

**COUNCIL ASSESSMENT REPORT
HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL**

PANEL REFERENCE	PPSHCC-254 – Cessnock Council – DA 8/2023/622/1
DA NUMBER	8/2023/622
LGA	Cessnock City Council
PROPOSED DEVELOPMENT	Change of Use and Repurposing of an Existing Quarry to a Waste Management Facility Comprising a Resource Recovery Area and Inert Landfill.
ADDRESS	Part Lot 1 DP 536570 Part Lot 1 DP 957782 Part Lot 2 DP 123949 Part Lot 683 DP 619758 Part Lot 1 DP 179002 Crown Road (within Lot 1 DP 536570) Crown Road “Meredith Road” (within Lot 2 DP 123949 and Lot 683 DP 619758)
APPLICANT	Three Mile Hill
OWNERS	Part Lot 1 DP 536570 – R. Seton Part Lot 1 DP 957782 – R. Seton Part Lot 2 DP 123949 – D. Allan Part Lot 683 DP 619758 – B. Beavan and J. Tyler Part Lot 1 DP 179002 – A. Seton and R. Seton Crown Lands
LODGEMENT DATE	4 September 2023
CIV	\$16,098,589.10
RECOMMENDATION	Approval
APPLICATION TYPE	Regionally Significant Development Application (Designated Development)
REGIONALLY SIGNIFICANT CRITERIA	Chapter 2, Section 2.19(1) of <i>SEPP (Planning Systems) 2021</i> declares the proposal as regionally significant development pursuant to Clause 7(c) of Schedule 6 (Particular Designated Development).
CLAUSE REQUESTS 4.6	Not applicable

LIST OF ALL RELEVANT PLANNING CONTROLS S4.15(1)(A) MATTERS	<ul style="list-style-type: none">• State Environmental Planning Policy (Resilience and Hazards) 2021• State Environmental Planning Policy (Planning Systems) 2021• State Environmental Planning Policy (Transport and Infrastructure) 2021• State Environmental Planning Policy (Biodiversity and Conservation) 2021• Cessnock Local Environmental Plan 2011• Cessnock Development Control Plan 2010																					
AGENCY REFERRALS	<ul style="list-style-type: none">• Transport for NSW (TfNSW)• Environment Protection Authority (EPA)• NSW Rural Fire Service• Subsidence Advisory• Crown Lands																					
TOTAL & UNIQUE SUBMISSIONS	<ul style="list-style-type: none">• Thirty (30)																					
KEY ISSUES	<ul style="list-style-type: none">• Public objection• Traffic impacts• Amenity and environmental impacts																					
DOCUMENTS SUBMITTED FOR CONSIDERATION	<p>A. Architectural Plans, Project No. 22173A (GCA Engineering Solutions):</p> <table><tr><th>Sheet No</th><th>Revision</th><th>Date</th></tr><tr><td>Cover Sheet</td><td>1</td><td>05/09/2022</td></tr><tr><td>DA01 – Site Plan</td><td>1</td><td>05/09/2022</td></tr><tr><td>DA02 – Floor Plans</td><td>1</td><td>05/09/2022</td></tr><tr><td>DA03 - Elevations</td><td>1</td><td>05/09/2022</td></tr><tr><td>DA04 – Elevation and Section</td><td>1</td><td>05/09/2022</td></tr><tr><td>DA05 – Vehicle Movement Plan</td><td>1</td><td>05/09/2022</td></tr></table> <p>B. Environmental Impact Statement, prepared by EMM, Sheet (dated August 2023)</p> <p>C. Aboriginal Heritage Due Diligence Assessment, prepared by EMM (dated 2 May 2023)</p> <p>D. Social Impact Assessment, prepared by AIGIS Group (dated July 2023)</p> <p>E. Rehabilitation Strategy, prepared by EMM (dated July 2023)</p> <p>F. Water Balance Modelling Report, prepared by Consulting Earth Scientists (dated 4 August 2023)</p> <p>G. Soil and Water Management Plan, prepared by Consulting Earth Scientists (dated 4 August 2023)</p> <p>H. Water Impact Assessment, prepared by EMM (dated July 2023)</p> <p>I. Air Quality and Greenhouse Gas Assessment, prepared by EMM (dated July 2023)</p>	Sheet No	Revision	Date	Cover Sheet	1	05/09/2022	DA01 – Site Plan	1	05/09/2022	DA02 – Floor Plans	1	05/09/2022	DA03 - Elevations	1	05/09/2022	DA04 – Elevation and Section	1	05/09/2022	DA05 – Vehicle Movement Plan	1	05/09/2022
Sheet No	Revision	Date																				
Cover Sheet	1	05/09/2022																				
DA01 – Site Plan	1	05/09/2022																				
DA02 – Floor Plans	1	05/09/2022																				
DA03 - Elevations	1	05/09/2022																				
DA04 – Elevation and Section	1	05/09/2022																				
DA05 – Vehicle Movement Plan	1	05/09/2022																				

	<p>J. Noise and Vibration Impact Assessment, prepared by EMM (dated July 2023)</p> <p>K. Visual Impact Assessment, prepared by EMM (dated August 2023)</p> <p>L. Traffic Impact Assessment, prepared by EMM (dated July 2023)</p> <p>M. Biodiversity Development Assessment Report, prepared by EMM (dated August 2023)</p> <p>N. Bushfire Assessment Report, prepared by Cool Burn, (dated May 2023)</p> <p>O. Landfill Gas and Leachate Management Plan, prepared by Consulting Earth Scientists (dated 27 July 2023)</p> <p>P. Infrastructure Gap Analysis, prepared by MRA Consulting Group (dated 26 May 2023)</p> <p>Q. Management Measures Summary, prepared by EMM (undated)</p> <p>R. Road Safety Assessment, prepared by EMM (dated September 2024)</p> <p>S. Submissions</p>
REPORT PREPARED BY	Kerry Porter, Senior Planning Assessment Officer Cessnock City Council
DATE OF REPORT	19 November 2024

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? **Yes**
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

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? **Not applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not applicable**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment?

Yes

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

1. EXECUTIVE SUMMARY

1. Development Application No. 8/2023/622/1 seeks approval for the change of use and repurposing of the existing quarry to a waste management facility comprising an inert landfill and resource recovery area.

The facility will receive a maximum of 225,000 tonnes per annum of general solid waste (non-putrescible) and will dispose of a maximum of 150,000 tonnes per annum of general solid waste on the premises. Approximately 75,000 tonnes per annum of recovered/recycled waste will leave the site for onward sale or transfer to a third party for additional recovery.

No waste will be accepted from the general public, nor will putrescible waste be accepted onto the site. A booking system is proposed with the facility to manage the delivery and dispatch of materials with customers.

2. It is proposed to surrender the existing Development Consent for the quarry as part of this Application and time limit the consent for 30 years.
3. The subject application is referred to the Hunter and Central Coast Regional Planning Panel (RPP) for determination as the waste facility is classified as 'regionally significant development' pursuant to Chapter 2, Section 2.19(1) of *SEPP (Planning Systems) 2021* - Clause 7(c) of Schedule 6 (Particular Designated Development).
4. The proposal is 'Designated Development' being a 'scheduled activity' under Schedule 3, Clause 45 (waste management facility or works) of the *Environmental Planning and Assessment Regulation 2021* (the Regulation) given the development proposes to process more than 30,000 tonnes of waste per year.
5. The proposed development was exhibited in accordance with the provisions of Council's adopted Community Participation Plan from 11 October 2023 to 8 November 2023. A total of 30 unique submissions were received from the community raising objection and concerns regarding the proposal.
6. The proposal has been assessed against the relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (the Act).
7. The application has been assessed and deemed to comply with the relevant environmental planning instruments being:
 - *State Environmental Planning Policy (Resilience and Hazards) 2021*
 - *State Environmental Planning Policy (Planning Systems) 2021*

- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
 - *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
 - *Cessnock Local Environmental Plan 2011*
8. The proposal has been assessed against the relevant provisions of the Cessnock Development Control Plan (DCP) 2010 and is considered to be compliant.
 9. There are no planning agreements, or draft planning agreements, relating to the site or the application.
 10. The prescribed matters relating to designated development under the Regulation have been considered in the assessment of the application.
 11. Significant adverse impacts are unlikely as a result of the proposed development, subject to compliance with conditions of consent, General Terms of Approval (GTA's), and any subsequent licence issued by the Environment Protection Authority (EPA).
 12. The suitability of the site has been evaluated and it is considered that the site is suitable for the proposed development.
 13. The Application is recommended for approval.

2. SITE DESCRIPTION AND HISTORY

2.1 The Site

The subject site is located on the southern side of Black Hill Road, approximately 17 km west of Newcastle and 10 km east of Kurri Kurri and consists of five (5) existing Lots/Part Lots with a total area of approximately 15 hectares. Access is available to the site from Black Hill Road.

The site is dissected by two (2) unformed Crown Roads, one (1) along the southern portion of the site and the other along the northern portion.

The site is situated within a rural environment and is bordered by dense vegetation on all sides.

The site has been operating as a quarry since 1955.

Figure 1 – Site Location

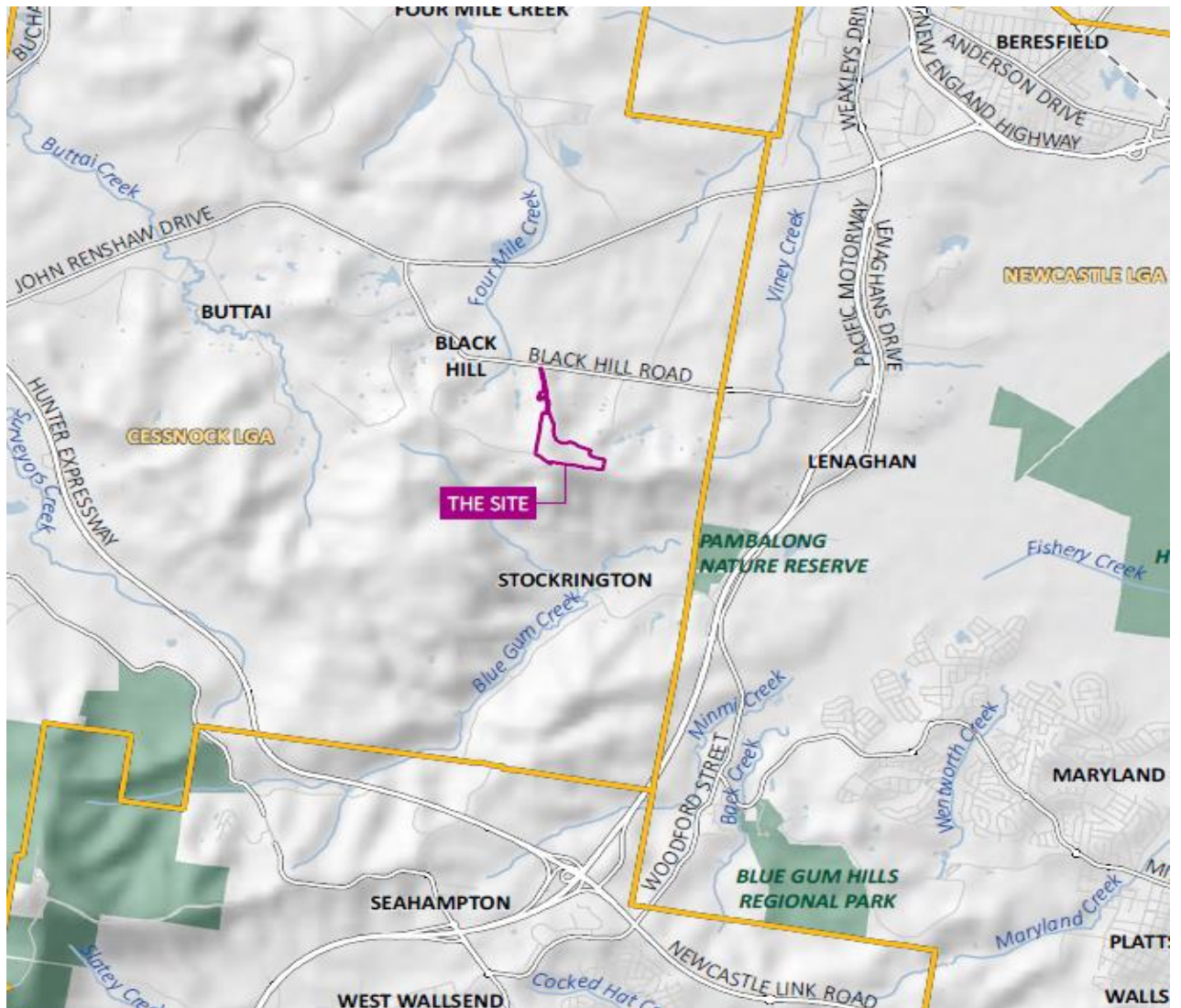


Figure 2 – Aerial view of the subject land



Figure 3 – View of the existing quarry from the north-west



Figure 4 – View of the existing quarry from the north



2.2 Site History

The site has been operating as a quarry since 1955 and was originally established and operated by Newcastle City Council for gravel extraction. There was no formal development consent issued for the quarry and it continued to operate under existing use rights until formal Development Consent was issued by the NSW Land and Environment Court for the continued operation and expansion of the quarry on 18 June 1996 (Development Consent 5/1994/80115/1). This consent was modified in 2016 to extend the life of the quarry and further modified in 2017 to allow for the extraction and stockpiling of coal (in association with a mixture of ridge gravel, clay shale and sandstone). The Development Consent for the existing quarry lapses on 18 June 2026.

The quarry operates under an Environmental Protection Licence (EPL 4978) which covers the scheduled activities of crushing, grinding, separating and extraction.

The existing Development Consent for the quarry restricts the volume of product to be transported from the site to a maximum of 55 laden truck movements per day (which equates to approximately 500,000 to 600,000 tonnes per annum).

The site has been partially rehabilitated, mainly through recontouring and revegetation, which is part of the license agreement for the quarry operation.

3. HISTORY OF DEVELOPMENT APPLICATION

3.1 Chronology of Events

The below table summarises key dates and events in respect of the DA.

Date	Event
4 September 2023	Application lodged.
22 September 2023	Internal referrals undertaken: <ul style="list-style-type: none">• Ecologist• Traffic Engineer• Development Engineer• Community Planner• Contributions Planner
22 September 2023	Referral completed by Council's Contributions Planner – Section 7.11 Contributions apply.
4 October 2023	External referrals undertaken: <ul style="list-style-type: none">• TfNSW• EPA• RFS• Subsidence Advisory• Crown Land
9 October 2023	Referral completed by Council's Community Planner – no issues raised.

11 October 2023	Application publicly notified from 11.10.23 to 8.11.23. Thirty (30) submissions received.
18 October 2023	NSW RFS recommended conditions received.
18 October 2023	TfNSW recommended conditions received.
25 October 2023	Subsidence Advisory GTA's received.
1 November 2023	Referral completed by Council's Traffic Engineer – supported subject to conditions.
17 November 2023	Comments received from Crown Lands – supported subject to road closure and purchase of Crown Road.
23 November 2023	Public submissions referred to Planning Secretary.
4 December 2023	EPA GTA's received.
15 December 2023	Planning Secretary comments received in relation to public submissions. Council requested to consider and address issues raised in objections.
4 January 2024	Referral completed by Council's Environmental Health Officer – no issues raised.
23 January 2024	Request for additional information sent to Applicant – boundary treatment, extraction material, updated plans, Crown Road closure, signage, fencing and access/egress management.
25 March 2024	Applicant submits additional information as requested in Council's letter dated 23.1.24.
12 April 2024	Joint site inspection undertaken (Council and Applicant).
12 April 2024	Council requests additional information on off-site biodiversity impacts (intersection works).
18 April 2024	Referral completed by Council's Development Engineer – supported subject to conditions.
20 May 2024	Applicant submits additional ecology information (off-site impacts).
24 May 2024	Additional ecology information referred to Council's Ecologist for assessment.
26 June 2024	Panel briefing.
1 August 2024	Referral completed by Council's Ecologist and supported subject to conditions.
3 September 2024	Public meeting with the Regional Planning Panel. On conclusion of the public meeting, the Panel requested the Applicant to undertake a Road Safety Assessment (RSA) and provide details on waste source.

25 September 2024	RSA and information on waste source lodged by Applicant for Council to assess.
30 September 2024	Council officers assess Road Safety Assessment Report as being satisfactory
XX November 2024	Planning assessment report completed by Council officers ready for RPP determination meeting.

4. THE PROPOSAL AND BACKGROUND

4.1 The Proposal

Development Application No. 8/2023/622/1 seeks approval for the change of use and repurposing of the existing quarry to a waste management facility comprising an inert landfill and resource recovery area.

The facility will receive up to 225,000 tonnes per annum (tpa) of general solid waste (non-putrescible) distributed as follows:

- A maximum of 150,000 tpa of general solid waste will be disposed of in the landfill component of the facility
- Up to 75,000 tpa of recovered/recycled waste will leave the site for onward sale or transfer to a third party for additional recovery.

General solid waste (non-putrescible) is defined within Schedule 1 of the *Protection of the Environmental Operations (PoEO) Act 1997* as:

general solid waste (non-putrescible) means waste (other than special waste, hazardous waste, restricted solid waste, general solid waste (putrescible) or liquid waste) that includes any of the following—

- (a) glass, plastic, rubber, plasterboard, ceramics, bricks, concrete or metal,
- (b) paper or cardboard,
- (c) household waste from municipal clean-up that does not contain food waste,
- (d) waste collected by or on behalf of local councils from street sweeping,
- (e) grit, sediment, litter and gross pollutants collected in, and removed from, stormwater treatment devices or stormwater management systems, that has been dewatered so that it does not contain free liquids,
- (f) grit and screenings from potable water and water reticulation plants that has been dewatered so that it does not contain free liquids,
- (g) garden waste,
- (h) wood waste,
- (i) waste contaminated with lead (including lead paint waste) from residential premises or educational or child care institutions,

- (j) containers, having previously contained dangerous goods, from which residues have been removed by washing or vacuuming,*
- (k) drained oil filters (mechanically crushed), rags and oil absorbent materials that only contain non-volatile petroleum hydrocarbons and do not contain free liquids,*
- (l) drained motor oil containers that do not contain free liquids,*
- (m) non-putrescible vegetative waste from agriculture, silviculture or horticulture,*
- (n) building cavity dust waste removed from residential premises, or educational or child care institutions, being waste that is packaged securely to prevent dust emissions and direct contact,*
- (o) synthetic fibre waste (from materials such as fibreglass, polyesters and other plastics) being waste that is packaged securely to prevent dust emissions, but excluding asbestos waste,*
- (p) virgin excavated natural material,*
- (q) building and demolition waste,*
- (r) asphalt waste (including asphalt resulting from road construction and waterproofing works),*
- (s) biosolids categorised as unrestricted use, or as restricted use 1, 2 or 3, in accordance with the criteria set out in the Biosolids Guidelines,*
- (t) cured concrete waste from a batch plant,*
- (u) fully cured and set thermosetting polymers and fibre reinforcing resins,*
- (v) fully cured and dried residues of resins, glues, paints, coatings and inks,*
- (w) anything that is classified as general solid waste (non-putrescible) pursuant to an EPA Gazettal notice,*
- (x) anything that is classified as general solid waste (non-putrescible) pursuant to the Waste Classification Guidelines,*
- (y) any mixture of anything referred to in paragraphs (a)–(x).*

The majority of the waste to be received into the facility (approximately 92%) will include concrete, dirt, bricks, asphalt, sand and general building waste. There will be a minor amount (8%) of garden waste, cardboard and rubber accepted. Putrescible waste (such as food waste and household garbage), hazardous and liquid waste will not be accepted into the facility.

All waste entering the site will be subject to a series of inspections to ensure that no hazardous or putrescible waste enters the facility. Incoming waste will be inspected in two stages:

1. a preliminary inspection of the incoming waste on the vehicle at the weighbridge (inspection point 1)

2. an inspection of the incoming waste after it is unloaded, spread, and turned over (inspection point 2) and before it is added to the appropriate stockpile, the customer will be required to wait until the waste load has passed the inspection.

Any deliveries suspected of including waste that cannot be accepted (including asbestos containing material (ACM)) will be rejected, reloaded (if the waste has been tipped) and the load sent off the site. If despite these precautions, any suspected ACM (e.g. a small fragment of asbestos sheeting) is found it will be bagged appropriately and placed in a covered bin clearly labelled 'asbestos'. These materials will be removed from the site by a contractor licensed to transport these materials as soon as there is sufficient material to make up a small load.

No waste will be accepted from the general public. A booking system is proposed with the facility to manage the delivery and dispatch of materials with customers.

Truck movements associated with the proposed waste management facility will be 54 laden trucks per day (which will generate 108 daily truck movements (inbound and outbound movements)). It is noted that truck movements for the existing quarry operation are 55 laden trucks per day (which generate 110 daily truck movements).

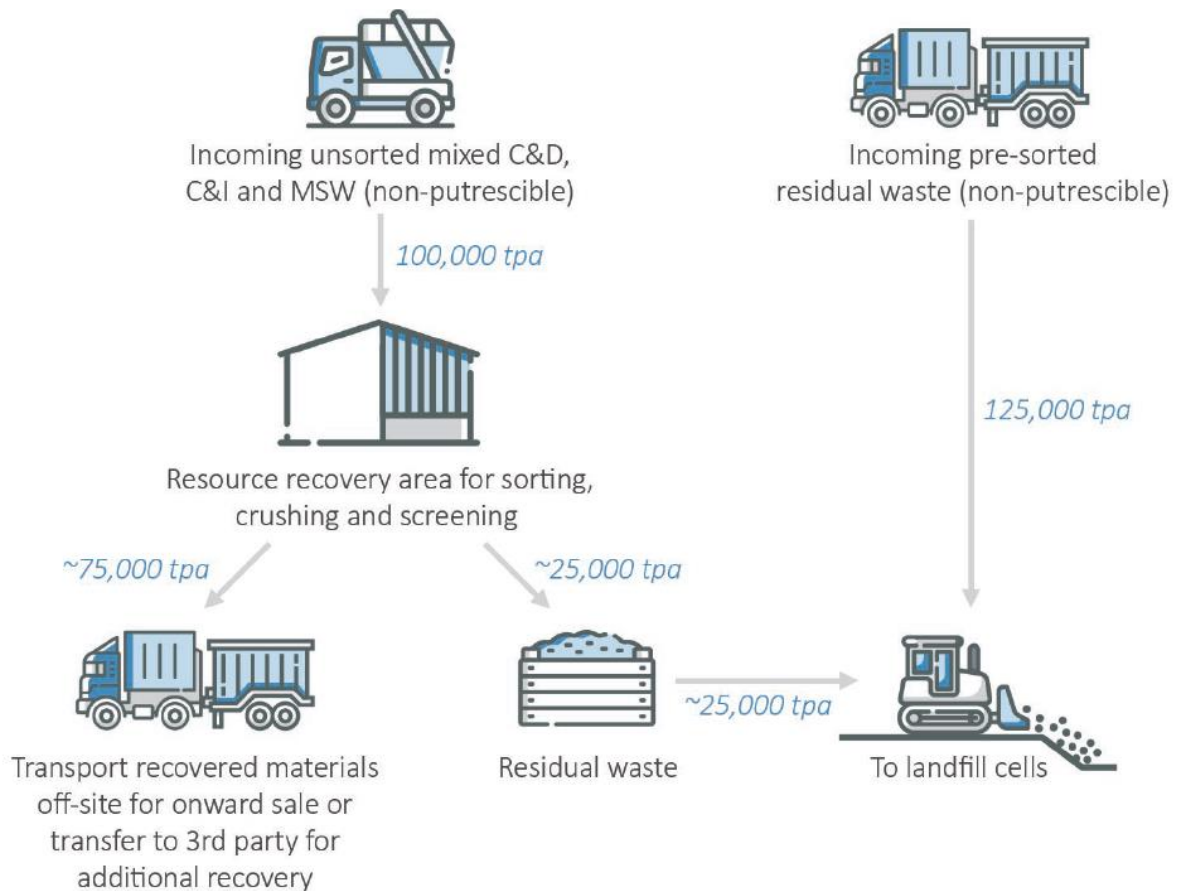
The hours of operation for both the landfill and resource recovery facility will be Monday to Friday from 7.00am to 6.00pm, Saturday from 7.00am to 1.00pm and will closed on Sundays and public holidays.

The facility will generate seven (7) ongoing full-time equivalent positions.

Figure 5 – Proposed site plan



Figure 6 – Waste Flow

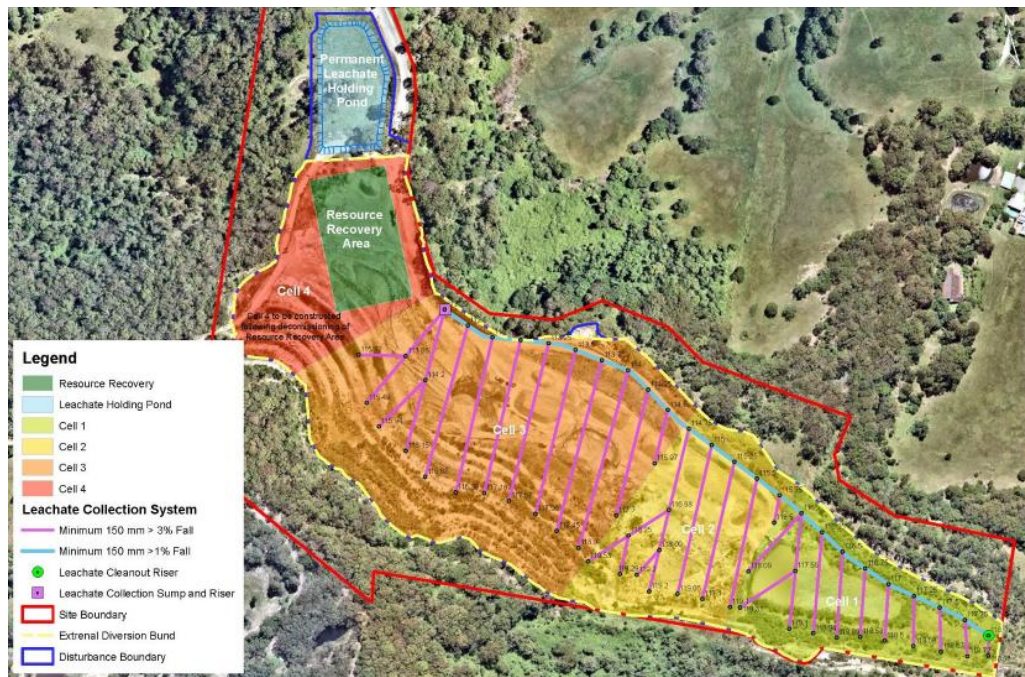


The infrastructure for the proposed waste management facility will comprise:

- Site office, amenities, workshop and parking (existing),
- An access road between Black Hill Road and the quarry void (existing),
- Two weighbridges with a small weighbridge office next to the existing site office,
- A resource recovery area, including an enclosed building, with a sorting area, storage bays and mobile equipment,
- A landfill comprised of a series of cells located within the existing quarry void, which will be lined,
- A leachate recovery and treatment system, and
- Temporary leachate dams and stormwater ponds within the void and a permanent leachate dam outside of the void to service the final cell and legacy leachate.

The landfill will fill the existing quarry void (which is approximately 4.5 million m³). Filling will occur in a staged manner in four (4) designated cells (see Figure 7). The final cell (cell 4) will be filled following the decommissioning of the resource recovery building.

Figure 7 – Landfill cell locations



Once the landfill cells are full, the facility will be closed and rehabilitated including the decommissioning and removal of all site infrastructure, completion of landfill capping and revegetation. The site will be revegetated with native species for a biodiversity end land use. The final landform topography of the site will reflect that which pre-existed the quarry (see Figure 8 – final contour plan).

Figure 8 – Final contour plan following rehabilitation of the site



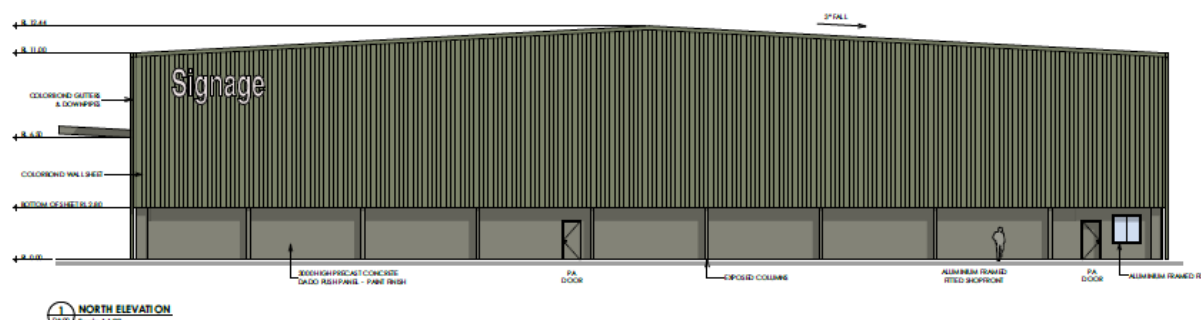
The Applicant has provided the following information in relation to where the waste will be accepted from:

As well as servicing the Cessnock LGA, the Three Mile Hill Facility will also service areas beyond the Cessnock LGA, assisting to address the region's non-putrescible waste landfill requirements. The sources of waste will be dispersed and will depend on commercial considerations of the facility's customers over the 25–30 years that the facility is operating.

Figure 8 – The proposed resource recovery building, floor plan, associated parking and access



Figure 9 – North Elevation of the proposed resource recovery facility



4.2 Background

A previous Development Application for a waste management facility on the subject land was lodged with Council in September 2022 (DA No. 8/2022/870/1) and a preliminary briefing was held with the Regional Planning Panel on 9 November 2022 where the following issues were raised:

- Unclear if the requirements of the SEAR's have been met.
- Ongoing leachate management.
- Interface buffers.
- Vegetation removal and ecology impacts.
- Rehabilitation strategies and biodiversity outcomes.
- Social impacts and consultation.

The Development Application was subsequently withdrawn in December 2022 to enable the Applicant to prepare a revised application addressing the outstanding issues.

5. ASSESSMENT

5.1 Designated Development

Schedule 3 (Part 2 – Clause 45) EP & A Regulations 2021

Designated Development is development that is considered high-impact or is located in or near an environmentally sensitive area. Pursuant to Schedule 3, Part 2, Clause 45 of the Regulation, the development is classified as designated development for the following reasons:

- the facility or works dispose of solid or liquid waste by landfilling and comprises more than 200 tonnes per year of other waste material;
- the facility or works sorts, consolidates or temporarily stores waste at a material recycling facility for transfer to another site for final disposal, permanent storage, reprocessing, recycling, use or reuse, and has an intended handling capacity of more than 30,000 tonnes per year of waste such as glass, plastic, paper, wood, metal, rubber or building demolition material.

In accordance with the provisions of the Act and the Regulation, an Environmental Impact Statement (EIS) has been prepared in accordance with the SEARs. The submitted EIS is consistent with the SEARs and the provisions under Schedule 3 of the Regulation.

5.2 Environmental Planning and Assessment Act 1979 – Section 1.7 of the Act - Biodiversity Considerations

Having regard for Section 1.7 of the Act, which requires consideration of Part 7 of the *Biodiversity Conservation Act (BC Act) 2016*, a Biodiversity Development Assessment Report (BDAR) has been prepared and lodged with the application.

Broadly, the majority of the vegetation to be cleared is regeneration (3.39ha) undertaken as part of the quarry operations (see Figure 10 identifying the areas of the site impacted). Considering this, the ecological impacts of the proposal are considered minor given the scale of the development. Biodiversity offset payments will be required to compensate for the impacted areas and this has been conditioned accordingly. It is noted that the submitted BDAR also considered the impacts associated with intersection upgrade works required at the access entry to the site on Black Hill Road. While the final design of the intersection upgrade works has not yet been undertaken, vegetation impacted in this location will be minimal as it is predominantly grassland.

Figure 10 – Location of areas of ecological impact / clearing



Biodiversity is identified as the key final land use for the site. The final capping layer to be placed over the landfill will be required to be in accordance with EPA specifications and is to be included as part of the closure plan for the site (to be approved by EPA).

It is proposed to establish native vegetation on the capped landform. To ensure tree roots do not penetrate the capping layer, either a root barrier can be incorporated in the capping design, or the thickness of the revegetation layer can be increased to account for the rooting depth of trees. These options will be explored upon the final design of the capping layer in accordance with the closure plan to be assessed by the EPA and detailed in the Environmental Protection Licence (EPL). A condition of consent has been imposed requiring the submission of a revegetation plan (comprising native species) with the closure plan (to be submitted to Council no later than twelve (12) months before the completion of the Waste Management Facility).

The revegetation of the capping layer with native, locally occurring species will be a substantial ecological improvement on the final outcome of the site.

The applicant has sufficiently demonstrated efforts to avoid impacts through the design by utilising existing cleared areas for all infrastructure associated with the waste management facility.

Council's Ecologist has assessed the submitted BDAR and has concluded the development will result in minimal biodiversity impacts subject to compliance with conditions of consent.

5.3 Environmental Planning and Assessment Act 1979 – Section 4.14 (Certain Bush Fire Prone Land)

The site is identified as being bush fire prone land; however, the application does not propose a subdivision for residential purposes or a special fire protection purpose as defined in the *Rural Fires Act 1997*.

Therefore Section 4.14 of the Act is applicable and the development is required to be assessed against the provisions of *Planning for Bushfire Protection (PBP) 2019*, and the requirements of *Section 4.14 of the Act*.

A Bushfire Assessment Report has been lodged with the Application and was referred to the NSW RFS who have issued their letter of approval (dated 18 October 2023) subject to suitable conditions which will be imposed on the development consent.

5.4 Section 4.15(1) Evaluation

The following matters are relevant to the assessment of the DA:

4.15(1)(a)(i) The provisions of any environmental planning instrument

The environmental planning instruments that relate to the DA are:

1. *State Environmental Planning Policy (Planning Systems) 2021*
2. *State Environmental Planning Policy (Resilience and Hazards) 2021*
3. *State Environmental Planning Policy (Transport and Infrastructure) 2021*

4. *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
5. *Cessnock Local Environmental Plan 2011*

An assessment of the DA under the environmental planning instruments is provided below:

1. *State Environmental Planning Policy (Planning Systems) 2021*

In accordance with Chapter 2 of the SEPP (State and Regional Development), Section 2.19(1) declares the proposal as regionally significant development pursuant to Clause 7 of Schedule 6 (Particular Designated Development) as the proposal comprises a waste management facility which is designated development.

2. *State Environmental Planning Policy (Resilience and Hazards) 2021*

Hazardous and Offensive Development

Chapter 3 of the SEPP applies to any development comprising a potentially hazardous and/or offensive industry. The consent authority is required to consider whether a waste disposal or resource recovery facility is development that is a potentially hazardous or offensive.

Potentially hazardous or offensive development is defined under the *SEPP* as development which poses a significant risk to, or which would have a significant adverse impact on, human health, life, property or the biophysical environment, if it were to operate without employing any control measures. This includes developments for the handling, storing or processing of hazardous materials.

The proposed waste management facility will operate under an Environmental Protection Licence (EPL) issued by the EPA and GTA's have also been issued by the EPA for the proposal dated 4 December 2023 (Notice Number: 1634125). The facility will be required to operate in accordance with the provisions of the EPL and subject to compliance, the proposal will not result in the development being potentially hazardous or offensive and therefore satisfies the provisions of the SEPP.

Remediation

Chapter 4, Section 4.6(1) of the SEPP is relevant to the assessment of this Development Application, which requires that consent not be granted until Council has considered whether the land is contaminated. If the land is contaminated, the Council needs to be satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The proposed waste management facility will be located within the boundaries of the existing quarry which has been largely disturbed as part of previously approved quarry operations. There has been no history of previous contaminating land uses on the site.

Having regard for the historical use of the site as a quarry, and the nature of the proposed use, further investigations in respect of contamination are not required and it is considered that the proposal satisfies the underlying aims and objectives of the *SEPP* in relation to the consideration of contamination.

3. State Environmental Planning Policy (Transport and Infrastructure) 2021

In determining a Development Application for a waste or resource management facility, Division 23, Section 2.157 of the SEPP requires Council to consider the following:

- a) *whether there is a suitable level of recovery of waste, such as by using alternative waste treatment or the composting of food and garden waste, so that the amount of waste is minimised before it is placed in the landfill, and*
- b) *whether the development—*
 - (i) *adopts best practice landfill design and operation, and*
 - (ii) *reduces the long-term impacts of the disposal of waste, such as greenhouse gas emissions or the offsite impact of odours, by maximising landfill gas capture and energy recovery, and*
- (c) *if the development relates to a new or expanded landfill—*
 - (i) *whether the land on which the development is located is degraded land such as a disused mine site, and*
 - (ii) *whether the development is located so as to avoid land use conflicts, including whether it is consistent with any regional planning strategies or locational principles included in the publication EIS Guideline: Landfilling (Department of Planning, 1996), as in force from time to time, and*
- (d) *whether transport links to the landfill are optimised to reduce the environmental and social impacts associated with transporting waste to the landfill.*

Comment

In relation to Section 2.157 (1)(a), the development proposes both the recovery of waste and waste disposal (by landfill) such that the amount of waste entering the site for the purpose of landfill is minimised by waste recovery.

In relation to Section 2.157 (1)(b), the waste disposal (landfill) component of the development will be designed and operated in accordance with the *Environmental Guidelines – Solid Waste Landfills* (EPA 2016). All waste will be managed as per the Standards for *Managing Construction Waste in NSW* (EPA 2019) and best practices, and in accordance with the EPA licence conditions.

In relation to Section 2.157 (1)(c)(i), the land on which the development is proposed is currently occupied by a quarry with an open void that has been significantly disturbed and degraded. As such, the proposed re-purposing of the quarry satisfies the underlying objective of this Section of the SEPP which encourages landfill activities to occupy disturbed and degraded land.

In relation to Section 2.157 (1)(c)(ii), the proposed site is relatively isolated and separated from surrounding land-uses which are essentially large rural holdings containing residential dwellings. The Development Application has been accompanied by various environmental

reports addressing the environmental and amenity impacts of the proposed waste management facility and these are discussed in more detail further in this report.

In relation to Section 2.157 (1)(d), adequate transport links are available to and from the site via Black Hill Road which connects to the Pacific Motorway to the east and John Renshaw Drive to the west, with onward connections to the north, south and east via the Hunter Expressway, the New England Highway and the Pacific Highway. In relation to environmental and social impacts of these transport routes being used for the purpose of transporting landfill, the Development Application has been accompanied by a Traffic Impact Assessment, Road Safety Assessment and Social Impact Assessment which are discussed in detail further in this report.

Traffic Generating Development

The *SEPP* classifies a ‘waste or resource management facility’ of any size or capacity as a traffic generating development under Schedule 3.

Before determining a development application for traffic generating development, the consent authority must give written notice of the application to Transport for NSW (TfNSW) and take into consideration any response received within 21 days.

TfNSW have been consulted throughout the assessment process and raise no objection to the proposed development. No roadworks will be required on any classified roads as a result of the development and there is adequate capacity within the surrounding road network to accommodate traffic movements from the site. Intersection works will be required on Black Hill Road at the entry to the site to ensure the safe entry and exit of vehicles. These works have been conditioned accordingly.

4. State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 3 of this SEPP (Koala habitat protection) is applicable to the proposal given the zoning of the land (being RU2 Rural Landscape). The submitted BDAR has addressed the provisions of this chapter of the SEPP and Council’s Ecologist has reviewed the BDAR and concluded that the site does not contain suitable habitat for koalas (given the tree canopy on the site is not sufficiently mature). As such, a Koala Plan of Management (KPOM) is not required.

5. Cessnock Local Environmental Plan (CLEP) 2011

5.1 Permissibility

The subject site is zoned RU2 Rural Landscape under the provisions of the *Cessnock Local Environmental Plan (CLEP) 2011*.

The proposed development is defined as a ‘waste disposal facility’ and a ‘resource recovery facility’ under the *CLEP 2011* which are defined as follows:

waste disposal facility means 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 winning of extractive material to generate a void for disposal of waste or to cover waste after its disposal.

resource recovery facility means a building or place used for the recovery of resources from waste, including works or activities such as separating and sorting, processing or treating the waste, composting, temporary storage, transfer or sale of recovered resources, energy generation from gases and water treatment, but not including re-manufacture or disposal of the material by landfill or incineration.

A 'waste disposal facility' and a 'resource recovery facility' are a type of '**waste or resource management facility**' which is a permitted land use in the RU2 Rural Landscape zone subject to development consent.

The facility will incorporate some extraction works to enable the progressive construction of the landfill subgrade, sidewall lining and daily cover. In accordance with the definition of a "**waste disposal facility**" under the provisions of the *CLEP 2011*, the extraction of material is permitted to generate voids for the disposal of waste and to cover waste after its disposal.

5.2 Objectives

The objectives of the RU2 Rural Landscape zone are as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base*

Comment – the proposed resource recovery component of the development will assist in maintaining the natural resource base by recycling materials and minimising the requirement to extract material for development projects, resulting in a more sustainable primary industry.

- *To maintain the rural landscape character of the land.*

Comment – the proposed waste management facility will be located within an existing disturbed area (quarry void). The proposal to fill this site over the life span of the facility will restore the original natural landform of the site (as it existed prior to the quarry operations commencing), including rehabilitation and revegetation. As such, the long-term outcome of the development will improve the current rural landscape character of the site to be consistent with the character of the surrounding rural locality.

- *To provide for a range of compatible land uses, including extensive agriculture.*

Comment – The proposed waste management facility will be located within the boundaries of the existing quarry and the operational aspects of the development will be similar to the existing quarry operations. Subject to the operational aspects of the development complying with the Environmental Protection License (EPL) issued by the EPA and the imposed conditions of development consent, the proposal is not considered to be incompatible with surrounding land uses.

- *To enable other forms of development that are associated with rural activity and require an isolated location or support tourism and recreation.*

Comment – While the proposed waste management facility is not generally associated with rural activities and does not support tourism, the facility will be located within the boundaries of the existing quarry which is in an isolated location, thereby ensuring minimal environmental and amenity impacts on the surrounding rural area.

- *To ensure that the type and intensity of development is appropriate in relation to the rural capability and suitability of the land, the preservation of the agricultural, mineral and extractive production potential of the land, the rural environment (including scenic resources) and the costs of providing services and amenities.*

Comment – The proposed waste management facility will be located within the boundaries of the existing quarry and will not encroach on any adjoining rural land and as such, the site is considered suitable for the proposal as it will only occupy existing disturbed land.

The resource recovery building will be hidden from any public vantage points given the topography of the site and surrounding dense vegetation. The resource recovery aspect of the development will recycle materials ensuring preservation of the natural resource base.

A visual impact assessment has been lodged in support of the proposal and the long-term outcome of the site will result in an improved scenic landscape, consistent with the character of the surrounding rural area.

- *To maintain and enhance the scenic character of the land.*

Comment – The facility will be located within the existing quarry void and as previously discussed, the long-term outcome of the site will result in an improved scenic landscape, consistent with the character of the surrounding rural area.

- *To ensure that development does not create unreasonable or uneconomic demands for the provision or extension of services.*

Comment – The facility will not result in the need for the provision or extension of services as all essential services are currently available to the site.

- *To minimise the visual impact of vegetation clearing in order to be consistent with the rural character of the locality.*

Comment – Vegetation clearing will be kept to a minimum given the facility will be located within the boundaries of the existing quarry void which has been heavily disturbed. The long-term outcome for the site will result in an improved scenic landscape given the quarry void will be filled, rehabilitated and revegetated, and the topography of the land restored to its natural state prior to commencement of the current quarry operations.

- *To minimise disturbance to the landscape from development through clearing, earthworks, access roads and construction of buildings.*

Comment – The facility will be located within an existing disturbed area and minimal disturbance will be required to establish the development.

- *To ensure development does not intrude into the skyline when viewed from a road or other public place.*

Comment – The facility will not intrude into the skyline as it will be located within an existing disturbed quarry void. A visual impact assessment has been lodged in support of the proposal and the long-term outcome of the site will result in an improved scenic landscape, consistent with the character of the surrounding rural area.

5.3 Relevant Clauses

The following clause of *CLEP 2011* is relevant to the proposal.

Clause 7.2 Earthworks

Clause 7.2 seeks to ensure that any earthworks do not result in an adverse impact on the environment, neighbouring properties or heritage items.

Minimal earthworks will be required to establish the resource recovery building as it will be located within an existing disturbed area of the quarry. The remaining earthworks will be the landfill component of the development and the Application has been supported by various specialist reports addressing environmental and amenity impacts which have been assessed by Council officers and the EPA. Subject to compliance with the EPL and conditions of consent, the development will not adversely impact on the surrounding environment and neighbourhood. There are no heritage items on, or surrounding the site.

4.15(1)(a)(ii) The provisions of any proposed 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 Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved

There are no proposed instruments relevant to the DA/subject land.

4.15(1)(a)(iii) The Provisions of any Development Control Plan

Cessnock Development Control Plan (CDCP) 2010

The following chapters of the DCP apply to the proposal:

- C.1 Parking & Access;
- C.3 Contaminated Lands;
- C.4 Land Use Conflict & Buffer Zones;
- C.5 Waste Management & Minimisation;
- C.8 Social Impact Assessment and CPTED Guidelines
- D.3 Industrial Development.

C.1 Parking & Access

Parking

This chapter seeks to guide developers on Council's requirements for off-street parking with the aim of ensuring development satisfies the expected parking demand, not only through quantity of parking but also quality of parking.

Parking rates for "waste or resource management facilities" are not specified in this chapter of the DCP. As a guide, parking requirements for warehouse or distribution centres require 1 space per 300m² of gross floor area or 1 space per employee (whichever is the greater).

There will be a total of seven (7) full time employees at the facility, and the gross floor area of the resource recovery building is 3,740m². Therefore, the greater of the two is the floor area of the building requiring a total of 12 parking spaces. While the submitted plans demonstrate seven (7) formal parking spaces adjacent the resource recovery building, there is sufficient area to provide an additional five (5) spaces and this will be imposed as a condition of consent.

Access

The development will be accessed off Black Hill Road via an existing access road. While the internal access roads already exist to the site, the following road upgrade works will be required at the intersection of the access road with Black Hill Road to improve safety:

- Installation of an acceleration lane,
- Installation of a 'no right turn' on the southern leg of the site access/Black Hill Road intersection,
- Installation of a 'no left turn' on the eastern leg of the site access/Black Hill Road intersection,
- Line marking to indicate a BAL/BAR intersection treatment,
- Installation of vehicle activated flashing lights on Black Hill Road at 259 metres east of the sites access road, and
- Sealing and drainage works as necessary.

Overall the proposed development satisfies the requirements of Chapter C.1 of the DCP.

C.3 Contaminated Lands

As this chapter of Council's DCP has been prepared in accordance with the requirements of *State Environmental Planning Policy (Resilience and Hazards) 2021*, the proposed development is consistent with the requirements of this chapter as previously outlined.

C.4 Land Use Conflict & Buffer Zones

This chapter of Council's DCP details separation distances or buffer zones for incompatible land uses. The distances are provided as a guide and prescribe minimum recommendations for physical separation of incompatible uses.

The DCP states that buffer distances are aimed at reducing conflict. For waste management facilities (under the DCP), the stated conflicts are 'odour, wind-blown refuse, noise, traffic, dust and significant potential for contamination of ground and surface waters'.

In accordance with the provisions of this chapter of the DCP, "waste management facilities" require a minimum separation distance of 1000 metres from dwellings. The distance is a general guide to address impacts on residential amenity. As detailed below, this separation distance is unable to be complied with and as such, specialists' reports have been lodged addressing environmental and amenity impacts associated with the development.

The figure below identifies residential dwellings within the vicinity of the proposed development with the nearest residential dwelling (identified as 002) located approximately 250 metres to the north-west of the site. Noise monitoring stations were placed at markers N1A, N2 and N3.

Figure 9 – Nearest residential receptors (blue and orange markers) and noise monitoring stations (N1A, N2 and N3)



The following specialist environmental reports have been lodged with the application:

- Landfill, Gas and Leachate Management Plan
- Noise and Vibration Assessment
- Air Quality and Greenhouse Gas Assessment
- Water Impact Assessment
- Soil and Water Management Plan
- Water Balance Modelling Report

As the development does not involve the processing or disposal of putrescible waste, odour issues can be eliminated from the list of impacts.

The EPA are the authority required to licence the facility in relation to environmental impact requirements. The EPA have issued their GTA's and are satisfied that an EPL can be issued for the facility subject to conditions addressing impacts associated with noise, vibration, leachates, air quality and water quality.

Subject to compliance with the GTA's and EPL issued by EPA, it is considered that the impacts of the development will be appropriately mitigated in order to minimise any land use conflict with surrounding rural and residential land uses. It is therefore considered that the proposed development is consistent with the underlying objectives of this chapter of Council's DCP in ensuring that land use conflicts are adequately addressed and minimised.

C.5 Waste Management & Minimisation

Waste management and minimisation will form part of the EPL and will be monitored by the EPA.

C.8 – Social Impact Assessment and CPTED Guidelines

A Social Impact Assessment (SIA) prepared in accordance with Council's guidelines was lodged in support of the application and has been considered by Council's Principal Community Planner.

During the community consultation process in preparing the SIA, significant community objection was raised to the proposal, and this was again reflected in the submissions received during Council's notification period. The issues raised by the submitters are addressed in detail further in this report.

The main areas of concern raised by the community relate to their enjoyment of residing within a rural environment being adversely impacted upon by the development in relation to traffic safety, noise, air pollution, water pollution and visual impacts.

As previously discussed in this report, the various environmental reports lodged with the application have been assessed by the EPA and subject to compliance with the general terms of approval and EPL conditions, environmental impacts will be minimised to ensure the amenity of the surrounding rural neighbourhood is maintained at an acceptable level.

In relation to traffic and visual impacts of the development, these are discussed in more detail further in the report.

The Black Hill community have been co-existing with the existing quarry operations since it was first established in 1955 and the operators of the quarry attend consultative meetings with the local established Black Hill Community Group every six (6) months to discuss the ongoing operational aspects of the quarry operations and to address and mitigate amenity impacts on the neighbourhood. The owners of the site and the operators of the proposed waste management facility will continue with these meetings to ensure on-going engagement with the community to address issues and concerns for the life of the development (and this will be imposed as a condition of consent). This continued community engagement will assist in mitigating adverse social implications for the Black Hill community as a whole.

In accordance with Council's Crime Prevention Through Environmental Design Guidelines no CPTED assessment is required.

Having regard for the findings of the submitted SIA, the community consultation undertaken by both the proponent and Council and the recommended conditions of consent to mitigate likely impacts of the development, it is considered that there will be no significant social impacts associated with the development.

D.3 Industrial Development

This chapter of the DCP primarily refers to new industrial development and details requirements for setbacks, building design, site layout, parking, landscaping and vehicular movements. While the land is not zoned for industrial purposes, the proposed development is industrial in nature and therefore the provisions of this plan apply.

The aims and objectives of this chapter of the DCP are as follows:

- a) To encourage industrial development without creating detrimental environmental impacts or adversely affecting existing services and infrastructure.*
- b) To ensure that adequate environmental safeguards are implemented by industry through careful site planning.*

The application has been carefully assessed, specifically with regards to the environmental impacts of the development. The EPA has assessed the impacts of the development with regards to water, air and noise pollution, and consider that the proposal will not detrimentally impact on the environmental qualities of the locality subject to strict compliance with the conditions contained within the GTA's and EPL.

The impact of the development has been assessed on local infrastructure (specifically the local road network), and such impacts are considered to be satisfactory.

A heavy haulage contribution will be required under Council's Section 7.11 Contributions Plan towards the maintenance of local roads as a result of increased truck movements generated by the development.

Landscaping

Clause 3.2.1 provides guidelines for landscaping. In this regard, there will be no landscaping proposed during the operation of the facility given the extent of existing vegetation located on the site. The site is located within a quarry void and surrounded by dense vegetation. On completion of the landfill, the facility will be closed and rehabilitated including the decommissioning and removal of all site infrastructure, completion of landfill capping and revegetation. The site will be revegetated with native species for a biodiversity end land use. The final landform topography of the site will reflect that which pre-existed the quarry.

Vehicular Parking and Drainage

In accordance with clause 3.2.2 (vehicular parking), compliance is required with Council's DCP (Chapter C.1 – Parking and Access). This has been previously addressed as being compliant. There will be a requirement to lodge a drainage plan for the car park to be considered by Council prior to commencement of the use.

Vehicular Movements and Access

Vehicular manoeuvring into and out of the site has been assessed by Council's Development Engineers as being compliant with the relevant standards contained in 'Council's Engineering Requirements for Development'.

Outside Storage

Clause 3.2.6 of the DCP requires the external storage of materials to be located behind the building and/or screened from public view by means of fencing.

In relation to the resource recovery aspect of the development, all storage will be contained within the proposed new building proposed to receive, sort and recycle waste. No external storage of materials is proposed.

In summary, the proposal satisfies the aims and objectives of Council's DCP for industrial development.

4.15(1)(a)(iia) Any Planning Agreement or any draft Planning Agreement

No such agreement exists between the owner and Council. There is no planning agreement proposed as part of this application.

4.15(1)(a)(iv) The Regulations

An Environmental Impact Statement (EIS) has been prepared and lodged with the Application in accordance with the requirements of the *EP & A Regulation 2021*.

It is considered that the EIS has satisfactorily addressed the SEARs, identifies all the key environmental issues associated with the proposal, and provides appropriate recommendations for ongoing mitigation.

4.15(1)(b) *The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality*

The likely impacts of the development have been considered and addressed in this report. Additional comments are provided for the key likely impacts, below:

Traffic and Access

A Traffic Impact Assessment (TIA) was submitted in support of the application addressing the traffic generated by the development.

Truck movements associated with the waste management are proposed to be 54 laden trucks per day (which will generate 108 daily truck movements (inbound and outbound movements)). It is noted that truck movements for the existing quarry operations are capped at 55 laden trucks per day.

The monitoring of truck movements will be recorded via the weighbridge and reported in accordance with the requirements of the EPL to ensure truck movements to and from the site do not exceed the daily maximum of 108 movements.

The main traffic routes to approach and depart the site will be from Black Hill Road are via John Renshaw Drive and either Lenaghan's Drive or Pacific Motorway.

It is expected that the incoming/outgoing resource recovery and landfill trucks will predominantly travel via John Renshaw Drive (90%), with the remaining 10% travelling via Lenaghans Drive. This is further split with 70% expected to travel to/from the west and 30% to/from the east on John Renshaw Drive.

The 10% from Lenaghan's Drive is expected to come to/from the south. Light vehicle traffic is predicted to be split 50/50% towards the east and west on Black Hill Road and further 50/50% towards the east and west on John Renshaw Drive.

Figure 12 – Road network



Council's Development Engineers have assessed the TIA and are satisfied that the existing road network is able to continue to accommodate the proposed level of truck movements from the site.

The existing access entry to the site off Black Hill Road is generally in accordance with a BAL/BAR treatment. However, given the site distance along Black Hill Road (when exiting the site), an acceleration lane will be required to be installed for traffic turning left out of the site onto Black Hill Road, including adequate line marking. Further, trucks movements will be prohibited from turning right out of the site onto Black Hill Road, and left into the site from Black Hill Road to further mitigate traffic safety issues due to restricted site distance, and to address neighbourhood amenity issues from truck movements past the Black Hill Public School and Church.

The Applicant has also undertaken a Road Safety Assessment (RSA), as required by the Regional Planning Panel, to address public concerns regarding truck movements along Black Hill Road.

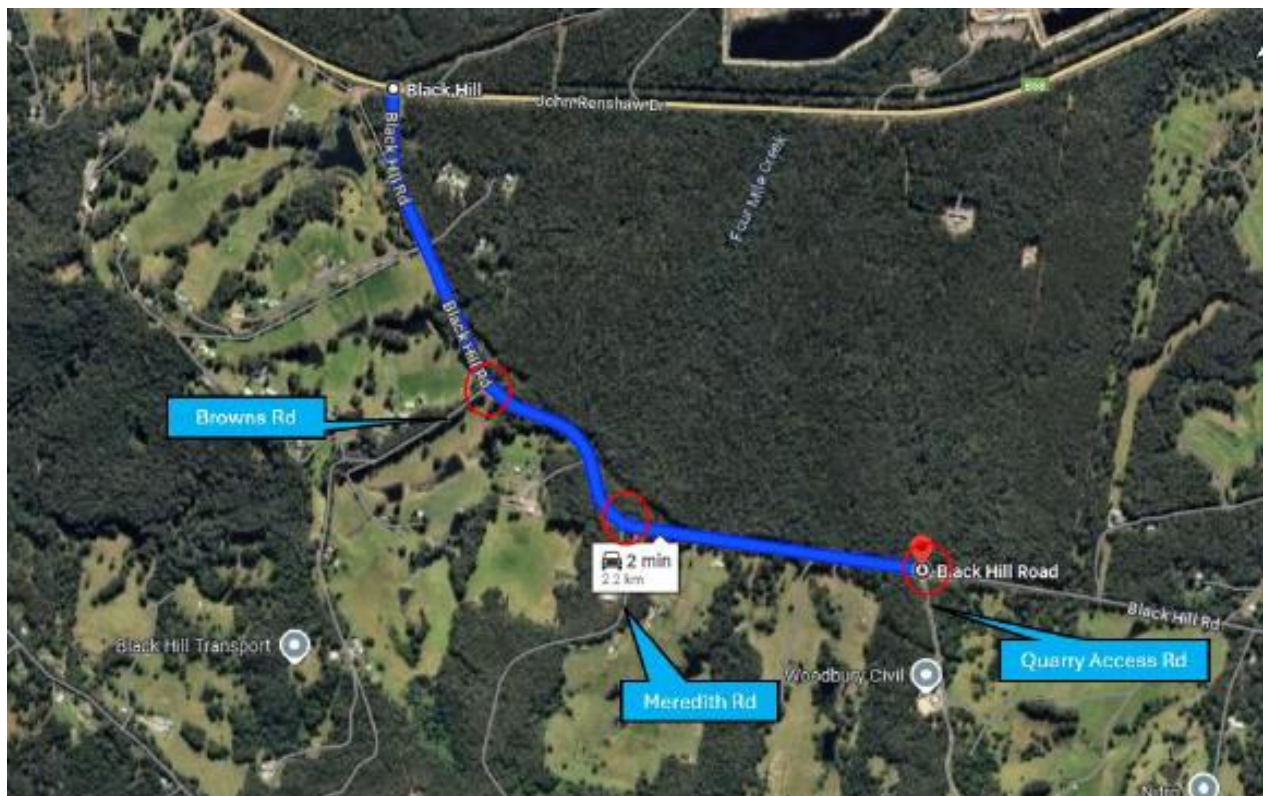
The key objectives of the RSA were as follows:

- Identify any existing safety deficiencies of design, layout and road furniture which are not consistent with the road's function or use;
- Identify potential safety issues for general road users;
- Identify potential safety issues that may occur due to the operation of the development; and
- Ensure that mitigation measures are identified to improve road user safety.

The key intersection investigated were:

- Black Hill Road/Quarry Access Road
- Black Hill Road/Meredith Road
- Black Hill Road/Browns Road

Figure 13 – Intersections identified in the Road Safety Assessment



The key findings of the RSA are as follows:

1. The speed surveys conducted at three key intersections do not indicate any speeding related issues along Black Hill Road;
2. Due to the presence of horizontal and vertical curves, there are sight distance issues at some intersections. However, there are adequate intersection warning signs as a risk mitigation measure which are considered to be appropriate for these intersections;

3. There are no existing traffic safety issues at the existing residential driveways at the surveyed section of Black Hill Road;
4. To improve traffic safety at the Black Hill Road/Quarry Access Road intersection, vehicle activated flashing lights are recommended approximately 250 m east of the Quarry Access Road;
5. There are existing pavement defects at the Black Hill Road/Quarry Access Road intersection which need to be fixed immediately before further damage is caused by water ingress and the turning trucks to/from the quarry; and
6. The Black Hill Road/Quarry Access Road intersection should be upgraded by the proponent and line marked before opening of the proposed waste management facility.

Council's Development Engineers have reviewed the RSA and have recommended the imposition of conditions to address points 4 and 6 to related to safety issues associated with the intersection entry to the site.

In relation to point 5, Black Hill Road is a Council owned and maintained road and the Applicant will be required to pay annual haulage contribution fees to Council for the life of the development to contribute to the ongoing maintenance of this road including the regular repair of pavement defects.

Transport for NSW (TfNSW) have been consulted regarding the development and are supportive of the proposal subject to the restrictions on truck movements out of the site as previously discussed.

In summary, subject to upgrade works to the intersection at the entry to the site on Black Hill Road, the installation of vehicle activated flashing lights on Black Hill Road alerting passing traffic of truck movements to and from the site, and the restriction of truck movement into and out of the site, it is considered that the traffic impacts associated with the development will be acceptable.

Pollution (Air, Water and Noise)

As previously discussed, several specialist environmental reports have been lodged with the application and referred to the EPA for assessment to determine the likely environmental impacts of the development and on-going management.

The EPA have issued their general terms of approval (GTA's) and are satisfied that an Environmental Protection Licence (EPL) can be issued for the facility subject to conditions addressing impacts associated with noise, vibration, leachates, air quality and water quality.

Subject to compliance with the GTA's and EPL issued by EPA, it is considered that any likely polluting impacts of the development can be appropriately mitigated.

Visual Impacts

A visual impact assessment has been lodged with the Application. This assessment comprises a 3km radius study area from the site of the proposed development.

Viewshed mapping was undertaken from locations with a potential line of site (receptors) to the proposed development which are from the north of the site.

The two main visual elements which will be evident from the identified receptors will be:

- The resource recovery building, which will be partially visible above the rim of the quarry void for the duration of the operations.

Planning Comment - The walls of the resource recovery building will be constructed in dark toned colourbond (pale eucalypt) which will blend well with the backdrop of established native vegetation, thereby minimising its visibility from properties to the north. However, the proposed zinculum roofing is not an acceptable material as it is reflective and a condition of consent will be imposed requiring the roof to be constructed in the same material and colours as the walls (colourbond – pale eucalypt). Subject to the modification of the roofing material, and given that only the very top portion of the building will be partially visible from selected properties to the north, the visual impact of the building will be acceptable and minimal.

Figure 14 – Wall cladding colour of the resource recovery building.



- The proposed filling activity, but only once the filling of the quarry void elevates the base of the void to a level at or above the natural ground level surrounding the void.

Planning Comment – For the majority of the life of the development, the filling works will be conducted within the void of the existing quarry pit. These activities are largely obscured from local viewsheds to the north until a future stage at which the filling will lift the base of the void and reduce the obscuring benefit of the surrounding natural ground level.

The visual impact of the filling activities will therefore occur in four (4) stages (during the final filling of each of the four (4) cells for a restricted period of time). This will occur generally from the east of the quarry void towards the west, rather than one single rise in the base of the quarry. Visually, this means the effect of filling activity will come and go periodically over the life of the development.

Existing vegetation on the northern side of the development area will continue to mature over the operational life of the development and will further mitigate visual impacts by additional filtering of view lines from receptors to the north. The long term visual impact of the proposed development (following rehabilitation) will be an improvement from the existing quarry (which would have continued to remain a void, albeit a landscaped void). The capping and revegetation of the completed landfill will restore a sympathetic natural landscape reflecting the topography of the land pre-quarrying activities.

Figure 15 – View of existing quarry from Black Hill Road from the north (zoomed in)



Neighbourhood Amenity Impacts

Concern has been raised by the local community as a result of the notification process that the proposal will adversely impact on the amenity of the neighbourhood in relation to truck movements along Black Hill Road, noise impacts, visual impacts, air and water pollution.

The issue of traffic and visual impacts has previously been discussed in detail in this report addressing the concerns raised by the community.

In relation to impacts associated with noise, odour, air and water quality, as previously discussed, several specialist environmental reports have been lodged with the application and referred to the EPA for assessment to determine the likely environmental impacts of the development and on-going management.

The EPA have issued their GTA's and are satisfied that an EPL can be issued for the facility subject to conditions addressing impacts associated with noise, odour, air and water quality.

Subject to compliance with the GTA's and EPL issued by EPA, and ongoing monitoring reporting, it is considered that the impact of the development on the amenity of the neighbourhood will be acceptable.

Economic Impacts

The 'NSW Waste and Sustainable Materials Sustainable Materials Strategy 2041 (published in June 2021) was prepared by the NSW Government to allow State Government, Local Government, and private industry to identify and work towards meeting the regions' recycling and landfill needs. The strategy sets a target of 80% recovery from all waste streams by 2030. The proposed resource recovery component of the project will contribute to achieving this target – recovering valuable resources rather than disposing them to landfill.

However, as recognised by the 80%-target, not all waste can be recycled and the current need to landfill residual unrecyclable waste will continue. The strategy identifies that at our current rates of generation and recycling, non-putrescible landfills in Greater Sydney and some regional areas will reach capacity within this decade and that additional landfill capacity in excess of 300,000 tpa is needed for the Hunter region by 2040.

The Application has been accompanied by an 'Infrastructure Gap Analysis', taking into account the objectives of the NSW Governments waste strategy.

The analysis found that:

- There will be a significant shortfall in inert waste landfill capacity in the Central Coast, Newcastle, and Hunter (CNH) region, with only 250,000 tpa of landfill capacity available to dispose of the 450,000 tpa of inert waste generated in the region.
- This capacity gap is set to worsen with the closure of seven large inert landfills in greater Sydney by 2025.
- The projected major infrastructure projects in the CNH region, as well as the infrastructure required to house and service the growing population, and the closure of a number of power stations and coal mines are expected to generate significant amounts of construction waste, adding further pressure to already strained landfill capacity.
- Repurposing the Black Hill Quarry as a waste management and resource recovery facility is a timely opportunity to address this capacity shortfall.
- Failing to address the capacity shortfall in a timely manner could have significant consequences for the environment, economy, and community of the CNH region, making it imperative to take swift action to bridge this infrastructure gap.

Quarries that have reached the end of their extraction life can be suitable for repurposing as a landfill and this is consistent with the provisions of SEPP (Transport and Infrastructure) 2021 (previously discussed in this report).

The ten member Councils of the Hunter Joint Organisation (HJO) welcomed the opportunity to provide input in June 2024 to the Standing Committee on State Development in relation to the inquiry into 'beneficial and productive post-mining land use'. Part of the input provided by HJO was to recognise the productive reuse of already disturbed landscapes to minimise the need to disturb remaining natural ecosystems and support new activities and industries to assist with the region's economic evolution.

Further, Cessnock Council's landfill site has minimal capacity to accept large volumes of inert waste and only receives a small amount (mainly due to less expensive options available in the region). Council's Waste and Resource Recovery Strategy (2020-2025) encourages expanding opportunities for all sections of the community to increase the recovery of resources. The proposed resource recovery component of the development will assist in achieving these opportunities.

In summary, the economic impacts of the proposal are beneficial to the community and region as a whole in addressing the current shortfall in infrastructure available for ongoing waste management.

4.15(1)(c) The suitability of the site

The subject land has been largely disturbed and degraded and has been used as a quarry since 1955.

In accordance with *SEPP (Transport and Infrastructure) 2021*, new or expanded land fill sites are encouraged to be established on degraded land such as disused mine sites. In this regard, the site is considered suitable for land fill as the void that has been created by the quarry will be filled and rehabilitated in the long term to reflect the topography of the land prior to the quarry being established.

While community objection has been received to the proposal due to its location within a rural environment, the particular issues of concern relating to environmental and amenity impacts have been considered throughout this report. Subject to the development complying with the GTA's and EPL issued by the EPA, and compliance with the recommended conditions of development consent, it is considered that the development can be integrated into the locality without any significant adverse impacts. The site is therefore considered suitable for the development.

4.15(1)(d) Any submissions made in accordance with this Act or the Regulations

The application was notified in accordance with Council's Community Participation Plan (CPP) from **11 October 2023 to 8 November 2023**.

A total of thirty (30) unique submissions were received from the community raising the following concerns regarding the proposal:

Issue	Comment
Traffic impacts from truck movements in relation to existing road conditions, community safety and neighbourhood amenity	The issue of traffic impacts and neighbourhood amenity has previously been addressed in this report.
Concern that traffic will run through private properties via Meredith Road	No access is proposed to the site from Meredith Road as access to the site is not physically possible given the topography of the land.

Inappropriate site and location within a rural environment and not in keeping with the character of the area resulting in adverse neighbourhood amenity impacts	<p>The suitability of the site for the proposal has previously been discussed in this report along with neighbourhood amenity impacts and zoning objectives for the RU2 Rural Landscape Zone.</p> <p>The proposed resource recovery facility will be located within the confines of the existing quarry which has been significantly disturbed. The applicant has undertaken a noise and vibration assessment, visual assessment, air quality and water quality assessment which have been reviewed by Council and the EPA as being acceptable subject to the requirements of the EPL, GTA's and conditions of consent.</p>
Insufficient community consultation was undertaken prior to lodgement of the Application	Community consultation was undertaken prior to the lodgement of the Application in the formulation of the Social Impact Assessment (SIA). The SIA was prepared in accordance with Council's DCP 2010 (Chapter C.8 – Social Impact Assessment and CPTED Guidelines) and this has previously been discussed in the report. Further, Council has undertaken neighbour notification as part of the assessment process and has considered submissions accordingly.
Concern over the facility accepting hazardous and toxic waste	<p>As previously discussed in this report, all waste entering the site will be subject to a series of inspections to ensure that no hazardous or putrescible waste enters the facility.</p> <p>All materials received and processed will be required to comply with the EPA's GTA's and EPL. The EPL will restrict the facility accepting any hazardous or toxic waste.</p>
Biodiversity impacts	The issue of biodiversity impacts has previously been addressed in this report.
Leachate impacts on downstream water quality and associated water contamination	As previously discussed in this report, the Application has been accompanied by several specialist environmental reports which have been assessed by the EPA. The EPA have issued GTA's addressing likely environmental impacts associated with leachates and water contamination and the operation will be required to comply with the conditions contained in the EPL. Annual monitoring reporting will be required to the EPA to ensure water quality testing meets set targets.
Visual amenity impacts	The issue of visual impact has previously been addressed in this report. The proposal is not considered to result in any significant visual impact.

Environmental pollution including air quality impacts from dust and odour.	<p>The application was accompanied by an air quality impact assessment which has been reviewed by both Council and the EPA. The report has been assessed as being satisfactory, and the EPL to be issued by EPA will require regular monitoring to ensure acceptable air quality standards are maintained.</p> <p>As the facility will not be accepting putrescible waste, there will be minimal odour issues.</p>
Noise impacts	<p>The application was accompanied by a noise impact assessment report which has been reviewed by both Council and the EPA. The report has been assessed as being satisfactory and the EPL to be issued by EPA will require the submission of an annual noise compliance report including regular monitoring to ensure specified noise limits are being complied with.</p>
The subject site is affected by underground mining and is therefore not a suitable site for the proposal	<p>NSW Subsidence Advisory have assessed the proposal and issued GTA's.</p>
The proposal will adversely impact on property values within the neighbourhood	<p>This issue of property values being affected by the proposal is not a planning consideration under the provisions of the Act.</p>
The submitted Environmental Impact Statement (EIS) incorrectly describes the existing quarry as a "void". The existing quarry operations have not created a void, rather shaved off the side of a hill.	<p>While the EIS references the existing quarry as a void, this description does not impact on the planning assessment of the proposal. The assessment is based on the current landform and proposed future landform which has been discussed previously in this report.</p>
The proposal is regressive, unjustified and inefficient approach to waste management and recycling.	<p>The proposed operation will provide an opportunity to fill the infrastructure gap associated with waste management facilities in the region. The design and operational aspects of the development have been assessed by the EPA as being satisfactory and appropriate in relation to the prescribed waste management standards.</p>

4.15(1)(e) *The public interest*

The public interest is served through the detailed assessment of this Development Application under the *Environmental Planning and Assessment Act, 1979*, *Environmental Planning and Assessment Regulation 2000*, Environmental Planning Instruments and Council Policies. While significant objection has been received to the proposal by the local community, subject to the operation complying with the GTA's and EPL issued by the EPA and the imposed conditions of development consent, it is considered that the proposal will benefit the broader

community and provide a much needed facility to assist with infrastructure gaps associated with waste disposal and recycling.

6. OTHER PLANNING MATTERS

6.1 Environmental Planning and Assessment Act 1979 – Section 4.16(9) – (Referral of Submissions to Planning Secretary)

Section 4.16(9) of the EP & A Act 1979 states the following:

Restrictions on determination of development applications for designated development - A consent authority must not determine a development application for designated development—

- (a) until after the submission period (within the meaning of Schedule 1) has expired, or*
- (b) if a submission is made with respect to the application within the submission period, until after 21 days following the date on which a copy of the submission is forwarded to the Planning Secretary have expired.*

In accordance with the above provision, the submissions received during the public exhibition period were forwarded to the Planning Secretary of the Department of Planning, Housing and Infrastructure (DPHI) on 23 November 2023. In response, DPHI confirmed in writing (in letter dated 15 December 2023), that there were no issues with the proposal being of State or Regional significance, however the concerns of the community were to be addressed in the assessment of the Application.

6.2 Section 4.46 of the Act – Integrated Development

Protection of the Environment Operations (POEO) Act 1997 - Section 43(d)

The proposed development is classified as a scheduled activity pursuant to *Schedule 1 of the POEO Act 1997* for the following reasons:

- *The waste management facility is located in a regulated area; and*
- *The facility receives more than 6,000 tonnes of non-hazardous waste per annum.*

The EPA have issued GTA's for the proposal and the applicant will be required to apply for an EPL prior to the operation of the facility.

6.3 Section 7.11 of the Act – Developer Contributions

The proposed development will attract the payment of Section 7.11 haulage contributions under the provisions of Council's Citywide Infrastructure Contributions Plan 2020.

In deciding the length of the haulage route, the distance from the intersection of John Renshaw Drive to the intersection of the sites entrance on Black Hill Road will be used for calculation

purposes on the basis that the majority of the incoming and outgoing resource recovery and landfill trucks (90%) will utilise this route.

Calculation of the contribution will be in accordance with the following formula:

$$\text{Contribution} = T \times L \times R$$

T tonnage of materials

L length of haulage route. The length of the haulage route will be 2.167 km. This is calculated from the intersection of John Renshaw Drive to the entry of the facility on Black Hill Drive, Black Hill. The application outlines that 90% of trucks will utilise this haulage route.

R contribution rate per tonne, adjusted annually, the base rate will be \$0.208.

Based on 225,000 tpa of haulage material, the length of the haulage road and the contribution rate per tonne, an annual contribution of \$101,415.60 will be levied (and based on the project having a life span of up to 30 years), a total contribution of up to \$3,042,468.00 will be payable over the life of the development.

7.0 INTERNAL AND EXTERNAL REFERRALS

7.1 – Internal Referrals

The Development Application was referred to the following Council sections for comment:

Officer	Comments
Ecologist	Council's Ecologist has reviewed the application and the proposal is supported from an ecology perspective subject to conditions.
Development Engineer	Council's Development Engineer has reviewed the application and the proposal is supported from an engineering perspective subject to conditions.
Traffic Engineer	Council Traffic Engineer has reviewed the application and the proposal is supported from a traffic engineering perspective subject to conditions.
Community Planner	Council's Principal Community Planner has reviewed the application and the proposal is supported from a community planning perspective.
Environmental Health Officer	Council's Environmental Health Officer has reviewed the application and the proposal is supported subject to conditions.

Waste Management Officer	Council's Waste Officer has reviewed the application and no objections are raised to the proposal. The facility will have no adverse impact on Council's strategic plan for waste management in the LGA.
Contributions Planner	Section 7.11 heavy haulage contributions are to be levied

7.2 – External Referrals

The Development Application was referred to the following external authorities for concurrence/comment:

Agency	Comments
TfNSW	Advice only, no issues raised.
Crown Lands	No issues raised subject to approval of road closure application.
NSW RFS	Conditions received.
NSW Subsidence Advisory	Conditions received.
EPA	General Terms of Approval issued.

8.0 CONCLUSION

The Development Application has been assessed in accordance with *Section 4.15(1) of the Environmental Planning and Assessment Act 1979*, and all other relevant instruments and policies.

As outlined in the report, the assessment has taken into consideration the relevant planning provisions and the proposal is supported based on the following:

- There are no matters within a SEPP that restrict the proposal from being granted development consent;
- The proposed development is consistent with the *CLEP 2011*. In particular, it is considered that the proposal is permissible on the land and would suitably meet the objectives of the zone;
- Council officers have assessed the proposal against the requirements of the CDCP 2010 and determined that it is consistent with the prescriptive provisions;
- The objections received during the public notification period has been considered pursuant to Section 4.15(1)(d) and the matters raised are not considered sufficient to warrant refusal of the application; and
- Overall, the application is considered to be in the wider public interest.

It is therefore recommended that the application be approved subject to the conditions contained at the end of this report.

9.0 RECOMMENDATION

That Development Application No. 8/2023/622/1 for the change of use and repurposing of the existing quarry on the subject land to a waste management facility comprising a resource recovery area and inert landfill be approved subject to the conditions contained in the attached draft notice of determination.