo by GHD dated 14 August 2023 • Supplementary Traffic Memo by TTPA dated 18 August 2023 • Geotechnical Assessment by Douglas Partners July 2021 • Odour and Greenhouse Gas Assessment by ERM dated 18 August 2023 • Level 2 Landfill Gas Assessment by ERM dated 3 July 2023 • Preliminary Hazard Analysis by COVA dated 20 February 2023 • Preliminary Site Investigation by SMEC dated 7 February 2022 • Sampling Analysis and Quality Plan by SMEC dated 25 May 2023 • Detailed Site Investigation by SMEC dated 15 August 2023 • Remedial Action Plan by SMEC dated 17 August 2023 • Draft Long Term Environmental Management Plan (no author) dated August 2023 • Interim Audit Advice by Ramboll dated 18 August 2023 • Waste Management Plan by City of Newcastle Council dated July 2023 • Bushfire Assessment by BLACKASH dated 29 March 2023 • Preliminary Hazards Assessment by COVA dated 20 February 2023
SPECIAL INFRASTRUCTURE CONTRIBUTIONS (S7.24)	None apply
RECOMMENDATION	Approval
DRAFT CONDITIONS TO APPLICANT	No

SCHEDULED MEETING DATE	11 September 2024
PREPARED BY	Damian Jaeger, Senior Development Officer (Planning)
DATE OF REPORT	4 September 2024

BACKGROUND

The subject application involving site preparation works including bulk earthworks to prepare and remediate the site and the construction and operation of an Organic Processing Facility (OPF) was reported to the Hunter Central Coast Regional Planning Panel (HCCRPP) for determination on 19 June 2024.

The HCCRPP issued a record of deferral on 25 June 2024 as included within **Attachment A**, which raised several issues that required additional information from the applicant, further assessment and/or clarification which relate to:

"The Panel acknowledges the benefit of this facility but requires further information and clarification of the following matters:

- (i) *A review of the NorthStar peer review by the applicant's odour consultant that includes specific answers to the issues raised.*
- (ii) *An explanation of the interrelationship of the odour conditions applying to the subdivision approval under DA2087/2018/REV.*
- (iii) *Clarification of whether a concrete batching plant is or is not included in the application, for how long, and an assessment of the traffic and noise impacts arising from either its inclusion or exclusion.*
- (iv) *Specific answers and clarification of what consultation occurred in satisfaction of the SEARs requirements prior to the lodgement of the DA as outlined in the submission received from Winten.*

The Panel expects a comprehensive answer to these issues so it can factually understand potential impacts and mitigation measures."

The applicant's additional details in response to the HCCRPP's deferral of the application is included at **Attachment B**.

This supplementary report provides a further assessment of the proposal, in response to matters raised during the determination meeting. The draft conditions of consent for inclusion by the HCCRPP in the determination have been provided at **Attachment C** (these are unchanged from the original determination report).

This supplementary report is to be considered in combination with the original determination report at **Attachment D**.

1. A review of the NorthStar peer review by the applicant's odour consultant that includes specific answers to the issues raised.

The applicant's submission (i.e. ERM "Response to PPSHCC-134 Record of Deferral" letter *Table 2-1* ('ERM Response')) provides a step-by-step review and responses of the Northstar reports. A summary of these seven issues is contained below with the full details included within *Table 2-1* of **Attachment B**): -

- i. Method of odour emission modelling was queried (i.e. 'volume sources') and resolved via the applicant's earlier response to submissions.
- ii. The reasonableness of the year selected for wind speed data/modelling
- iii. Queries regarding the 'specific odour emission rates' used within the modelling.
- iv. Further information provided regarding the odour emission assessment for the proposal contrasted against the general landfill odour sources.
- v. Clarification regarding the biofilters being modelled as point source elements within the dispersion modelling has resolved this issue.
- vi. Queries regarding the odour modelling and the differences in the odour ratios used to represent the organic proposal compared to the overall Summerhill operations.
- vii. Additional discrete receptor modelling included within previous updated odour assessment report had already resolved this issue.

There have been two odour assessment reports prepared by the applicant (29th March 2023 and 18 August 2023). There have also been two NorthStar review reports prepared for the objector Winten, dated 5 June 2023 and 15 February 2024 respectively.

Table 2-1 within the ERM Response (24 July 2024) to the HCCRPP deferral, addresses the submissions made by Winten and specifically the Northstar reports. Winten submitted the initial NorthStar review report (5 June 2023) as part of its original objections. A second Northstar report (15 February 2024) was included as of part Winten's further objections following the public notification of the applicants additional information including the applicant's second ERM report (18 August 2023).

The current ERM Response identifies that, the second ERM report (18 August 2023) had addressed the NorthStar updated report (5 June 2023). The remaining issues raised within the NorthStar report have been addressed within the current ERM Response (column 5 in *Table 2-1*) and includes technical responses including modelling data and results. The additional information provided within the current ERM Response, satisfactorily addresses the issues raised within the updated NorthStar (15 February 2024).

The odour assessment report (OAR) by ERM (29 March 2023 & 18 August 2023) submitted with the application describes that predicted ground level odour concentrations comply with the odour assessment criterion at all the nearest representative sensitive receptors. The ERM Response (24 July 2024) confirms the findings of the OAR. It is further noted that the NSW EPA has issued its General Terms of Approval (GTA) and has assessed the proposal as acceptable subject to conditions. The assessment of the proposal by the NSW EPA, and their issued GTA, was discussed in detail within the original determination report and includes: -

- i) Odour contingency plan requiring ongoing monitoring and management of odours,
- ii) Operating conditions
- iii) Air monitoring requirements
- iv) Reporting requirements.

Subject to the recommended conditions of consent the proposal is satisfactory having regard to odour impacts.

2. An explanation of the interrelationship of the odour conditions applying to the subdivision approval under DA2087/2018/REV.

The HCCRPP deferral required that the applicant respond to concerns of odour impacts on the approved Winten subdivision within the Lake Macquarie LGA located south/south-west of the Summerhill site.

Condition No.11 of DA2087/2018/REV provides:

"11 Summerhill Waste Management Centre

No Subdivision Works Certificates shall be issued that creates residential lots within 430 metres of the active landfill cell operations of the Summerhill Waste Management Centre, unless it has been demonstrated, to the satisfaction of Lake Macquarie City Council, there are no ongoing risks of odour impacts as a result of activities within 430 metres of any residential lot within the development of the Summerhill Waste Management Centre"

Condition No.11 relates to odour impacts within 430 metres of the approved Winten subdivision. Further, the assessment of DA/2087/2018/REV identified that the maintenance of a 430m buffer from the waste management centre's "active cell/s" was considered a suitable measure to mitigate odour impacts from the open-air waste operations.

Based on a conservative estimate, the location of the proposed Organics Facility is located over 835metres from the Winten subdivision (see **Figure 1** below). The Organics Facility does not interact with Condition No. 11.

Notwithstanding, the applicant, in its response to the HCCRPP deferral matters, provided further detail demonstrating that the operation of an Organics Facility is distinctly different to standard waste landfill which is an untreated and open-air source of odour. Key to this issue is that odours from the project and the existing municipal solid waste facility are of different character and would not simply add together to create a cumulative effect.

While a standard waste landfill typically generates offensive odours which arise from a mixed stream of untreated waste, the proposed development involves the organic waste undergoing stages of treatment within an enclosed facility. Furthermore, an active biofilter treatment will operate to mitigate any air and odours being discharged from development. The nature of the treated odours resulting from proposal and it's biofilters is like an earthy bushland smell and would not be typically considered to be offensive.

The ERM Response demonstrates that the proposed organics facility would bring about the removal of open-air greenwaste processing at the Summerhill site, therefore resulting in a reduction in the overall odour risk profile and greenhouse gas emissions for the general landfill operations. ERM's OAR details the estimated decrease in methane from anaerobic degradation is estimated as follows: -

"The operation of the Project will also result in the diversion of food organics away from landfill, resulting in the avoidance of methane emissions from anaerobic degradation. These avoided emissions have been estimated at 24.4 kt CO2-e for each annual volume of food organics that is diverted from landfill, which would then be distributed over a number of decades with progressive degradation of that material." (NB: "kt" CO2-e is kiloton's of carbon dioxide equivalent and is used as a standardise measure to address all greenhouse gas emissions).

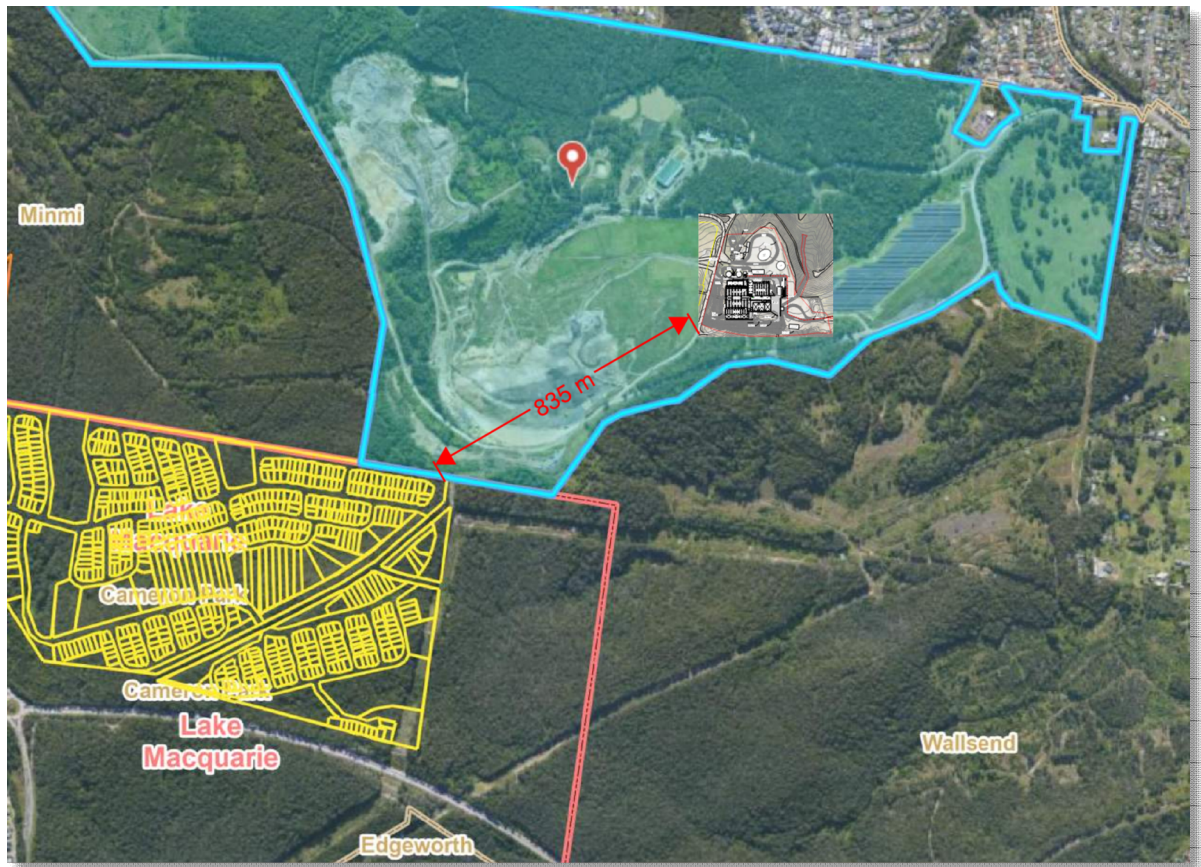


Figure 1 - Separation of distance between proposal and closest point of Winten subdivision.

3. Clarification of whether a concrete batching plant is or is not included in the application, for how long, and an assessment of the traffic and noise impacts arising from either its inclusion or exclusion.

The applicant has confirmed that a concrete batching plant is proposed as part of the application (and was included within the amended EIS at Section 3.5.4). The concrete batching plant is on a temporary basis for 30 weeks during the 'site preparation works'. It is therefore confirmed that current the proposal does not require any further amendments under the provisions of s37 of the *Environmental Planning and Assessment Regulation, 2021*.

The impacts of the concrete batching plant were assessed within the submitted Noise and Vibration Impact Assessment (Section 2.1 of the Amended EIS Appendix G). This report assessed both the additional traffic noise impacts (eight heavy vehicle movements per day inclusive of all heavy vehicle movements including those associated with the concrete batching plant) and all the plant associated with the temporary plant and demonstrated that the plant has acceptable acoustic impacts.

It is confirmed that there is no temporary concrete plant associated with the later "construction phase" of the proposal and, as a result, the traffic movements can be between 4-6 per day up to 20 movements during a major concrete pour. The overall 'construction phase' is estimated to be 56 weeks.

The additional eight heavy vehicles movements per day is reasonable in context of the existing traffic to Summerhill and will not result in adverse noise or traffic impacts.

4. Specific answers and clarification of what consultation occurred in satisfaction of the SEARs requirements prior to the lodgement of the DA as outlined in the submission received from Winten.

The applicant's response provided comprehensive details of the pre-lodgement consultation undertaken in accordance with the SEARs issued for the proposal. The applicant submits that the SEARs required "...that the Proponent should consult with 'The surrounding landowners and occupiers that are likely to be impacted by the proposal'..." The applicant confirmed that it undertook a range of pre-lodgement consultation actions including: -

- A dedicated project webpage within the CN Have Your Say webpage;
- Postcards to ~1350 local residents generally within Fletcher;
- 5x corflute posters within Fletcher, Maryland and the Summerhill Waste Management Centre at Wallsend;
- In-person drop-in information session at Wallsend Pioneers Memorial Hall
- Online Community Information Session;
- Online survey on CN's 'Have your Say' webpage with responses from 69 people. 79.7% of people who completed the survey were from Newcastle, with representation across 24 different Newcastle suburbs. The remaining 20.3% did not disclose a location; and
- Submissions to the project email, which was advertised on Project material. Two submissions were received prior to public exhibition and considered in the EIS

The applicant has demonstrated that it met the technical requirements of the SEARS issued for the proposal in terms of pre-lodgement consultation. It is noted that as Winten's site is approximately 835 metres from the location of the proposed development, it was open to the applicant to consider that the Winten site would not be "...likely to be impacted by the proposal..." having regard to the SEARs pre-lodgement consultation requirements. Furthermore, the applicant has demonstrated that in addition to the targeted consultation, broader consultation was undertaken through the CN Have Your Say webpage, use of corflutes and drop-in sessions.

The proposed development has also been publicly notified on five occasions to ensure that all residents and interested parties had an opportunity to make submissions.

The requirements of the SEARs were met in terms of pre-lodgement consultation. Furthermore, the public notification of the proposal has been consistent with the provisions of the *Environmental Planning and Assessment, Act 1979*, the *Environmental Planning and Regulations, 2021* and CN's Community Participation Plan.

CONCLUSION

This Supplementary Report has addressed the matters arising from the determination meeting and RPP deferral.

The development is consistent with the relevant planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land and maintains acceptable levels of amenity for future residents and the existing residents in the area.

The proposal is consistent with the NSW Government's waste minimisation strategy to divert wastes from landfill through the collection and processing of 'Food Organics and Garden Organics' (FOGO).

The application is recommended for approval subject to the imposition of the conditions contained in **Attachment C**.

ATTACHMENTS

- **Attachment A:** HCCRPP Record of Deferral
- **Attachment B:** Applicant's additional details in response to the HCCRPP's deferral
- **Attachment C:** Draft Conditions of consent - 120 Summerhill Rd Wallsend
- **Attachment D:** Original CN Determination Report
- **Attachment E:** Plans - 120 Summerhill Rd Wallsend
- **Attachment F:** Agency Advice –Transport for NSW - 120 Summerhill Rd Wallsend
- **Attachment G:** GTAs –Subsidence Advisory NSW - 120 Summerhill Rd Wallsend
- **Attachment H:** Agency Advice – NSW Fire Rural Service - 120 Summerhill Rd Wallsend
- **Attachment I:** GTAs – NSW EPA - 120 Summerhill Rd Wallsend