COUNCIL ASSESSMENT REPORT

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

Panel Reference	**PPSHCC-307**
DA Number	**DA/2024/524**
LGA	**Maitland**
Proposed Development	**Waste Management Facility (Tyre Resource Recovery Facility)**
Street Address	**Lot 3005 DP1040568** **9 Burlington Place RUTHERFORD NSW 2320**
Applicant/Owner	Mondaw Pty Ltd
Date of DA lodgement	28 June 2024
Total number of Submissions Number of Unique Objections and Summary of key submissions	Nil
Recommendation	**Approval**
Regional Development Criteria	**Clause 7(1)(c), Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021*: Waste management facilities or works that meet the requirements for designated development under the *Environmental Planning and Assessment Regulation 2021*, Schedule 3, section 45**
List of all relevant s4.15(1)(a) matters	• *Environmental Planning and Assessment Act 1979* • *Environmental Planning and Assessment Regulation 2021* • *Protection of the Environment Operations Act 1997* • *Protection of the Environment Operations (Waste) Regulation 2014* • *State Environmental Planning Policy (Planning Systems) 2021* • *State Environmental Planning Policy (Biodiversity and Conservation) 2021* • *State Environmental Planning Policy (Resilience and Hazards) 2021* • *State Environmental Planning Policy (Transport and Infrastructure) 2021* • *State Environmental Planning Policy (Industry and Employment) 2021* • *Maitland Local Environmental Plan 2011* • *Maitland Development Control Plan 2011*
List all documents submitted with this report for the Panel's consideration	Air Quality Report, Architectural Plans, Ausgrid Response Letter, Bushfire Report, Community and Stakeholder Engagement Plan, Environmental Impact Statement, Fire Impact Management Plan, Landscape Plan, Noise Impact Assessment, NSW EPA General Terms of Approval, Preliminary Site Investigation, Response to Additional Information Request, Secretary's Environmental Assessment Requirements (SEAR), Stormwater Management Plan & Civil Plans, Traffic Impact Assessment, Transport for NSW Response Letter, Visual Impact Assessment Report, Waste Minimisation & Management Plan

Clause 4.6 requests	N/A
Report prepared by	**Scott Fatches, Development Planner** **Reviewed by: Georgie Williams, Principal Planner**
Report date	26 November 2024

	Yes
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?	
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? *e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*	**Yes**
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	**Not applicable**
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)? *Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*	**Not applicable**
Conditions Have draft conditions been provided to the applicant for comment? *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*	**Yes**

EXECUTIVE SUMMARY

The development application has been lodged for a Waste or Resource Management Facility (Tyre resource recovery facility) pursuant to section 4.12 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') and seeks consent for alterations and additions to an existing shed, the associated fit out with plant and equipment for the recycling of tyres and production of crumb rubber and rubber tiles. This involves a thermal-moulding process that coverts crumb rubber into rubber matting or rubber tiles.

Specifically, the tyre resource recovery facility will receive and process up to 4,500 tonnes of tyres per year to produce rubber matting and rubber pavers from the recycled material onsite. The site will store more than 5 tonnes of waste tyres on the premises at any time.
The facility will accept used waste tyres from the owner's other business, as well as from other local retailers in the region. The proposed operating hours for this development are: 5am to 6pm on weekdays, 8am to 1pm on Saturdays and closed on Sundays and Public Holidays.
The development has an estimated development cost (EDC) of $1,532,976.00 calculated in accordance with the definition of EDC under the *Environmental Planning and Assessment Regulation 2021 (EP&A Regulation)*.

The site is zoned E4 General Industrial. The proposal meets the definition of a Resource Recovery Facility which is permitted with consent under the *Maitland Local Environmental Plan 2011* ('the LEP').

The proposal is located approximately 250m from the Oak Tree Retirement Village, situated within an RE2 Private Recreation Zone. Given residents live permanently in these dwellings, for the purposes of this assessment, the RE2 Private Recreation Zone is considered to be a residential zone.

The EP&A Regulation defines 'residential zone' as land identified in an environmental planning instrument as being predominantly for residential use, including urban, village or living area zones, but excluding rural residential zones.
It is noted that an R1 General Residential Zone is located approximately 875m east of the proposal. It is also noted that the closest dwelling not associated with the development is approximately 260m from the proposal.

The application is referred to the Hunter and Central Coast Regional Planning Panel (the Panel) as the development is declared 'regionally significant development', pursuant to Section 2.19(1) and Clause 7 of Schedule 6 State Environmental Planning Policy (Planning Systems) 2021 as it comprises a waste management facility which meets the requirements of 'designated development' under Clause 45(4)(f) Schedule 3 of the EP&A Regulation where the development is located within 500m of a residential zone or land used predominantly for residential use.

The development is identified as integrated development under Part 4 of the EP&A Act and requires an approval for a scheduled activity for tyre waste storage under the *Protection of the Environment Operations Act 1997* (POEO Act). The development was referred to the NSW Environment Protection Authority (NSW EPA) under Section 43(b), 48 & 55 of the POEO Act.

An application for an Environment Protection Licence (EPL) for a scheduled activity will be sought from the NSW EPA under Section 42(3)(b), Schedule 1 of the POEO Act for waste storage of more than 5 tonnes of waste tyres on the premises at any time. NSW EPA issued General Terms of Approval (GTA) (Notice No: 1641133). The EPA has determined that it is able to issue a licence for the proposal, subject to meeting the conditions imposed. The applicant will need to make a separate application to the EPA to obtain this licence, if consent is granted.

As the proposal is considered a scheduled waste management facility, the development is required to install a weighbridge under clause 36 of the *Protection of the Environment Operations (Waste) Regulation 2014.* A 9m portable above ground weighbridge is proposed located near the site entrance. The weighbridge will accurately track the quantity of incoming tyres to ensure that the authorised amount and annual limits are not exceeded.

The development was referred to Transport for NSW (TfNSW) as traffic generating development pursuant to Section 2.122(3) and Schedule 3 of *State Environmental Planning Policy (Transport and Infrastructure) 2021* (Transport and Infrastructure SEPP).

Advice was sought from Ausgrid for works in the vicinity of overhead powerlines under Section 2.48 of the Transport and Infrastructure SEPP.

The application was supported by an Environmental Impact Statement (EIS) and was placed on public exhibition from 11 July 2024 to 07 August 2024 for 28 days, with no submissions received. The EIS was submitted in support of the development application in accordance with the Planning Secretary's Environmental Assessment Requirements (SEAR 1810) issued on 29th of September 2023.

A briefing was held with the Panel on 27 August 2024 where key issues were discussed, including air quality and odour, and noise (raised by EPA NSW), details on how onsite truck movements and carparking will be managed, stormwater management, contamination, proposed storage quantities, amenities for staff and fire safety.

Following assessment of the matters for consideration under Section 4.15(1) of the EP&A Act, it is considered that the proposed development is in the public interest and can be recommended for approval subject to conditions of consent.

1. THE SITE AND LOCALITY

1.1 The Site

The site covers an area of 1,655m^2, with a frontage of approximately 16m to Burlington Place, gradually slopes from the western boundary to the eastern boundary and is burdened with a 2.5m wide easement to drain water running along the eastern (rear) boundary.

The site has one existing shed with attached open awning, a concrete sealed hardstand driveway and a small amount of landscaping located at the front and back of the site (refer to Figure 1).

The existing shed, as approved under DA03/1383 is approximately 290m^2, with an additional 35m^2 office attached, as well as two bathrooms, an office and a foyer which is subject to the alterations and additions.

Figure 1: The site with existing shed, office building and landscaping

A site inspection was undertaken on 10 July 2024. The subject site can be seen in the images (refer to Figure 2-8) below:

Figure 2: Site photo – view from Burlington Place looking at front of building

Figure 3: Site Photo – Looking east down existing hardstand/ driveway area

Figure 4: Site Photo – Looking west towards Burlington Place

Figure 5: Site Photo – Looking west towards existing shed to be enclosed

Figure 6: Site Photo – Under existing awning and location of tyre storage area

Figure 7: Site Photo – Inside existing shed and location of tyre processing area

Figure 8: Site Photo – Inside existing shed and location of tyre processing area

1.2 The Locality

The site is situated in an E4 General Industrial zone, in proximity to RE2 Private Recreational zone to the southeast and E3 Productivity Support to the north. The site is approximately 875 meters from the nearest R1 Residential zone to the east and about 250 meters from the Oak

Tree Retirement Village, which is located within the RE2 Private Recreation Zone (refer to Figure 9).

Immediately adjoining the site are similar light industrial land uses ranging from mechanical repair services, manufacturing services and other general industries. To the west of the site is the Hunter RSPCA Shelter and Vet Hospital.

The site adjoins Burlington Place which merges into Racecourse Road which connects onto the New England Highway, a Classified road connecting the site via road infrastructure. The site is located 1km south to the Main Northern Railway Line which is also listed as the closest Local heritage Item (Item 119 – 'Government railway').

The nearest watercourses are two intermittent tributaries of Stone Creek located at a distance of 220m and 225m from the eastern boundary of the site. Stony Creek flows west-east at a distance of 720m to the south of the site.

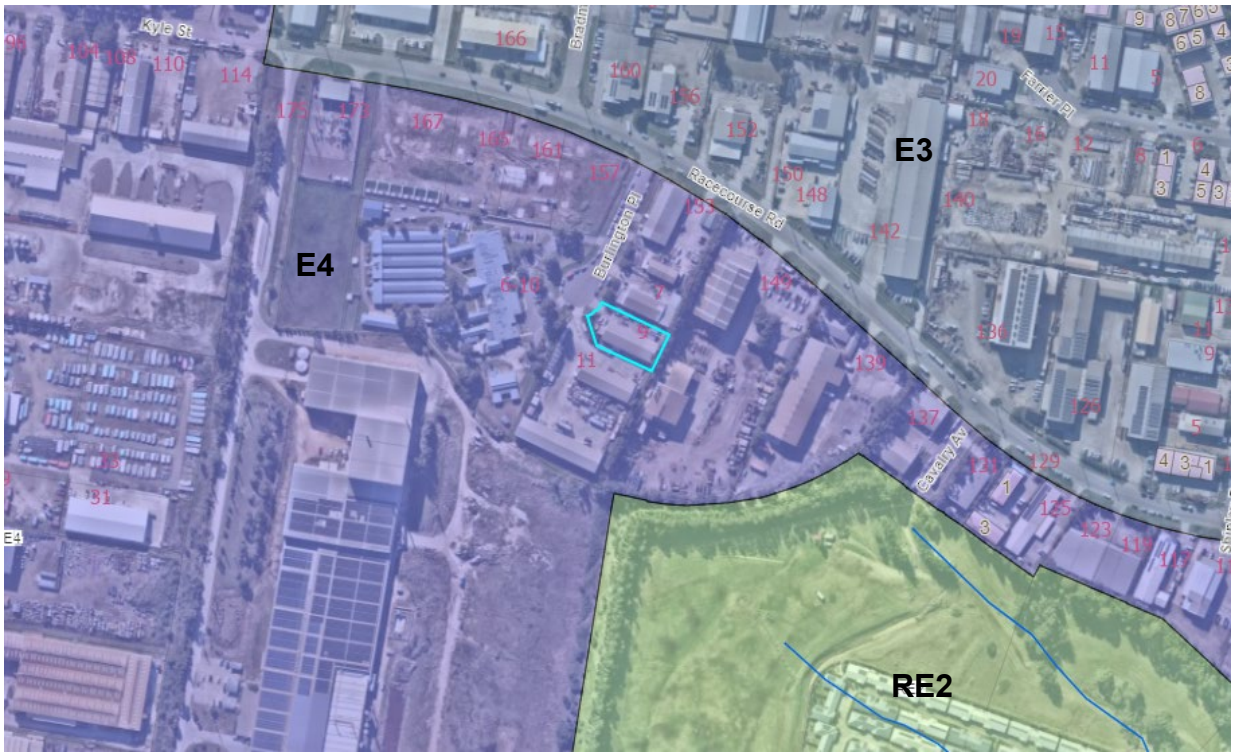


Figure 9: Land zone map

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

Consent is sought for a Waste or Resource Management Facility (Tyre resource recovery facility) and for alterations and additions to an existing shed, the associated internal fit out of the existing shed with plant and equipment for the recycling of tyres and production of crumb rubber and rubber tiles (refer to Figure 10).

The tyre recycling facility activity is proposed to process up to 4,500 tonnes of tyres per year to produce rubber matting and rubber pavers from the recycled material onsite. It is proposed the site will store more than 5 tonnes of waste tyres on the premises at any time.

The proposed activity is identified as Integrated Development and will require a separate EPL to operate.

The proposed process line overview is shown in Figure 11 below. The production line will be capable of producing 1,000kg of rubber crumb per hour. The overview of what will be involved for the waste tyre production line is outlined in Section 2.2.

The following building works for the proposed tyre recycling facility will include:

- Building works to enclose the open awning towards the rear of the site, demolishing the dividing wall and existing mezzanine and installing two roller doors. These amendments will create a larger, fully enclosed industrial shed on site,
- Fit out of existing single storey metal building for staff amenities room located to the southern side boundaries, with provision for kitchenette, fridge, sink, tables, chairs and lockers for employees,
- Change of use for the existing shed from storage to a tyre resource recycling facility consisting of:
    - Installation of a waste tyre recycling production line/ plant equipment,
    - Installation of a rubber tiles production line/ plant equipment,
    - Installation of a 9m portable above ground weighbridge located near the site entrance,
    - Line marking of one loading bay and overnight parking for two heavy rigid vehicles (HRVs),
    - Internal storage area to store delivered whole used tyres, and
    - Internal storage area to store recovered materials from tyre recycling and rubber mats/tiles produced on-site.
- Additional fire protection measures, including installation of:
    - Fire extinguishers;
    - Three fire hydrants;
    - A windsock to assist Fire & Rescue NSW to determine the prevailing wind direction in the unlikely event of a fire;
    - Full firewater containment bunding around the site;
    - Stormwater isolation valve (to contain firewater in the unlikely event of a fire);
    - Carbon dioxide alarms;
    - Storage areas 3m clear from roof; and
    - Manual call points in clearly visible locations. These small red boxes are linked to the fire alarm system to allow occupants to trigger the alarm manually in the event of a fire.

The facility will accept used waste tyres from other business and local retailers in the region.

The proposed operating hours for this development are 5am to 6pm on weekdays, 8am to 1pm on Saturdays and closed on Sundays and Public Holidays.

GTA's from NSW EPA will restrict deliveries to the premises and load out of any products between 7:00am to 6:00pm Monday to Friday and between 8:00am to 1:00pm Saturday (remains closed on Sundays and Public Holidays).

The application proposes five (5) employees onsite each day comprising of one office staff member, two operations staff and two truck drivers.

The applicant notes the only waste materials that will be accepted on site are whole used tyres. The site will not accept hazardous or restricted wastes, including plastics, metal, chemicals, batteries or paint.

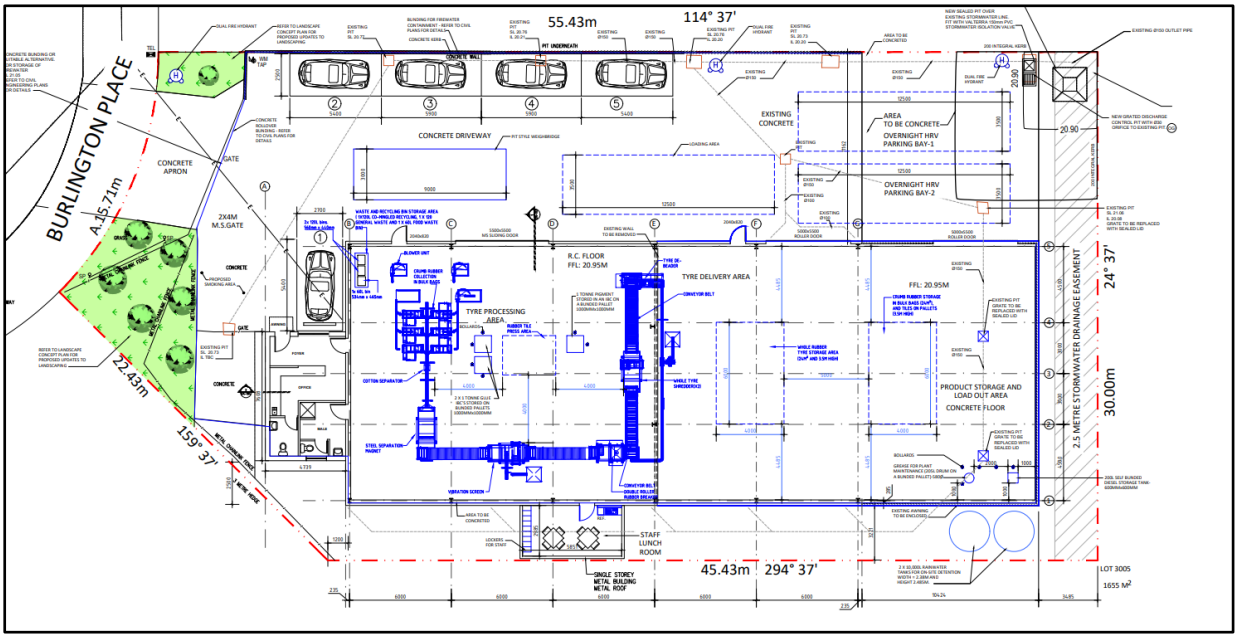


Figure 10: Proposed site plan for Tyre Recycling Facility. The proposal will involve alterations to the existing shed to create a larger fully enclosed industrial shed and staff breakroom

Figure 11: Process operational flow chart for proposed Tyre Recycling Facility

2.2 The Proposed Production Process

Tyre Production Line

The proposed tyre recycling process comprises 7 steps to produce tyre crumb from whole tyres. The final product from the tyre recycling production line will be a pure rubber crumb and moved to the rubber tile production line.

1. Tyre De-Beader:
   - Removes bead wires from tyre sidewalls to produce a cleaner shredded product.
   - Machine capacity: 20-40 tyres/hour.
2. Tyre Strip Cutter:
   - Cuts de-beaded tyres into long rubber strips (3-8mm width).
3. Whole Tyre Shredder:
   - Shreds tyres into 60x60mm rubber chips.
   - Capacity: 3,500-4,000 kg/hour.
4. Double Roller Rubber Breaker (Crusher):

- Crushes rubber chips into mesh rubber powder.

5. Vibration Screen:
   - Separates rubber crumb by size.
   - This process occurs immediately after the crusher machine
6. Magnetic Separator:
   - Removes steel wire from rubber granules using two magnets.
7. Fiber Separator:
   - A fibre separator is used to separate fibre and fluff from the rubber crumb
   - To achieve this, the rubber powder is fed from the smaller magnetic separator into the fan which drives the powder along the feeding pipe and into the material tank

The facility will recycle an expected 98% of all incoming tyres. With the remainder 2% of the waste received will be disposed at a lawful landfill or EPA licensed facility. Residual waste will be collected in a separate bin and regularly removed from the site for disposal in a licensed landfill.

Rubber Tiles Production Line:

A thermal-moulding process will also be used to convert crumb rubber into rubber matting and rubber pavers. Once the crumb rubber production is complete, this material will be used to produce rubber matting and rubber pavers on the premises.

1. Rubber Mixer
   - Mixes crumb rubber with glue for the tile base.
2. Barrel Mixer
   - Mixes crumb rubber, pigment, and glue for the tile top with ability to mix different colours.
3. Vulcanizing Machine
   - Compresses rubber to create dense, non-porous tiles.
4. Rubber Tile Molds
   - Various sizes depending on the type of rubber tile.

Product Deliveries

Waste tyres will be brought to site from other tyre retailers in the region. No other forms of waste are proposed to be brought on to the site. All vehicles will enter from Burlington Place via the existing access driveway onto site. Vehicles entering the site will include staff vehicles and two medium rigid vehicle (MRV) for tyre deliveries each day. These same MRVs will load out recycled products to market, including crumb rubber, rubber pavers and mats, cotton and recovered steel.

Vehicle manoeuvring will be contained wholly on site as demonstrated in the swept path diagrams (refer to Figure 21). All vehicles will be able to enter and exit the site in a forward direction. Circulation within the site will see MRVs using the large hardstand area as well as the loading area within the building to manoeuvre on the site. This has been reviewed with the swept paths demonstrating the largest movement of a heavy ridge vehicle (HRV) in the site which allows for the largest vehicle (waste collection) whilst daily operations are by smaller MRVs.

A 9m portable above ground weighbridge will be located near the site entrance. A 12.5m long loading area is proposed to be located outside between the front and middle sliding door. Tyres will be offloaded outside and brought into the shed to be placed in the Whole Tyre Storage Area towards the eastern side of the shed.

The loading area is located outside the roller doors to the industrial shed and tyres will be unloaded by hand and immediately stacked in the Whole Tyre Storage Area. The MRV will be backloaded with products produced onsite before exiting the Site by proceeding further onto site, reversing back through the industrial building roller doors and turning right onto the weighbridge. The MRV will be weighed on

the weighbridge to track the amount of product being removed from site and will then exit the site via the driveway access onto Bulington Place.

It is proposed the site will receive an average of 15 tonnes of used whole tyres per day, or approximately 4,500 tonnes per annum. This coincides with the proposed operating times of 6 days per week, 51 weeks per year = 300 days per year (allowing for public holidays/Christmas break).

2.3 Quantities of Waste Tyres to be Stored

The facility will have two storage areas, both located on the eastern rear side of the industrial building (refer to Figure 12 below).

The 'Whole Tyre Storage Area' indicated red in the image below will be used to stack the whole tyres after they have been delivered to the site. The area capacity is 24m^3 with a maximum height of 3.5m in accordance with *NSW Fire and Rescue 2014 Fire Safety Guideline – Guidelines for Bulk Storage of Rubber Tyres* (refer to Section 5 for discussions on fire safety).

The 'Crumb Rubber Storage Area' indicated yellow in Figure 12 below is used to store materials produced on site, including crumb rubber, recovered steel and cotton from the tyre recycling process and rubber tiles and mats produced on site. The rubber tiles and mats will be stored on pallets ready for collection and transported from the site. The area capacity is 24m^3 with a maximum height of 3.5m. The storage areas will be marked on the concrete floor using hard wearing paint.

The total quantity of tyre waste stored onsite at any one time is indicated to be approximately 85 tonnes, as noted in Figure 13.

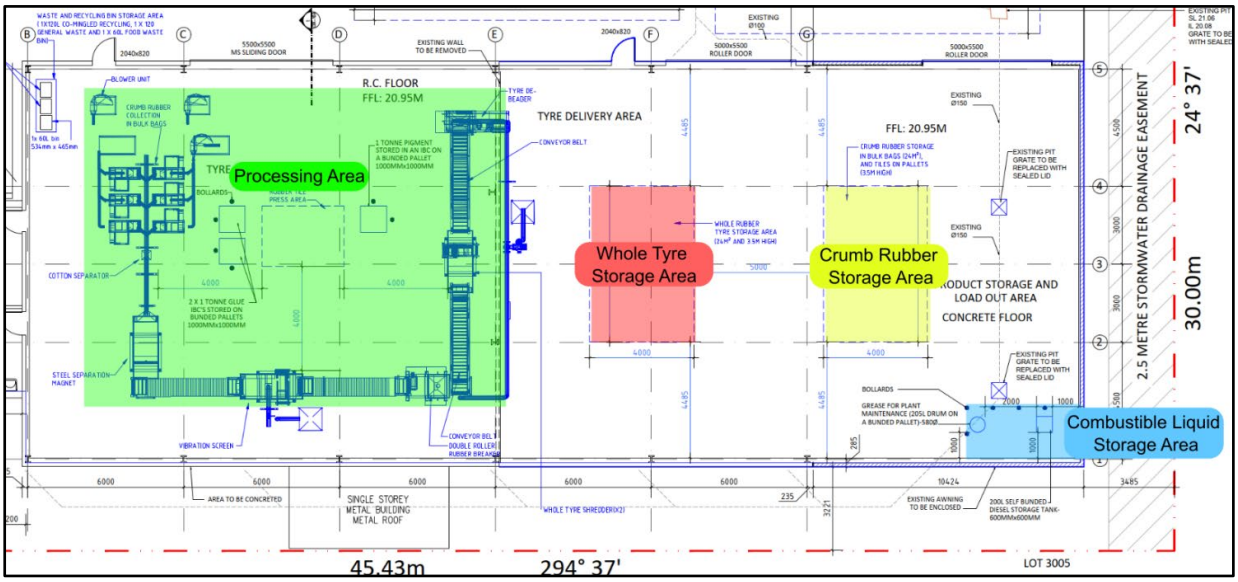


Figure 12: Floor plan showing location of storage areas

The following figure outlines the maximum waste storage onsite for each phase stage of the operational storage quantities:

Flow of material	Materials	Type of material	Waste Classification	Estimated tonnes per annum	Maximum storage at any one point in time (m^3)	Maximum storage at any one point in time (tonnes)	Storage Area	Type of storage
Input	Whole Tyres	Input material	Special Waste	4,500	84	25.2	Whole Tyre Storage Area	Stacked tyre storage area
Output	Crumb Rubber	Output material	Not applicable	4,057.2	36.75	36.75	Crumb Rubber Storage Area	1 tonne bulka bags
Output	Recovered Steel	Output material	Not applicable	266.4	5.25	2.63	Crumb Rubber Storage Area	1 tonne bulka bags
Output	Cotton	Output material	Not applicable	88.2	5.25	1.827	Crumb Rubber Storage Area	1 tonne bulka bags
Output	Residual Waste	Output material	General solid waste (non-putrescible)	88.2	5.25	1.827	Crumb Rubber Storage Area	1 tonne bulka bags
Output*	Rubber Pavers	Output material	Not applicable	415	15.75	12.6	Crumb Rubber Storage Area	Stacked on Pallets
Output*	Rubber Matting Material	Output material	Not applicable	415	15.75	12.6	Crumb Rubber Storage Area	Stacked on Pallets
Total				4,500	168 m^3	93.43		

*Output uses crumb rubber, a material produced on-site.

Figure 13: Breakdown of material type, estimated quantities and storage information

Table 1: General Proposed Development Data

Control	Proposal
Site area	1,655m^2
GFA	672m^2
FSR	N/A
Max Height	7.4m (no LEP height control)
Clause 4.6 Requests	N/A – The development does not request a variation to the development standards
Landscaped area	70m^2 / 4.2% of site
Car Parking spaces	5 on-site car parks plus 2 overnight heavy ridge vehicle spaces
Setbacks	11.1m to northern boundary; 3.4m to eastern boundary; partial built/ zero setback to southern boundary; 10m to western boundary

2.4 Background

The applicant prepared a scoping report and requested SEARs in August 2023 to the Department of Planning and Environment. The SEARs requirements were issued on 29 September 2023 (SEAR 1810).

As part of the SEARs, the applicant was required to consult with Council (among other State and Commonwealth government authorities, service providers and community groups as highlighted in SEAR 1810) to ascertain any issues that may arise and to be addressed in the EIS.

A summary of the key items raised by the SEARs and how they have been addressed by the proposal is outlined below:

- Item 1 – The proposal
  The applicant has provided the necessary documentation and information to satisfactorily address the relevant controls for the proposed resource recovery facility.
  An assessment of the proposed development against the applicable matters for consideration is provided throughout this report.

- Item 2 – Fire Safety
  The applicant has satisfied the matters pertaining to Fire Safety. A Fire Safety Plan has been prepared by a suitably qualified professional and has been provided in support of this application.

  Consultation with Fire & Rescue NSW (FRNSW) was also undertaken as part of the assessment process. FRNSW advised Council that this agency does not review Fire Safety Studies pre-approval. FRNSW recommended to Council that a review of the FIMP occur post determination.

  An assessment of the proposed development for fire safety is provided in Section 5 of this report. Council is satisfied that the matters for fire and incident management have been addressed and considered.

- Item 3 – Waste Management
  The applicant has provided sufficient information to understand details of the type, quantity and classification of waste to be received at the site. Information relating to the resource outputs and any additional processes for residual waste have been provided to make an informed assessment of the development.

  Information of the development are detailed under Section 2 and statutory considerations are addressed under Section 3 relating to waste tyres and licencing requirements.

- Item 4 – Hazards and Risk
  The provisions of Chapter 3 of *State Environmental Planning Policy (Resilience and Hazards) 2021* ('SEPP (Resilience & Hazards)) was required to ensure appropriate consideration to any application to carry out potentially hazardous or offensive development.

  A preliminary risk screening of the proposed development for all dangerous goods and hazardous materials associated with the development is provided in Section 3 of this report.

  The preliminary risk screening shows the development is not considered to be a potentially hazardous or offensive development.

- Item 5 – Odour and Air Quality

  An Odour Impact and Air Quality Report has been prepared by a suitably qualified professional and has been provided in support of this application.

  An assessment of the proposed development against the odour and air quality is provided in Section 5 of this report and has been considered to be suitable. Further consideration from the EPA as referred as integrated development was also undertaken as part of the assessment process.

- Item 6 – Noise

  An Acoustic Report has been prepared by a suitably qualified professional and has been provided in support of this application.

  An assessment of the proposed development against noise impacts is provided in Section 5 of this report and has been considered to be suitable. Further consideration from the EPA as referred as integrated development was also undertaken as part of the assessment process.

- Item 7 – Contamination/ Soil and Water

  An assessment of the proposed development against contamination is provided in Section 3 of this report. Based on the findings of the PSI, the site is considered to be suitable for use as a tyre recycling facility, and no further assessment is required, pending implementation of the recommendations/ conditions provided.

  The applicant has satisfied the matters pertaining to stormwater management. A stormwater management plan has been prepared by a suitably qualified professional and has been addressed further in DCP discussions under Table 6 of this report. The details of this plan will be endorsed, with conditions.

- Item 8 – Traffic and Transport

  A Traffic Impact Assessment has been prepared by a suitably qualified professional and has been provided in support of this application.

  An assessment of the proposed development against traffic impacts is provided in Section 5 of this report and is satisfied the development will have no adverse impact from traffic related to the development.

- Item 9 – Biodiversity

  The SEARs required a description of potential vegetation clearing needed to undertake the proposal, of which there is none.

  Given the very limited amount of vegetation existing on the site, the distance from the closest identified area of biodiversity value and operations occurring within a fully enclosed warehouse, no flora and fauna impacts are expected on or off site. As a consequence, no further assessments are required.

- Item 10 – Community and stakeholder engagement

  The SEARs required details of community and stakeholder engagement and how the development responds to issues raised.

  Refer to Section 4.3 for details on community consultation process that occurred prior to the lodgement of the DA as well as notification requirements for designated development.

- Item 11 – Visual Impacts
  The entire process to recycle waste tyres received onsite will be carried out indoors, with no activities occurring outside. This eliminates any adverse visual impacts of the operations.

  A visual impact assessment was submitted in support of the application which considered the general impact the proposal may have on the local visual environment and identified areas where the visual impact may potentially be the most significant.

  Minor building alterations to the existing industrial building will have no adverse visual impact on the local visual environment. No mitigation measures are therefore required.

- Item 12 – Heritage
  There are no identified Local and State Environmental Heritage items, or Aboriginal or Cultural significance identified on or within 200m of the site. The proposed works are unlikely to have any impact on the heritage items or areas.

The development application was made to Council on 28 June 2024. A chronology of the development application since lodgement is outlined below including the Panel's involvement with the application is outlined in Table 2 below:

Table 2: Chronology of the DA

Date	Event
28 June 2024	Application lodged with Council
4 July 2024	DA referred to external agencies (Ausgrid & EPA)
11 July 2024 – 7 August 2024	Exhibition of the application
16 July 2024	Response from Ausgrid – raised no objections
29 July 2024	Response from EPA – requested further information
5 August 2024	DA referred to external agencies (TfNSW)
9 August 2024	DA referred to external agencies (Fire & Rescue NSW)
27 August 2024	Response from TfNSW – supported and raised no objections
27 August 2024	Panel briefing
28 August 2024	Request for Information from Council to applicant
2 October 2024	Fire & Rescue NSW advised they would not review the Fire and Incident Plan at the pre-approval stage and recommended the review of the Fire Safety Study prior to construction (prior to CC).
14 October 2024	Amended plans lodged – primary changes included addition of breakroom and changes in parallel parking spaces to to ensure compliance with Clause 2.4.4 of AS2890.1
6 November 2024	EPA issued GTA's

20 November 2024	Draft conditions provided to the applicant for review
26 November 2024	Assessment report and draft conditions lodged to NSW Planning Panel

2.5 Site History

DA/03/1383
Council approved an Industrial Building and First Use Storage of Earth Moving Equipment and a Crane and General Fabrication on 21 July 2003.

CC/03/1384
Council issued the Construction Certificate for the Erection of Industrial Building and First Use Storage of Earth Moving Equipment/Crane and General Fabrication on 21 July 2003.

OC/04/1392
An occupation certificate for the existing premises was issued on 20 October 2004.

DA/2024/524
The development application was lodged with Council on 28 June 2024.

3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the EP&A Act and Part 1 of the EP&A Regulation in relation to designated development. These matters are considered below.

3.1 Environmental Planning and Assessment Act 1979

Section 4.12(8) of the EP&A Act requires a development application for designated development to be accompanied by an EIS prepared by or on behalf of the applicant in the form prescribed by the regulations. The development application was accompanied by an EIS in support of the proposal.

Section 4.15(1) of the EP&A Act contains matters which the consent authority must take into consideration in determining a development application which are of relevance to the application.

These matters include the following, which are considered in detail below:

(a) the provisions of—
- (i) *any environmental planning instrument, and*
- (ii) *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), and*
- (iii) *any development control plan, and*
- *(iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
- (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*

that apply to the land to which the development application relates,

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

(c) the suitability of the site for the development,

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

(e) the public interest.

3.1.1 Section 1.7 Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

The proposal for this site involves enclosing part of the industrial shed and fitting this out with a tyre recycling facility. There will be no vegetation clearing required on site.

The assessment of the site found that the areas of vegetation contain no areas of biodiversity value. Additionally, the site is not marked as having biodiversity value, with the closest area highlighted as containing biodiversity value located approximately 600m to the south of the site.

Notwithstanding, there is a potential to pollute groundwater, soil and surrounding waterbodies and vegetation resulting from accidental release of pollutants from site operations, especially given the eastern site boundary containing a drainage easement.

However, all operations will occur inside the enclosed shed and so there are no anticipated impacts to flora and fauna on, or off, the site. The site will be fully sealed with concrete bunding around the perimeter of the site, which will further help to protect on-site soils and vegetation.

3.2 Environmental Planning and Assessment Regulation 2021

Development described in Schedule 3, Part 2 is declared to be designated development if it meets certain criteria related to the development type.

Under Schedule 3 section 45(4)(f) development for the purposes of a waste management facility or works is designated development if the facility or works are located within 500 metres of a residential zone or 250 metres of a dwelling not associated with the development and, in the consent authority's opinion, considering topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood because of noise, visual impacts, vermin, traffic or air pollution, including odour, smoke, fumes or dust.

The development is identified to be within 500m of a residential zone, being land to the south-east zoned for private recreation which is being used predominantly for residential use as a retirement village.

The Regulations defines residential zone as land identified in an environmental planning instrument as being predominantly for residential use, including urban, village or living area zones, but excluding rural residential zones.

As a result, the designated development pathway is triggered given the sensitive receptors located in area surrounding the proposal. The EIS was prepared in support of the development application in accordance with the SEARs issued on 29th of September 2023 (SEAR 1810) (refer to summary of requirements under Section 2.4).

3.3 Protection of the Environment Operations Act 1997

The POEO Act prohibits any person from causing pollution of waters, or air and provides penalties for air, water and noise pollution offences. Section 48 of the Act requires a person to obtain an EPL from the NSW EPA before carrying out any of the premise-based activities described in Schedule 1 of this Act.

Schedule 1, Part 1 (34) of the Act lists '**Resource recovery**' including '**recovery of waste tyres**' as an activity. 'Recovery of waste tyres' *means the receiving of waste tyres from off site and their processing, otherwise than for the recovery of energy*.

A **Resource Recovery activity** is declared to be a scheduled activity if it meets the following criteria:
"*...if the premises are in the regulated area—*
(a) involves having on site at any time more than 1,000 tonnes or 1,000 cubic metres of waste, or
(b) involves processing more than 6,000 tonnes of waste per year".
"...if the premises are outside the regulated area –
(a) involves having on site at any time more than 2,500 tonnes or 2,500 cubic metres of waste, or
(b) involves processing more than 12,000 tonnes of waste per year."

The proposal will be under the limit for resource recovery and so not require an EPA license for this part of the Proposal. **The development will be limited to process up to 4,500 tonnes of waste per year.**

Schedule 1 of the Act (Clause 42) details "**Waste Storage**" as an activity. 'Waste storage' means *the receiving from off site and storing (including storage for transfer) of waste*.

A **waste storage activity** is declared to be a scheduled activity if it meets the following criteria:
(c) more than 5 tonnes of waste tyres or 500 waste tyres is stored on the premises at any time (other than in or on a vehicle used to transport the tyres to or from the premises);

The proposal will trigger the requirement for an EPA license because the waste storage activity will **exceed 5 tonnes** of waste tyres stored on the premises at any one time per **Figure 13 on page 15 of this report**.

3.4 Protection of the Environment Operations (Waste) Regulation 2014

The *Protection of the Environment Operations (Waste) Regulation 2014* is supported by the Waste levy guidelines. These guidelines specify how to measure waste to calculate waste levy liability, the deductions waste operators can claim, and the EPA's requirements for records, surveys and reports.
All licensed processing, disposal, recycling and storage facilities within the metropolitan levy area or regional levy area are subject to the levy system.

As the proposal is considered a scheduled waste facility, a weighbridge is required under Clause 36 of the Waste Regulation. A 9m portable above ground weighbridge is proposed to be located near the site entrance.

3.5 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Industry and Employment) 2021*
- *Maitland Local Environmental Plan 2011*
- *Maitland Development Control Plan 2011*

A summary of the key matters for consideration arising from these State Environmental Planning Policies (SEPP's) are outlined in **Table 3** and considered in more detail below.

Table 1: Summary of Applicable Environmental Planning Instruments

EPI	Matters for Consideration	Comply (Y/N)
SEPP Planning Policy (Planning Systems) 2021	**Chapter 2: State and Regional Development** Section 2.19(1) declares the proposal regionally significant development pursuant to Section 7 of Schedule 6 as it comprises designated development which is a waste management facility.	Y
SEPP (Biodiversity and Conservation) 2021	**Whole SEPP** The aim of this SEPP is to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation. The proposal is not located in an area of biodiversity value or proposes vegetation removal.	Y
SEPP (Resilience & Hazards)	**Chapter 3: Hazardous and offensive development** The proposed development is not considered to be a potentially hazardous or offensive industry. **Chapter 4: Remediation of Land** A Preliminary Site Investigation (PSI) was prepared in support of the application. Council's Contaminated Land Officer has reviewed the PSI and is satisfied with the findings and recommendations of this report. The PSI Report has determined that the land is not contaminated in accordance with *SEPP (Resilience & Hazards)*. The site is considered suitable for use as a tyre recycling facility, subject to the recommended conditions and no further investigation is required.	Y
SEPP (Transport and Infrastructure) 2021	**Chapter 2: Infrastructure** • Section 2.48 (Determination of development applications – other development) – Ausgrid raised no objections as outlined in their letter of consideration • Section 2.122 (Traffic-generating development) – The development is identified as being traffic generating development being a waste or resource management facility (of any size or capacity). TfNSW has reviewed the information provided and raises no objection to or requirements for the proposed development as	Y

	it is considered there will be no significant impact on the nearby classified (State) road network.	
SEPP (Industry and Employment) 2021	**Chapter 3: Advertisement and signage** SEPP (Industry and Employment) 2021 does not apply to the proposal, as no signage is proposed.	N/A
MLEP 2011	• Clause 2.3 – The development is permissible with consent. • Clause 4.3 – The site does not have a height limit. • Clause 4.4 – the site does not have a floor space ratio limit. • Clause 5.10 – The site is not a heritage item or located within a heritage conservation area. It is unlikely the site will disturb items of Aboriginal object. • Clause 5.21 – the site is not located within a flood planning area. • Clause 7.1 – the development is unlikely to disturb, expose or drain acid sulfate soils and cause environmental damage. • Clause 7.2 – Minor earthworks are required and are considered consistent with the objectives of this clause.	Y
MDCP 2011	• Part A: Administration – The development was notified for 28 days in accordance with the requirements for designated development with no submissions received. • Section B.6: Site Waste Minimisation & Management – The development addresses the requirements under this section and provides a Site Waste Minimisation and Management Plan in accordance with this section. • Section C.5: Industrial Land – The development generally complies with this section of the DCP. • Section C.11: Vehicle Access & Parking – The development generally complies with this section of the DCP.	Y

***State Environmental Planning Policy (Planning Systems) 2021 (*'Planning Systems SEPP')**

Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Section 7(c) of Schedule 6 of the Planning Systems SEPP as the proposal is development for a waste management facility which meets the requirements for designated development under the *EP&A Regulation*.

Accordingly, the Panel is the consent authority for the application. The proposal is consistent with this Policy.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

The aim of this policy is to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.

The site is not mapped on the Biodiversity Values Map, nor will the development propose to remove any existing vegetation. The site is not identified to be koala habitat, and it has limited habitat values being within an established industrial area.

With recommended conditions of consent for tree protection during construction, it is considered the development will adhere to the aims of this policy.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 3 - Hazardous and offensive development

The provisions of Chapter 3 of *State Environmental Planning Policy (Resilience and Hazards) 2021 ("SEPP (Resilience & Hazards)*) is to ensure appropriate consideration to any application to carry out potentially hazardous or offensive development.

State Environmental Planning Policy No. 33 – Hazards and Offensive Development (SEPP 33) was previously used as the basis for assessing whether a development fell under the policy's definition of "potentially hazardous industry" or "potentially offensive industry". This is now covered under Chapter 3 of the Resilience and Hazards SEPP.

The screening process used to assess whether the Resilience and Hazards SEPP applies (in the context of potentially hazardous or potentially offensive industry) is documented in the Hazardous and Offensive Development Application Guidelines - *Applying SEPP 33 hazardous and offensive development application guidelines* (Applying SEPP 33 Guideline) published by the Department of Planning.

As such, a preliminary risk screening assessment was required in accordance with the SEARs which outlined that:

"a preliminary risk screening completed in accordance with State Environmental Planning Policy (Resilience and Hazards) 2021, Chapter 3 and Applying SEPP 33 (DoP, 2011), with a clear indication of class, quantity and location of all dangerous goods and hazardous materials associated with the development. Should preliminary screening indicate that the project is "potentially hazardous" a Preliminary Hazard Analysis (PHA) must be prepared in accordance with Hazardous Industry Planning Advisory Paper No. 6 – Guidelines for Hazard Analysis (DoP, 2011) and Multi-Level Risk Assessment (DoP, 2011)."

Information provided by the applicant would note the storage of the following materials (refer to Figure 14):

Material / potential pollutant	Storage location	Dangerous Goods Class[1]	Packing Group[2]	Maximum quantity on site	Screening method[3]	Threshold[4]	Notes
Whole Tyres	Whole Tyre Storage Area	Special Waste	n/a	25.2 tonnes	n/a	n/a	Not a dangerous good
Crumb Rubber	Crumb Rubber Storage Area	Special Waste	n/a	36.75 tonnes	n/a	n/a	Not a dangerous good
Recovered Steel	Crumb Rubber Storage Area	n/a	n/a	2.63 tonnes	n/a	n/a	Not a dangerous good
Cotton	Crumb Rubber Storage Area	n/a	n/a	1.83 tonnes	n/a	n/a	Not a dangerous good
Rubber Pavers	Crumb Rubber Storage Area	n/a	n/a	12.6 tonnes	n/a	n/a	Not a dangerous good
Rubber Mats	Crumb Rubber Storage Area	n/a	n/a	12.6 tonnes	n/a	n/a	Not a dangerous good
Diesel	South-eastern corner of the industrial shed	3	III	200L	Refer to Figure 9 of *Hazardous and Offensive Development Application Guidelines - Applying* SEPP 33.	Proposal is storing less than 5 tonnes so not applicable. No further assessment required.	Class 3 dangerous good
Glue - Polyurethane resin (used in rubber tile / mat production)	Eastern side of the industrial shed	n/a	n/a	2000kg	n/a	n/a	Not a dangerous good
Pigments (used in rubber tile / mat production)	Eastern side of the industrial shed	n/a	n/a	1000kg	n/a	n/a	Not a dangerous good
Grease drum cartridges	South-eastern corner of the industrial shed	n/a	n/a	205L	n/a	n/a	Not a dangerous good.

Figure 14: Risk screening analysis of potentially hazardous materials held on site as part of the proposal

As such, a preliminary risk screening assessment was required to determine the permissibility and whether the development is hazardous or offensive and to impose any conditions to mitigate any adverse impact.

Potentially hazardous industry

The only proposed dangerous good identified to be stored onsite was 200L of diesel (class 3 package group III dangerous good (3PGIII)). Table 1 of *Applying SEPP 33 Guideline* notes the matters for consideration for 3PGIII and has a threshold limit of greater than 5 tonnes if stored onsite. If the quantity is below the minimum quantity in Table 1, then it is not potentially hazardous and there is no need to consult the applicable graph for safe distance measurements to boundaries.

The amount proposed to be stored onsite is below the threshold for 3PGIII dangerous goods in accordance to Table 1 of *Applying SEPP 33 Guideline*.

A preliminary risk screening assessment was provided within the submitted EIS which also concluded the proposed development is not considered to be a potentially hazardous industry within the meaning of *State Environmental Planning Policy (Resilience and Hazards) 2021*.

A risk screening analysis has been undertaken as part of the EIS and assessment under the Resilience and Hazards SEPP. No toxic substances by definition of the Australian Dangerous Goods (ADG) classification is proposed to be stored onsite (refer to Figure 14 above).

Storage of all chemicals and fuels will be stored in accordance with the Australian Dangerous Goods Code. The impact of the chemicals and fuels to be stored on site will be negligible when storage and handling protocols are strictly adhered as per the Australian Dangerous Goods Code and SafeWork NSW's Code of Practice.

Potentially offensive industry

In considering whether the development is a potentially offensive industry, the minimum test for such developments is meeting the requirements for licensing by any other relevant authority. Applying SEPP 33 Guideline notes, the level of offence would not be considered significant if relevant DECCW (or any

other relevant pollution control) licences can be obtained; that is, if the DECCW (or other licensing authority) is willing to issue a pollution control licence or permit.

It has been established the development is integrated development and also required an EPL from NSW EPA. As a result, consultation and assessment by this agency has occurred.

NSW EPA issued GTA's (Notice No: 1641133). The EPA has determined that it is able to issue a licence for the proposal, subject to meeting their conditions. The applicant will need to make a separate application to the EPA to obtain this licence, if consent is granted.

Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021 ('SEPP (Resilience & Hazards)*) have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is 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.

Subclause (2) notes before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subsection (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

The applicant submitted a Preliminary Site Investigation (PSI) in accordance with *SEPP (Resilience & Hazards).* The objective of the PSI was to identify the potential for land contamination to occur at the site, with a site visit undertaken to assist with this.

Several findings were identified during the PSI, including potential imported land fill, a small $1m^3$ stockpiled material, onsite chemical storage and the industrial background of the site and area.

All of these findings were deemed to present low risk to human health and ecological receptors. Based on the findings of the PSI, the site is considered to be suitable for use as a tyre recycling facility and no further investigation is required.

The PSI Report has determined that the land is suitable for use as a tyre recycling facility, and no further assessment is required, subject to implementing recommendations provided in the report.

There were three recommendations made from the findings, these including implementing health and safety measures during stormwater infrastructure upgrades, ensuring the stockpiled material and chemical storage be assessed and classified with the *NSW EPA (2014) Waste Classification Guidelines: Part 1* and ensuring the chemical storage area is bunded, which is proposed as part of the proposal.

In accordance with clause 4.6 of the SEPP, the consent authority can be satisfied the site is suitable for use as a tyre recycling facility, subject to the recommended conditions of consent.

State Environment Planning Policy (Transport and Infrastructure) 2021

Chapter 2 Infrastructure – Division 5 – Subdivision 2 Development likely to affect an electricity transmission or distribution network

Referral to Ausgrid formed part of the assessment process as development is proposed to be carried out within 5m of an exposed overhead electricity power line.

Ausgrid provided comments on 16 July 2024 and did not object to the proposal. Recommend conditions will be imposed requiring compliance with Ausgrid requirements.

Chapter 2 Infrastructure – Division 17, Roads and Traffic – Section 2.122 – Traffic Generating Development

The development is traffic generating development under clause 2.122 and Schedule 3 of the SEPP, as the application is for a waste or resource management facility specified for any size or capacity with access to a road (generally).

The application was referred to Transport for NSW (TfNSW) as a result for comment. TfNSW reviewed the information provided and raises no objection to or requirements for the proposed development as it is considered there will be no significant impact on the nearby classified (State) road network.

TfNSW initially raised additional matters for consideration under the SEARs which have been appropriately addressed throughout this report (Section 5) and or addressed through relevant consultation and recommended conditions of consent.

State Environment Planning Policy (Industry and Employment) 2021

Chapter 3: Advertisement and signage

The aim of Chapter 3, is to ensure that signage (including advertising) is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of a high-quality finish and design. SEPP (Industry and Employment) 2021 also aims to regulate signage (but not content) under Part 4 of the Act, provide time-limited consents for the display of certain advertisements, regulate the display of advertisement in transport corridors and to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

The application does not include new signage. It is understood however that the proposal will change the existing business identification signage via separate approval pathways (i.e exempt development). This chapter does not regulate the content of signage and does not require consent for a change in the content of signage.

State Environmental Planning Policy (Sustainable Buildings) 2022

Chapter 3 Standards for non-residential development

This Chapter applies to development, other than development for the purposes of residential accommodation, that involves—

(a) the erection of a new building, if the development has an estimated development cost of $5 million or more, or

(b) alterations, enlargement or extension of an existing building, if the development has an estimated development cost of $10 million or more.

As the development is not for a new building at an estimated development cost of $5 million or more, or for alterations enlargement or extension of an existing building with an estimated development cost of $10 million or more, this chapter does not apply.

Maitland Local Environmental Plan 2011

The relevant local environmental plan applying to the site is the *Maitland Local Environmental Plan 2011* ('the LEP'). The aims of the LEP include to encourage orderly, feasible and equitable development whilst safeguarding the community's interests, environmentally sensitive areas and residential amenity. The proposal is consistent with these aims as the proposal allows for the greater recovery of reusable

resources and diversion from landfill whilst having regard to safeguarding the community's interests, environmentally sensitive areas and residential amenity.

The site located within the E4 General Industrial Land zone pursuant to Clause 2.2 of the LEP (refer to Figure 15 below).

Figure 15: Land Zone Map

The proposal satisfies the definition of a waste or resource facility which is a group term that includes the specific use of a *resource recovery facility* which 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*".

The development for the purpose of a resource recovery facility is permitted with consent in the E4 General Industrial land zone.

The zone objectives of the E4 are:

- *To provide a range of industrial, warehouse, logistics and related land uses.*
- *To ensure the efficient and viable use of land for industrial uses.*
- *To minimise any adverse effect of industry on other land uses.*
- *To encourage employment opportunities.*
- *To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.*

The proposal is considered to be consistent with these zone objectives for the following reasons:

- The development will provide a resource recovery facility within an industrial setting.
- The resource recovery facility is considered to be an efficient and viable use of land, helping to avoid the landfill disposal of tyres and promotes ecologically sustainable development.
- Consideration of adjoining land uses has deemed the use satisfactory and impacts from the proposal would be negligible and likely insignificant.

- The proposal will create an additional five new full time operational jobs, helping to support local employment and economic growth within the region.

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in Table 4 below:

Table 4: Consideration of the LEP Controls

Maitland Local Environmental Plan 2011			
Control	**Requirement**	**Comment**	**Comply**
Clause 5.10 – Heritage conservation	Disturbing or excavating an Aboriginal place of heritage significance	There are no identified Local and State Environmental Heritage items or Aboriginal or Cultural significance identified on or within 200m of the site. The proposed works are unlikely to have any impact on the heritage items or areas.	N/A
Clause 7.1 – Acid sulfate soils	Class 5 – Works within 500 metres of adjacent Class 1, 2, 3 or 4 land that is below 5 metres Australian Height Datum and by which the watertable is likely to be lowered below 1 metre Australian Height Datum on adjacent Class 1, 2, 3 or 4 land.	The site is not within 500 metres of adjacent Class 1, 2, 3 or 4 land. The proposed works are minor that will not requiring excavating below 1 metre nor result in works that will likely lower the watertable below 1 metre.	Yes
Clause 7.2 – Earthworks	Will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land	The proposal will involve an extension of the existing concrete hardstand and the construction of two new stormwater below ground pits. It is considered the extent of earthworks are minor and consistent with the matters for consideration under this clause.	Yes

(b) Section 4.15(1)(a)(ii) - Provisions of any Proposed Instruments

There are no proposed draft instruments which are relevant to the proposal.

(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- Maitland Development Control Plan 2011 ('the DCP')

The provisions of the Maitland DCP relevant to the Proposal are described in Table 3.1. Relevant sections of the Maitland DCP include:

- Section B6 – Site Waste Minimisation & Management,
- Section C5 – Industrial Lands, and
- Section C11 – Vehicular Access & Parking.

The proposal seeks to change the use of the existing shed to a tyre resource recycling facility. There are minor changes proposed for the existing shed; primarily the enclosure of the existing awning towards the back of the site and fit out of an existing single storey metal building for separate amenities/ staff breakroom located on the southern boundary.

The wall between the existing shed and awning will be removed to create a larger fully enclosed shed. Two roller doors will be added to the existing awning with dimensions of 5000 x 5500mm. Aside from the removal of the wall and provision of a lunch room, the existing shed and office space will remain unchanged. The small, gravel area at the back of the site will be changed to concrete.

A summary of the key matters for consideration arising from the DCP are outlined in Tables 5 & 6.

Table 5: Summary of Part B – DCP controls

Part B – Environmental Guidelines		
Section	**Consideration**	**Comply**
B6 – Site Waste Minimisation & Management		
1.1 Documentation to be submitted All applications relating to residential developments, as well as commercial and industrial premises are to include a Site Waste Minimisation and Management Plan (SWMMP) as part of documentation submitted to Council.	A comprehensive SWMMP was submitted in support of the proposal.	**Y**
1.2 Implementing the SWMMP	The matters prescribed under this section have been addressed within the SWMMP. A condition of consent for this document to be implemented, both before, during and after construction as well as operationally will be conditioned	**Y**
1.3 Waste/Recycling Generation Rates This section does not apply directly to the operational waste/ recycling processes for the proposal but relates more to the general generation of waste from office operations.	The office operations associated with the facility and staff amenities will generate waste from office administration and personnel activities (e.g., staff meals). Co-mingled recycling and general waste is proposed to be stored in 120 litre wheelie bins in the uncovered yard. This waste is collected and taken to licensed receiving facility. The proposed measures for waste/recycling measures are deemed suitable. Adequate space for onsite collection of waste is provided onsite via contractor or Council's general waste services.	**Y**
2.1 Demolition of Building or Structure	The proposal will require minor demolition works to remove one dividing wall between the existing shed and open awning to allow for a larger, fully enclosed industrial shed to be built. Waste will consist of concrete post footings and metal sheeting. All waste will be placed directly into skip bins and taken for off-site recycling to an appropriate licensed facility. Applicable conditions of consent to ensure there will be no demolition waste or materials of any kind stored on roads, footpaths, public reserves or street gutters.	**Y**
3.1 Construction of Building and Structures	The proposal will require minor construction works to enclose the existing open awning and install two roller doors to create a large, fully enclosed industrial shed on-site. There are no major construction works required for the installation of the new crumb rubber plant, rubber tile press or internal storage areas due to being pre-fabricated and delivered onsite. Construction will require some excavation for the placement of wall posts and panels. Each post hole is expected to extend to a depth of approximately 1.7m and require the excavation of approximately 0.5m^3 of soil. The total number of	**Y**

	post holes will be dependent on the width of the pre-cast panels to be used, but it is anticipated that approximately 6 post holes will be required, with a total excavation volume of 3m^3 of soil. All excavated material will be transported to an appropriate licensed facility for disposal. Applicable conditions for fill removal will be included with the consent. Should offsite disposal of the stockpiled material be required, assessment and classification in accordance with the *NSW EPA (2014) Waste Classification Guidelines: Part 1* will be required, and the material will be disposed of at a waste facility licenced to and capable of accepting the waste. This will be conditioned. The materials used in the construction of the walls are modular and are delivered to site pre-measured and cut. The waste generated during construction is expected to be low as a result. Notwithstanding a condition of consent for construction waste management will be included with any consent. Any residual waste will be collected in a separate bin and regularly removed from the site for disposal in a licensed landfill accordingly.	
4.3 Industrial Development (operational phase)	The operational details of the development are addressed under **Section 2.**	**Y**

Table 6: Summary of Part C – DCP controls

Part C – Design Guidelines		
Section	**Consideration**	**Comply**
C5 Industrial Land		
1. Scale of Development	Proper consideration of industrial development proposals relies on an understanding of what actually is involved and what is the real nature of hazards and risks. It is essential, and in the applicant's interests, to fully describe the proposed development. The following matters have been considered under this section:	
• Toxic qualities	Refer to assessment of *State Environmental Planning Policy (Resilience and Hazards) 2021* under Section 3.5 of this report. Air quality considerations are addressed under **Section 5.**	**Y**
• Handlining procedures	The handling details of the development are addressed under **Section 2.**	**Y**
• Manufacturing processes involved	The operational details of the development are addressed under **Section 2.**	**Y**

• By-products in the event of fire	Refer to considerations of fire impacts under **Section 5.**	**Y**
• Risks in the event of flood	The site is not located within a flood planning area	**N/A**
• Cumulative risks associated with quantities, and with goods stored in adjoining development	A Preliminary Hazard Analysis has been performed to identify key potential impacts of the development, as well as potentially offensive or hazardous issues that need to be considered. The development is not anticipated to have an adverse cumulative impact to adjoining development as the facility will be designed and licensed to operate to not exceed the thresholds for waste storage. With recommended conditions of consent, the development can manage and minimise the cumulative risk.	**Y**
• Procedures required by occupational health and safety regulations	NSW EPA issued General Terms of Approval (Notice No: 1641133). The EPA has determined that it is able to issue a licence for the proposal, subject to meeting their conditions. Any building modifications will be required to comply with National Construction Code 2019 Structural Fire Safety requirements. This will be conditioned.	**Y**
• Measures required for safe storage (e.g. bunding etc.)	Storage of all chemicals and fuels will be stored in accordance with the Australian Dangerous Goods Code. The storage of these items will be located as shown in **Figure 12**. The impact of the chemicals and fuels to be stored on site will be negligible when storage and handling protocols are strictly adhered as per the Australian Dangerous Goods Code and SafeWork NSW's Code of Practice.	**Y**
• Volumes to be transported, manner of transport and probable routes	Refer to traffic considerations under **Section 5** for discussions on volumes to be transported and probable routes.	**Y**
• The amount and nature of waste to be generated and the proposed means of disposal	Refer to B6 – Site Waste Minimisation & Management above for considerations on waste generation and means of disposal.	**Y**
• Fire safety measures in buildings and storage areas	Refer to considerations of fire safety under **Section 5.**	**Y**
• Whether any other licence or approval is required under other legislation, and the measures proposed in the development to obtain that licence or approval	NSW EPA have issued GTA's(Notice No: 1641133) as noted in earlier sections.	**Y**
1.1 Designated Development	The application is referred to the Panel as the development is declared 'regionally significant development', pursuant to Section 2.19(1) and Clause 7 of Schedule 6 *State Environmental Planning Policy (Planning Systems) 2021* as it comprises a waste management facility which meets the requirements of 'designated	**Y**

	development' under Clause 45(4)(f) Schedule 3 of the EP&A Regulation where the development is located within 500m of a residential zone or land used predominantly for residential use.	
1.2 Integrated Development	NSW EPA have issued their GTA's (Notice No: 1641133) as noted in earlier sections.	**Y**
2. Development Guidelines		
2.1 Design and Appearance of Buildings	The proposal will involve a change of use and building alterations to the existing industrial shed to create a larger, fully enclosed industrial shed that will house advanced tyre recycling equipment. The entire process to recycle waste tyres received onsite will be carried out indoors, with no activities occurring outside. This eliminates any adverse visual impacts of the operations. A visual impact assessment was submitted in support of the application which considered the general impact the proposal may have on the local visual environment and identified areas where the visual impact may potentially be the most significant. There will be no impact to any residential dwellings as all local residential areas including to the nearby Oak Tree Retirement Village are completely screened from the proposal site via existing tree lines and industrial warehouses. The proposal is consistent with the surrounding industrial buildings and expands on the existing shed. No mitigation measures are therefore required.	**Y**
2.2 Landscaping	There are very minimal changes proposed for the landscaping on site, with these confined to the areas of existing landscape which meets the minimum requirements of providing a minimum 5m setback for landscape purposes. The minimal changes are recommended as a way to improve the aesthetics of the site. No changes proposed relate to the change of use or alterations as proposed for the development. The proposal will increase the site's visual appeal as proposed planting will provide visual relief from the built form which is currently grass and small to medium trees. Terras Landscape Architects propose the use of native shrubs and grasses in order to embellish and enhance the existing landscaping as outlined in the landscaping documentation.	**Y**

	An overview of the landscaping concept plan includes the follow: • Planting of native shrubs and grass mix to contribute towards appearance of streetscape and screen views from the road; • Maintenance of existing callistemon hedgerow along boundary on adjoining property with protection fencing proposed to be installed at the boundary at the time of construction; • Keeping the existing Bougainvillea on the street frontage; • Keeping the existing trees along back boundary of the Site; • Loss mass planted *Chrysocephalium Apiculatm* to foreground; • Tree protection fencing for existing trees to be calculated during the construction certificate stage; • Keeping the *lomandra longifolia*; and • Planting *Westringia* 'Zena' to 1m high to maintain security sight in. A condition for completion and maintenance of landscape work will be included with the consent.	
2.3 Vehicle Access	Refer to **Section 5** for discussions on traffic and vehicle access.	**Y**
2.4 Parking	The Maitland DCP allows the following parking rate for Industry: 1 space per 75m^2 GFA Or 1 space per 2 employees WHICHEVER IS THE GREATER. Applying the DCP rate to the 640m^2 GFA would require parking for 8.5 spaces (9 spaces in total) if applying the greater rate. The proposed development will provide a total of five spaces – four parallel parking spaces located to the northern side boundary and a single 90 degree parking space located in front of the existing office space within the front setback. While not complying with the greater rate of 9 spaces per the GFA space, applying the lesser rate can accommodate the number of staff proposed to work onsite. As there will be a maximum of five (5) staff on site, the provision of five parking spaces on site is therefore considered appropriate for the change of use. The proposal has also allowed for the overnight parking on site of two MRV's.	**Merit assessment – can comply**
2.5 Setbacks	The development will achieve a 10m setback with landscape buffer to western front boundary; 11.6m to the northern side boundary; 3.4m to eastern rear boundary; zero setback from the existing single storey metal building for staff	**Y**

	lunch/ breakroom (no side setback controls) and 3.2m from the shed to the southern side boundary meeting the provisions under this control.	
2.6 Storage Areas	This section applies to external storage areas which are required to be located to the rear or the site and be screened from public view by means of fencing and/or landscaping. The development does not propose external storage areas. See other sections detailing location of waste tyre storage areas/ refer to **Figure 12** detailing floor plan showing location of storage areas.	**N/A**
2.7 Advertising Signs	No changes to the existing location of business identification signage, which is located within the landscaped area and on façade of building roof line.	**N/A**
2.8 Drainage	The development is not expected to impact negatively on the surrounding surface water environment, flow regimes, quantity, features, or local or regional hydrology. The proposed development meets WSUD requirements for stormwater quality and the proposed new external pavement meets the site's stormwater detention requirements. Fire water storage via bunding, including a stormwater isolation valve, has been designed to allow for on-site storage of contaminated fire water. Council's Development Engineer has reviewed the stormwater management plan and supports the development, with appropriate conditions. Adoption of regular monitoring and maintenance practices will ensure the proposed devices within the stormwater management system function as designed. Recommended maintenance actions and schedules will be required for any new devices to be installed.	**Y**
2.9 Security Fencing	No changes are proposed to the existing security fencing which is located behind the existing landscaped area in accordance with this section.	**N/A**
2.10 Compatibility		
• Windows, doors and other wall openings should be arranged to minimise noise impacts on residences, where an industry is located within 400 metres of a Residential zone	Refer to **Section 5** for noise impact considerations.	**Y**
• External plant such as generators, air conditioning plant and the like should be enclosed to minimise noise nuisance	No external plant equipment is proposed to the site. All proposed plant equipment associated with the development are internal to the shed with all operations also being located inside.	**Y**

	Assessment of all plant equipment associated with the recycling equipment has been considered under worst case scenarios in the Noise and Vibration Impact Assessment. Predicated operational cumulative noise levels to residential received has been assessed to meet NSW EPA Noise Emission Requirements. Applicable conditions of consent and NSW EPA regulations will apply to enforce this.	
• External and security lighting should be directed and shielded to avoid light spillage to adjoining residential areas	There is no impact to any residential dwellings as all local residential areas including and not limited to Oak Tree Retirement Village are completely screened from the proposal site via existing tree lines and industrial warehouses.	**Y**
• Driveways should be arranged or screened to avoid leadlight glare on residential windows	No changes to existing driveway are proposed. The existing arrangements will not impact any adjoining residential windows being located within an existing street used for industry.	**N/A**
• Hours of operation may be limited if extended operation is likely to cause a nuisance to adjoining residential areas (including nuisance from traffic).	The proposed operating hours for this development are 5am to 6pm on weekdays, 8am to 1pm on Saturdays and closed on Sundays and Public Holidays. It is considered the proposed operating hours will not cause nuisance to adjoining residential areas (including nuisance from traffic) due to the findings of the Noise and Vibration Impact Assessment noted in **Section 5**.	**Y**
C11 – Vehicular Access & Car parking		
1. General Requirements		
1.1 In determining the parking and traffic requirements for a development proposal, the following principles shall be followed: • the minimum standards as set out in this plan; • the likely demand for off-street parking generated by the development; • the availability of public transport in the vicinity to service the proposed development; • the probable mode of transport to be used by employees and/or customers; • the likely peak times of usage of the proposed development; • the existing traffic volumes on the surrounding street network including, where relevant, the potential future traffic volumes; and	Refer to **Section 5** of this report for traffic impact considerations.	**Y**

• the equity of requiring of-street parking for individual developments within areas such as Maitland City Centre and Morpeth, where historical parking deficiencies have occurred.		
1.2 Calculation of Parking Requirements	This has been addressed in earlier section of this table.	**Y**
2. Guidelines for the Design, Layout And Construction Of Access and Parking Areas		
2.1 Access to the site	This has been addressed in earlier section of this table.	**Y**
2.2 Sight Distance	Refer to **Section 5** for traffic impact considerations.	**Y**
2.3 Entrance / Exit to the Site	This has been addressed in earlier section of this table.	**Y**
2.4 Location of Parking Areas	The application will look to formalise the 5 existing parking arrangements onsite. There are four parallel parking spaces located along the northern side boundary and a single 90-degree parking space located adjacent to the office space on the front boundary. Swept path diagrams shown to support truck manoeuvring details demonstrate the location of parking spaces will not impact proposed parking spaces – refer to **Figure 21.**	**Y**
2.5 Parking Space and Aisle Dimensions	The parallel parking spaces for 2, 3, 4, and 5 have been adjusted to ensure compliance with Clause 2.4.4 of AS2890.1.	**Y**
2.6 Construction Requirements	The site is in part already constructed with hardstand space which is nominated for the proposed parking areas. No additional construction requirements will be necessary outside of formal line marking. This will be conditioned.	**Y**
2.7 Landscaping	Existing/ proposed landscape improvements will buffer proposed parking spaces to the street. No additional landscape breaks are considered necessary or deemed appropriate without impacting upon on-site vehicle manoeuvrability.	**Y**
2.8 Directional Signs and Marking	Recommended conditions of consent will apply to the development to ensure nominated parking bays are lined marked for easy identification.	**Y**
2.9 Principles for Crime Prevention	It is noted the development will accommodate overnight parking for two heavy rigid vehicles. The applicant has considered provisions for CCTV and lighting within the premises. The site is improved by an existing black palisade security fence which restricts access to the premises after hours. It is considered the site is suitable in its current and proposed state to assist in the reduction of crime opportunities.	**Y**

3. Loading/ Unloading Requirements	Refer to **section 2** of this report for details on on-site loading and unloading facilities and procedures/ capabilities.	**Y**
4. Car parking for persons with a disability	Council's minimum standards for the disabled parking requirements is one space per 10 or more vehicles spaces. The development does not propose nor require provision for onsite parking for disability.	**N/A**
5. Bicycle Parking	Provision for bicycle parking can be made within the office or breakroom spaces.	**Y**
6. Major Traffic Generating Development	Refer to discussions under **Section 5** on traffic impact considerations.	**Y**
7. *State Environment Planning Policy (Transport and Infrastructure) 2021*	Refer to discussions under *State Environment Planning Policy (Transport and Infrastructure) 2021.*	**Y**

(d) Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site

(e) Section 4.15 (1)(a)(iv) - The regulations (to the extent that they prescribe matters for the purposes of this paragraph)

Section 61-64 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application.

A condition will be imposed to ensure demolition complies with the provisions of AS2601 as required.

A condition will be imposed for the relevant fire fighting equipment to be installed to satisfy the recommendations of Fire Impact Management Plan prepared by Riskcon Engineering, Revision 1, dated 3 June 2024.

A condition will also be imposed for general building upgrade requirements per the review and recommendations of Council's Building Surveyor; relating to emergency lighting/ exit signs and door upgrades.

3.6 Section 4.15 (1)(b) - The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered.

In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

Accordingly, it is considered the proposal will not result in any significant adverse impacts in the locality.

3.7 Section 4.15 (1)(c) - The suitability of the site for the development

Assessment of the development against the relevant matters for consideration has deemed the site suitable for the development:

- The proposal is generally consistent with the objectives and land use permissibility of the E4 General Industrial zoning.
- It is located within a large industrial precinct of Rutherford, dominated by general industry and other compatible industrial services.
- There are adequate services and infrastructure nearby that can support and co-exist with the development.
- The proposed built form and use is considered to be responsive to the site attributes and its context and setting.

3.8 Section 4.15 (1)(d) - Any submissions made in accordance with this Act or the regulations

The proposal was required to be publicly exhibited in accordance Section 58 of *EP&A Regulation* as designated development (refer to Figure 16 below). The application was public notified for 28 days from 11 July 2024 to 7 August 2024.

Figure 16: Notification signage required to be installed during notification period

No submissions were received during the notification or assessment period.

3.9 Section 4.15(1)(e) - The public interest

The proposal is within the public interest as it will provide alternative means of resource recovery without impeding on the social, economic, built or natural environments. The proposal demonstrates consistency with the zone objectives and Council's development controls. The development is typical of that within the locality and will not result in unreasonable burden upon existing infrastructure or services. The development has also demonstrated it is in the public interest because:

- The proposal is in line with the strategic objectives of the NSW State Government for ecologically sustainable development (ESD). The development will achieve improved operational efficiency within the current footprint and provide employment opportunities in the local area that aligns to ESD principles.

- The development will directly contribute to the reduction of waste (waste tyres) into landfill and will contribute to state recycling targets. Potential risks posed by the activity have been satisfactorily considered and can be managed.
- The proposed development is consistent with the relevant state and local legislation.
- The proposed development will not impact the health or safety of the public.
- The proposed development will provide economic benefits by means of job creation throughout the construction period and ongoing operations.
- Potential impacts to the traffic, noise and odour have been assessed as having minimal impacts.
- The development is considered to achieve balanced and orderly outcome.
- The development has demonstrated no significant amenity impacts will arise now or in the future, subject to the imposition and compliance with recommended conditions of consent.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 7.

Table 7: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
N/A – Concurrence was not required under this application			
Referral/Consultation Agencies			
Electricity supply authority – Ausgrid	Section 2.48 – *State Environmental Planning Policy (Transport and Infrastructure) 2021* Development near electrical infrastructure	The application was referred to Ausgrid who raised no objection to the development and recommended conditions regarding construction related matters, dated 16 July 2024.	Y
Transport for NSW (TfNSW)	Section 2.122 – *State Environmental Planning Policy (Transport and Infrastructure) 2021*	The development was identified as traffic generating development being a waste or resource management facilities of any size or capacity.	Y

	Development that is deemed to be traffic generating development in Schedule 3.	TfNSW has reviewed the information provided and raised no objection to or requirements for the proposed development as it was considered to have no significant impact on the nearby classified (State) road network, dated 26 August 2024.	
Environmental Protection Agency NSW	Section s43(d), 48, 55 - *Protection of the Environment and Operations Act* - scheduled activity	EPA NSW initially requested for further information on 29 July 2024 around the details submitted in the Odour Impact Assessment, Noise Impact Assessment and Fire and Incident Management Report. NSW EPA issued GTA's (Notice No: 1641133) on 6 November 2024. The EPA has determined that it is able to issue a licence for the proposal, subject to conditions. The applicant will need to make a separate application to the EPA to obtain this licence, if consent is granted.	Y
Hunter Water Corporation (HWC)	Section 51 of Hunter Water Act 1991	Hunter Water stamped plans were received on 9 October 2024 confirming that the proposal is adjacent to Hunter Water Assets. It is noted that there is a 150mm UPVC gravity sewer line located within the 2.5m easement at the rear of the property. The only temporary work to be conducted within this easement is the construction of a sediment trap on the northern side of the Site. With the necessary conditions of consent to obtain and apply Hunter Water's Notice of Requirements, no impacts to the sewer line are anticipated to occur as a result of this development.	Y

NSW Fire and Rescue	Fire safety in tyre storage and waste facilities	NSW Fire and Rescue provided correspondence on October 2 2024, regarding review Fire Safety Studies or “Fire Impact Management Plans” preapproval of developments. FRNSW advised *that review of a Fire Safety Study or a “Fire Impact Management Plan” is conducted post determination should the development receive approval. Should consent be granted, FRNSW recommend consideration be given to providing a condition that prior to commencement of construction, the Fire Safety Study or “Fire Impact Management Plan” is prepared to the satisfaction of FRNSW and evidence of such is supplied to the certifying authority.* The application was referred to Council’s Building Team for consideration of NCC compliance, with recommendations received for general building upgrades to comply with NCC.	Y

4.2 Council Officer Referrals

The development application has been referred to various Council officers for technical review as outlined in Table 8 below.

Table 8: Consideration of Council Referrals

Officer	Comments	Resolved
Development Contributions	The Contributions Team have assessed the above proposal and confirm that s7.12 contributions are not applicable to the proposed development	Yes
Building Surveyor	The officer is generally supportive of the development. The proposal is considered satisfactory and is supported, with conditions.	Yes

Environmental Health	Council's Environmental Health Officer concurred with the initial requirements requested by the EPA NSW on 29 July 2024. Additional details regarding the amended odour, air and vibration reporting were provided, that satisfactorily demonstrated that the site and operations of the development can accommodate the proposed development. Recommended conditions were provided which will be adopted into the final determination.	Yes
Contaminated Land	Council's Contaminated Land Officer reviewed the Preliminary Site Investigation (PSI) in accordance with *State Environmental Planning Policy (Resilience and Hazards) 2021.* The officer is generally supportive of the development and concurs with the findings that the site is suitable for intended use. All documentation is considered satisfactory and is supported, with conditions.	Yes
Development Engineering	The officer is generally supportive of the development. All engineering documentation is considered satisfactory and is supported, with conditions.	Yes

4.3 Community Consultation

The applicant submitted a Community and Stakeholder Engagement Report as mandated under Schedule 1 of the EP&A Act as part of the EIS and Development Application. This was also a requirement specified under the SEARs submission.

The proposal was required to be publicly exhibited in accordance Section 58 of *Environmental Planning and Assessment Regulation 2021* (refer to Figure 16 above). The application was public notified for 28 days from 11 July 2024 to 7 August 2024.

No submissions were received during the notification or assessment period.

5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

5.1 Odour and Air Quality

The issued SEARs required a quantitative assessment of the potential air quality, dust and odour impacts of the development, during both construction and operation, in accordance with relevant Environment Protection Authority guidelines. In addition, details of air quality and odour impact

mitigation and monitoring measures, were also required to be addressed.

An Air Quality and Odour Impact Assessment, (as amended) by RWDI Australia Pty Ltd (September 2024) was prepared to evaluate the impacts of the proposal on local air quality and odour impacts associated with the proposal.

EPA NSW requested throughout the assessment process that the Air Quality and Odour Impact Assessment address toxic air pollutants (including principal air toxics) and demonstrate that best management practices will be implemented to minimise emissions of principal air toxics as far as is practical.

The amended report assessed the potential construction and operational dust, odour and toxic substance impacts associated with the proposed development in accordance with the *Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales (EPA, 2022).* This guideline provides the applicable impact assessment criteria for a number of air pollutants which was compared to in the Air Quality and Odour Impact Assessment against the likely impacts of the proposal.

The Air Quality and Odour Impact Assessment highlighted during the operational phase, the dust/particulate emissions associated with the proposal would come from loading/unloading of material, tyre recycling process emissions, truck movements on paved roads, rubber tyre production emissions and diesel exhaust from mobile plant.

Air emissions are likely during the construction and operation of the proposal. Given construction works are minimal, only minor dust emissions (non-significant quantities) are expected from the construction phase.

Odour sources are expected during the rubber tile production process. Air toxic emissions associated with the operation of the proposed development will also occur during the trye recycling and thermomoulding process.

A quantitative approach was adopted to assess air quality impacts on nearby receptors during the operations of the proposal. The modelling results indicate that dust, odour, principal and individual air toxic concentrations during a worst-case scenario operation of the proposed development can comply with the established criteria at all sensitive receptors around the site (including the RSPCA vet hospital to the west and residential setting to the east). Refer to Figure 17 for considered sensitive receptors:

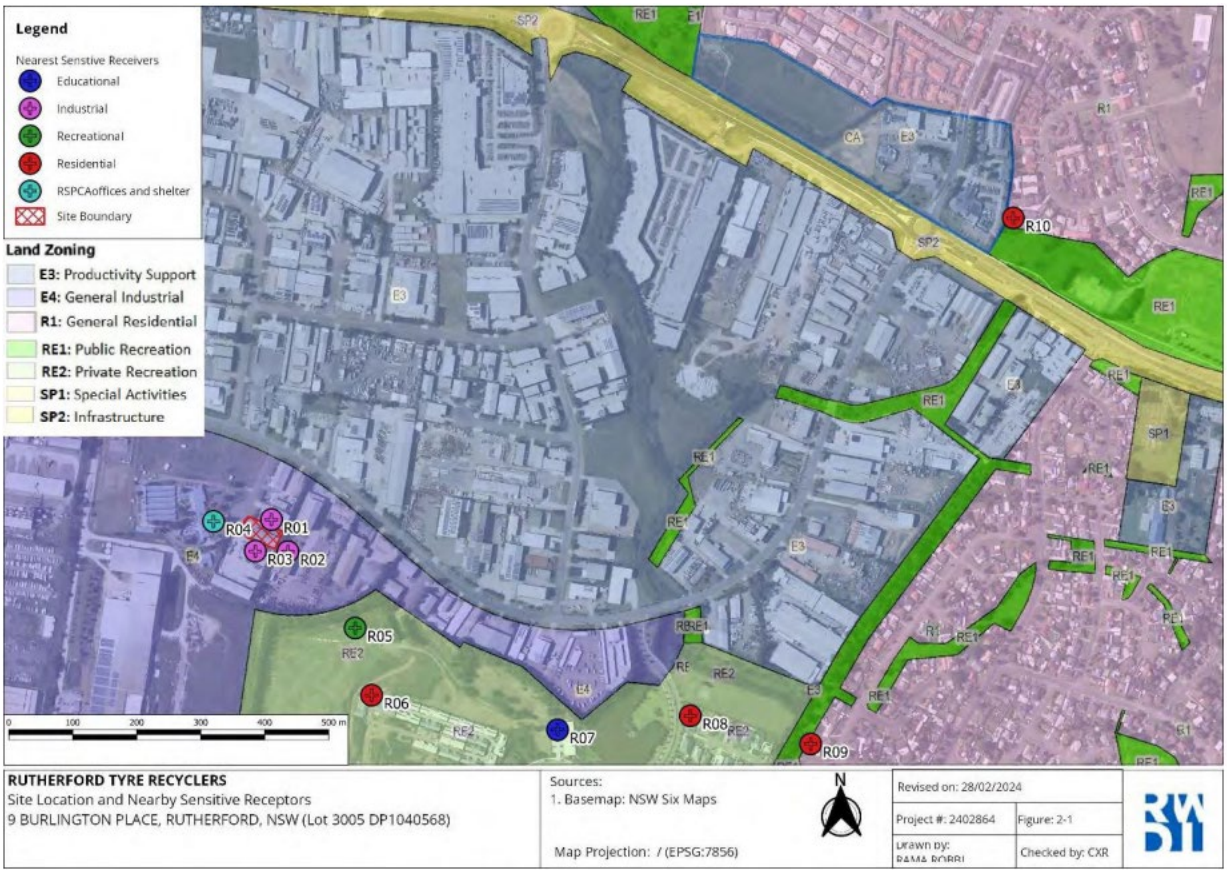


Figure 17: Sensitive receptors considered under the Air Quality and Odour Impact Assessment

Although predicted air quality impacts from operational activities will not require site specific mitigation measures, the report recommends general operational mitigation measures to reduce the potential impacts associated with the use of the development.

The Air Quality and Odour Impact Assessment concluded that the construction phases can be adequately managed through construction related conditions so that the short-term and temporary dust related impacts would be a negligible risk.

EPA NSW and Council's Environmental Health Officer concurred with the amended Air Quality and Odour Impact Assessment and could support the development on the basis that the development will not have an adverse air quality impact associated with the construction or operation of the proposed development.

Applicable operational conditions of consent relating to air quality and odour control will apply, as well as being subject to GTA's issued by EPA NSW which will be required to be upheld and submitted for the purpose of Environment Protection Licencing for the scheduled activity.

5.2 Noise and Vibrations

The issued SEARs required a noise and vibration assessment during both construction and operation in accordance with the relevant EPA guidelines. Details and appraisal of noise and vibration mitigation and monitoring measures were also required to inform the development application.

A Noise and Vibration Impact Assessment, (as amended) by Acoustic Logic Pty Ltd (August 2024) was prepared to evaluate the noise and vibration impacts from construction and operational emissions in addition to noise impacts from additional traffic on nearby public roads generated by the

development.

EPA NSW requested throughout the assessment process to amend the Noise and Vibration Impact Assessment to reference the correct noise measuring formula (LA(Max) rather than LA(eq)) to ensure the findings of the impact assessment were correct with noise modelling applied under the relevant EPA guidelines.

Monitoring locations were established per Figure 18 below:

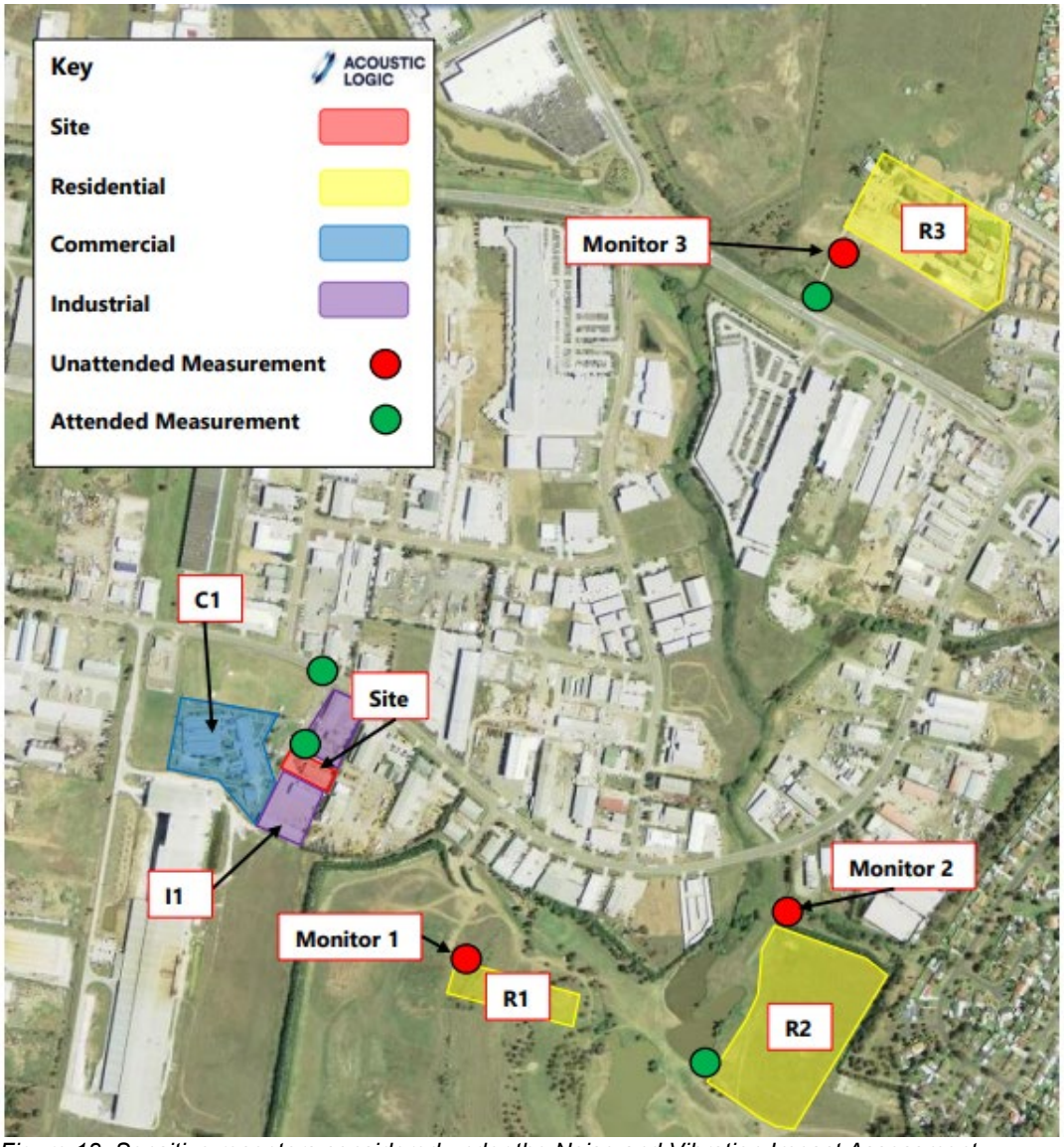


Figure 18: Sensitive receptors considered under the Noise and Vibration Impact Assessment

The amended report assessed the potential noise and vibration impacts associated with the proposed development in accordance with NSW EPA – '*Noise Policy for Industry (*2017*)* and *NSW EPA – 'Interim Construction Noise Guideline* (2009). These guidelines provide the applicable impact assessment criteria for noise and vibrations which was compared to in the Noise and Vibration Impact Assessment against the likely impacts of the proposal.

The Noise and Vibration Impact Assessment was undertaken in three main parts: operational on-site noise, construction on-site noise and traffic related noise as a result of the proposal.

Operational noise levels

The modelling produced predicted noise levels that were assessed against the project trigger levels as outlined in the EPA's Noise Policy for Industry (2017). The receiver noise predictions indicate that with the complying mitigations incorporated, noise emissions will not exceed the trigger levels. The predictions also indicate that nighttime noise events will not exceed the EPA's Noise Policy for Industry (2017) maximum noise trigger levels.

Multiple factors were included in this assessment such as meteorological conditions, traffic movements, sound power levels of typical automative movements, machinery sound power level assumptions and worst case scenarios of all roller doors open during operations.

A summary of the predicted cumulative noise levels of the residential and commercial/ industrial Sensitive receptors is shown below in Figure 19:

Operational Source	Receiver Location	Predicted Noise Level	Criteria	Comment
Cumulative Noise from Site Operation	R1	<43	48 dB(A) L_{eq} Daytime (7am–6pm)	Meets NSW EPA Noise Emission Requirements
			48 dB(A) L_{eq} Evening (6pm–10pm)	
			43 dB(A) L_{eq} Night (10pm–7am)	
Maximum Noise Event (Refer Section 7.2)		<52	58 dB(A) L_{max} (external)	
Cumulative Noise from Site Operation	R2	<43	50 dB(A) L_{eq} Daytime (7am–6pm)	
			48 dB(A) L_{eq} Evening (6pm–10pm)	
			43 dB(A) L_{eq} Night (10pm–7am)	
Maximum Noise Event (Refer Section 7.2)		<52	57 dB(A) L_{max} (external)	
Cumulative Noise from Site Operation	R3	<43	53 dB(A) L_{eq} Daytime (7am–6pm)	
			48 dB(A) L_{eq} Evening (6pm–10pm)	
			43 dB(A) L_{eq} Night (10pm–7am)	
Maximum Noise Event (Refer Section 7.2)		<52	61 dB(A) L_{max} (external)	

Operational Source	Receiver Location	Predicted Noise Level	Criteria	Comment
Cumulative Noise from Site Operation	**C1**	59-61	63 dB(A) $L_{eq,}$ (External)	Meets NSW EPA Noise Emission Requirements*
	I1	53-55	68 dB(A) $L_{eq,}$ (External)	

Figure 19: Predicated Cumulative Noise Levels

Construction noise levels

The analysis indicated that no noise threshold will be exceeded at any of the sensitive receivers and that the construction impact of the industrial premises to the surrounding residential receivers will be minimal.

Standard construction conditions can mitigate the short-term impacts associated with noise during construction.

Road traffic noise levels

The predicted increase in the Leq noise level is <1dB(A). As the increase in road traffic noise levels are predicted to be <2dB, it is concluded that any increase in road traffic noise as a result of the proposal would be inaudible, would not adversely impact any residential receiver, and is compliant with the objectives of the NSW EPA Road Noise Policy.

It should also be noted condition requirements from NSW EPA will restrict deliveries to the premises and load out of any products between 7:00am to 6:00pm Monday to Friday and between 8:00am to 1:00pm Saturday (remains closed on Sundays and Public Holidays).

Recommendations

The report details recommendations for the following components of the proposed development to ensure impacts are managed:

- Construction management conditions;
- Lay vibration absorption mats to cushion impacts from falling debris;
- Time scheduling works to minimise amenity impacts.

The Noise and Vibration Impact Assessment concludes that the proposal will comply with the noise emission criteria outlined in the EPA Noise Policy for Industry (2017) during operation and construction noise has been assessed against the noise management levels of the EPA Interim Construction Noise Guideline (2009).

In addition, the assessment concludes that the road traffic generated by the development will also comply with the criteria in the EPA's Road Noise Policy (2011).

EPA NSW and Council's Environmental Health Officer concurred with the amended Noise and

Vibration Impact Assessment and could support the development on the basis that the development will not have an adverse noise or vibration impact associated with the construction or operation of the proposed development.

It is noted noise limits will be imposed as a standard condition of licence by the EPA. EPA will have the responsibility for regulating the site. As a result, the applicant will need to comply with noise limits at all times as a condition of licence. This will provide reassurance to both Council and nearby sensitive receptors that noise will be carefully managed on the site at all times.

5.3 Traffic Management

Truck Movements and Scheduling

A total average of 18 vehicle movements (9 inbound and 9 outbound) inclusive of staff cars will be generated by the site per day relating to both the anticipated deliveries and staff movements.

It is proposed the site will receive an average of 15 tonnes of used whole tyres per day, or approximately 4,500 tonnes per annum (refer to Figure 13 on page 15 for breakdown of materials information). This coincides with the proposed operating times of 6 days per week, 51 weeks per year = 300 days per year (allowing for public holidays/Christmas break).

All incoming whole tyre deliveries are delivered into the site by a 7.5 tonnes medium rigid vehicle (MRV), with access to the site from Burlington Place. It is proposed the average MRV (inbound used tyres and backload out of finished products) will have a maximum load weight of 7.5 tonnes per trip anticipated. This equates to four truck deliveries per day (two in two out).

A Traffic Impact Assessment and Operational Management Plan was prepared to include details about vehicle access, vehicle conflict management, truck parking conflicts, manoeuvrability on site and additional information regarding daily operations.

Inbound tyres will be unloaded and the empty truck then backfilled with sorted materials to be taken to the various end users. The arrival and departure of four trucks per day (two trucks each undertaking two deliveries to and from the site) is shown below in Figure 20 the operational schedule:

LEGEND (as per EPA Noise Policy for Industry, 2017)	Night	Day

		Monday - Friday		Monday - Friday			
Time Period	Time of day	Employees		Incoming tyres	Outgoing sorted material	Incoming Residual Waste Vehicle	Outgoing Residual Waste Vehicle
		Cars (inbound)	Cars (outbound)	MRV (7.5 tonne load)	MRV (7.5 tonne load)	HRV	HRV
Night	5:00am to 6:00am	2					
	6:00am to 7:00am	1					
Day	7:00am to 8:00am	2			1		
	8:00am to 9:00am				1		
	9:00am to 10:00am			1			
	10:00am to 11:00am				1		
	11:00am to 12:00pm			1			
	12:00pm to 1:00pm				1		
	1:00pm to 2:00pm						
	2:00pm to 3:00pm		1			0.20	0.20
	3:00pm to 4:00pm			1			
	4:00pm to 5:00pm						
	5:00pm to 6:00pm		4	1			
	Totals	5	5	4	4	0.20	0.20
	5 Day totals	25	25	20	20	1.00	1.00
				TOTAL vehicle movements per day inclusive of staff cars			18.40

		Saturday		Saturday			
Time Period	Time of day	Employees		Incoming tyres	Outgoing Product	Incoming Residual Waste Vehicle	Outgoing Residual Waste Vehicle
		Cars (inbound)	Cars (outbound)	MRV (7.5 tonne load)	MRV (7.5 tonne load)	HRV	HRV
Day	8:00am to 9:00am	2			1		
	9:00am to 10:00am	2			1		
	10:00am to 11:00am			1			
	11:00am to 12:00pm			1			
	12:00pm to 1:00pm		4				
	Totals	4	4	2	2	0	0
				TOTAL vehicle movements per day inclusive of staff cars			12.00

Figure 20: indicative vehicle operational schedule. Source: Traffic Impact Assessment Plan prepared by SECA Solutions dated September 2024

The timing of the deliveries and the backfilling of product into the empty truck is proposed throughout the day meaning there will only be one truck on site at any time.

Vehicle arrival and departure times are spread across an 11-hour operating day (5 AM - 6 PM) to prevent queuing on Burlington Place or surrounding roads. Only one truck is scheduled to be on-site at any given time, except at the beginning and end of the day, minimising congestion.

The applicant notes should a truck driver be absent, contingency measures are in place for the driver to be replaced from the existing staff pool. This avoids conflicts of trucks on site and ensures all vehicle manoeuvres can occur without constraint.

The site manager will monitor and schedule truck arrival and departure times. The arrival of trucks will be scheduled as required to avoid the risk of queuing. Drivers will be required to use UHF radio or phone ahead to confirm the arrival time, and in doing so ensure no other vehicle is delayed. This will avoid queuing on Burlington Place or the need to hold on local roads.

Transport routes

The major road through the locality is the New England Highway. The New England Highway connects with Racecourse Road via a 4-way dual lane roundabout controlled intersection. Racecourse Road connects with Burlington Place via a simple give way controlled intersection, with Racecourse Road being the priority road. These roads are nominated as B-Double routes and suitable for 4.6m High Vehicles (subject to travel conditions along the New England Highway).

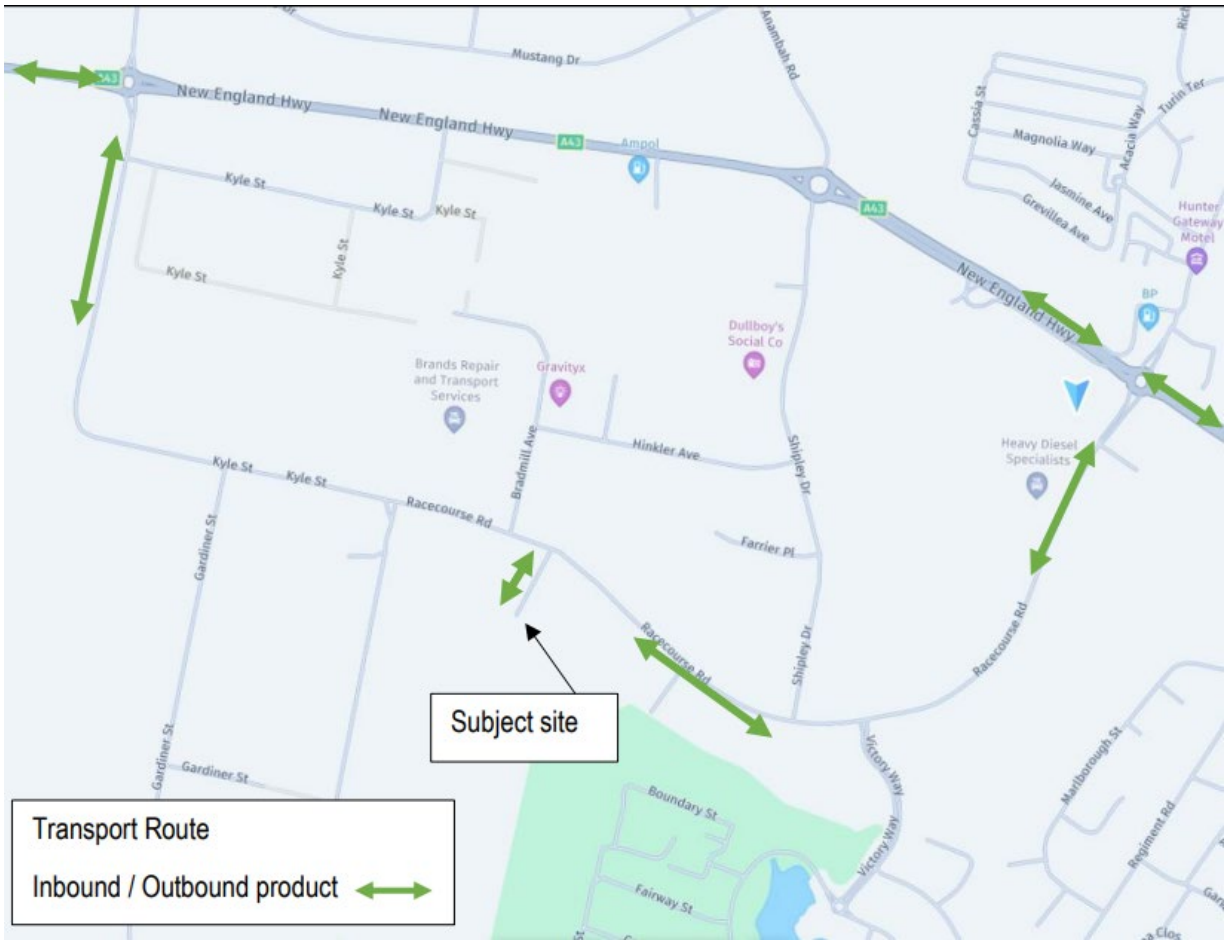


Figure 21: Transport access to/from the site

Sidra traffic modelling was undertaken for the Traffic Impact Assessment which showed negligible impacts to local road networks as a result of the development in operation.

The sight distances have been checked on site and to the right (north) from the existing driveway the sight distance available exceeds 90 metres. The sight lines can be impacted by the temporary parking of vehicles with sight lines generally achievable by a vehicle edging forward. Given the location of the driveway in the turn head vehicles approaching this location are typically travelling below the posted speed limit to either enter a driveway or undertake a U-turn.

For the intersection of Racecourse Road with Burlington Place, the sight lines meet the Austroads requirements of 123 metres desirable (114m minimum) to the right and exceed 150 metres to the left.

With consideration of the above and internal review by Council's Development Engineers, sight lines at the intersection of Burlington Place and Racecourse Road have been reviewed and meet the Austroads requirements.

TfNSW has reviewed the information provided and raises no objection to or requirements for the proposed development and considered there will be no significant impact on the nearby classified (State) road network. Council has reviewed the development and traffic impact assessment and considered there will not be a significant impact on the adjacent local roads (Burlington Place, Racecourse Road and New England Highway) as a result of the proposed operations. There are no

changes proposed to the existing single driveway access to the subject site off Burlington Place.

Construction Traffic

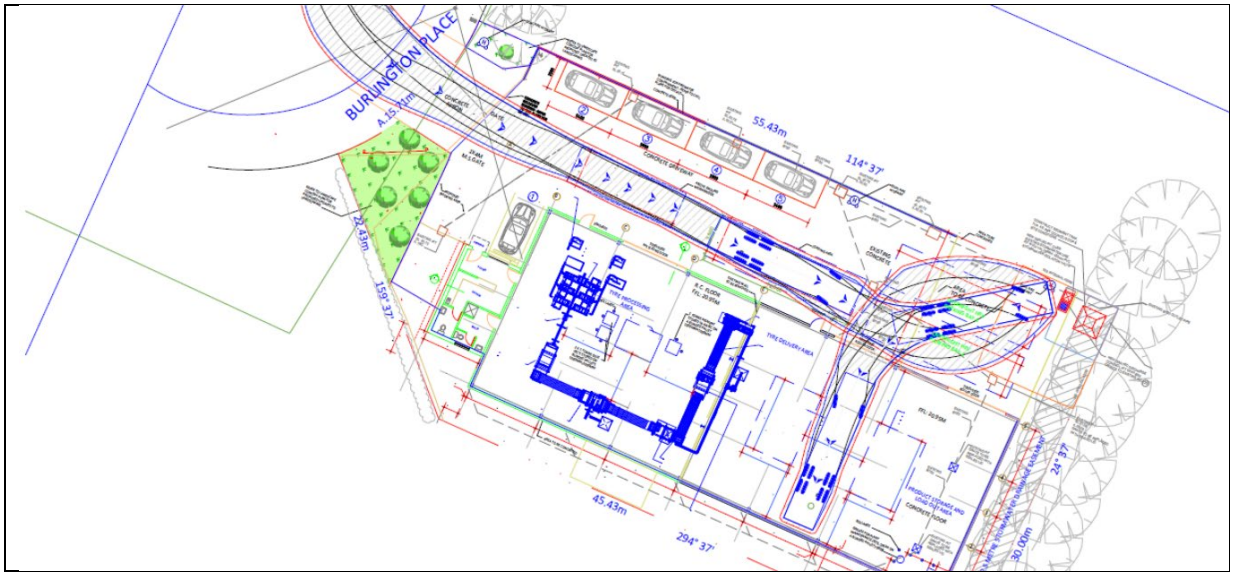
The construction work associated with the project will involve internal modifications to the existing shed along with the installation of the weighbridge. The impact of this are considered minimal and similar to the proposed demands for the operations on site (being 5 staff and four trucks accessing and departing the site per day).

As part of the construction work, worker parking can be accommodated with a mixture on-site and on the local roads with minor impacts. Overall, the short period of construction traffic movements are considered low and within the capacity of the local road network and will have an acceptable short-term impact. Recommended construction related conditions will mitigate the overall impacts associated with construction related activities.

Vehicle Manoeuvring

All vehicles, including Medium Rigid Vehicles (MRVs) for daily operations and occasional Heavy Rigid Vehicles (HRVs) for waste collection, will enter and exit the site in a forward direction from Burlington Place. The site layout allows MRVs to perform loading and unloading activities within the designated areas, such as the loading zone outside the shed's roller doors.

The report includes a swept path analysis to confirm both MRVs (used daily) and HRVs (used less frequently for waste collection) can manoeuvre within the site (demonstrated in Figure 22). The analysis demonstrates the largest of the vehicles (HRVs) can safely circulate through the site and exit in a forward direction.



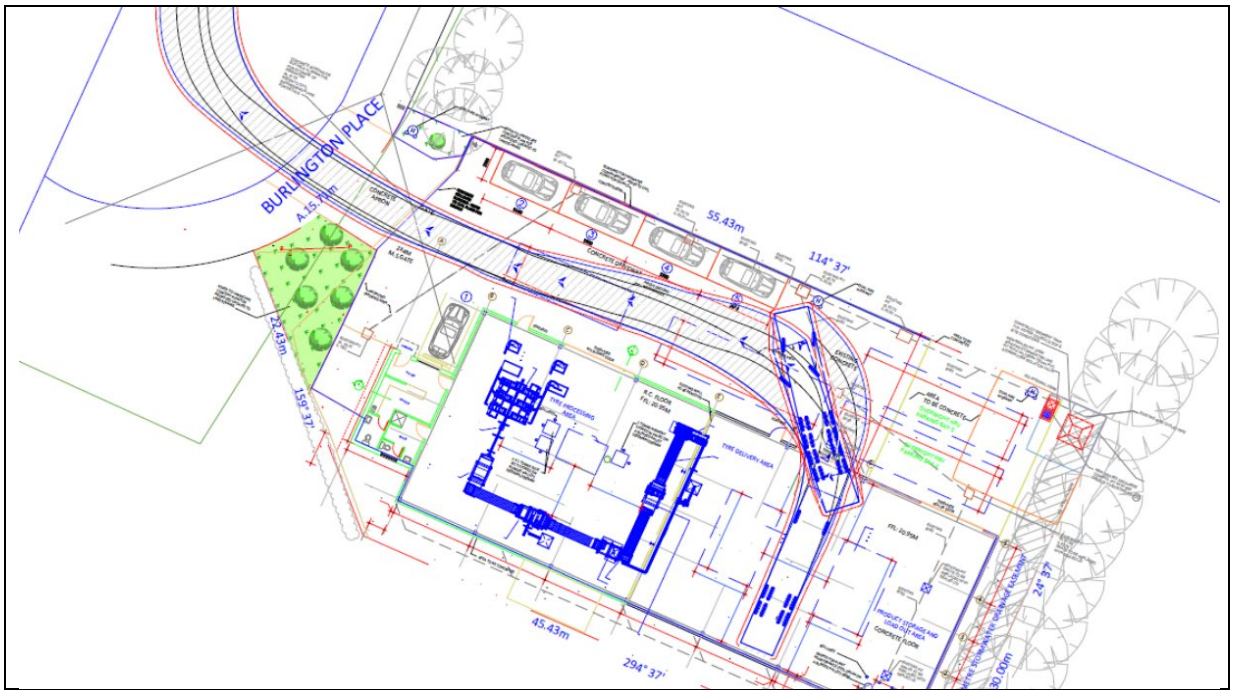


Figure 22: Entry & exit swept paths diagrams – representing a 12.5m HRV

5.4 Fire and incident management

The SEARs included the following requirements:

- An assessment of bushfire risks and asset protection zones (APZ) in accordance with NSW Rural Fire Service guidelines;
- Technical information on the environmental protection equipment to be installed on the premises such as air, water and noise controls, spill clean-up equipment, fire management (including the location of fire hydrants and water flow rates at the hydrants) and containment measures;
- Details of the size and volume of stockpiles and their arrangements to minimise fire spread and facilitate emergency vehicle access; and
- The measures that would be implemented to ensure that the Proposal is consistent with the aims, objectives and guidelines in the NSW Fire and Rescue guideline Fire Safety in Waste Facilities dated 27 February 2020.

Bushfire

A Bushfire Assessment by Newcastle Bushfire Consulting (June 2024) was prepared in support of the development application. The major vegetative threats were determined using Planning for Bushfire Protection (2019). The primary vegetation structures were found to be minimal, with some grassland located over 100m south of the site and punctuated with the storage of industrial equipment. The site is also surrounded by both a 50m and 140m building buffer.

The bushfire attack levels for the Proposal Site have been determined to a LOW for the North, East, South and West of the Site. Asset protection zones have been determined in accordance with Planning for Bush Fire Protection and will be maintained for the life of the development.

Fire and Incident Management

A Fire Impact Management Plan (FIMP) was completed by Riskcon Engineering (June 2024). The scope of this report was to assess the potential hazards at the site to ensure the fire protection systems are commensurate with the identified hazards.

It should be noted early that correspondence with Fire & Rescue NSW (FRNSW) occurred throughout the assessment process which requested a review of the FIMP in accordance with the SEARs. FRNSW advised Council that this agency does not review Fire Safety Studies pre-approval. FRNSW recommended to Council that a review of the FIMP occur post determination. As a result, a recommended condition for a review by FRNSW of the FIMP prior to any Construction Certificate and adoption of any additional mitigation measures into the final construction plans will apply. A follow through condition prior any Occupation Certificate for these elements to have been installed prior to use will be enforced.

Correspondence with Fire & Rescue is provided within the supporting FIMP.

FRNSW has established specific guidelines (*Guidelines for Bulk Storage of Rubber Tyres)* (GBSRT) for the bulk storage of tyres, aiming to facilitate easier control and extinguishing of fires.

The guidelines limits tyre stockpiles to 3.7m, however, the building height does not allow for this to be reached due to the ceiling encroaching on the required separation distance (overall building height at 7.4m). As a result, the stacked height is limited to 3.5 m. The width of the stockpile is 4m and the length is 6m resulting in an area of 24m^2, therefore compliant and below the maximum allowable area specified in the GBSRT of 30m^2.

All storage dimensions will be in compliance with NSW Fire Safety Guideline – *Guidelines for Bulk Storage of Rubber Tyres*. Tyres will be stacked no higher than 3.5m to ensure a 3m roof clearance and crumb rubber will be stored in bulka bags.

All tyre recycling activities will occur inside the shed, including storage of all materials. No tyres or residual materials will be stored outside on the hardstand area. The tyres will be stored whole and consolidated only immediately prior to transfer offsite (refer to Figure 12 on page 14 for storage arrangements).

A hazard identification table has been developed and is presented in Figure 14 on page 25. Those hazards identified to have a potential fire or explosion impact. The combustible liquid storage area stores 200 L of diesel and 205 L of Grease (identified blue in Figure 12). Due to the proximity of the store to the loading zone adjacent to the product storage area, there is a chance for the combustible liquid store to be impacted by a collision with a loading truck. This hazard has can be reduced with the addition of bollards among other mitigation measures which will be addressed later.

The FIMP highlights that the tyre storage shed is an unsprinklered building and has been designed in accordance with FRNSW GBSRT. It was raised during assessment why the building will be unsprinklered.

The applicant notes the GBSRT specifies more specifically in Section 7.1: "Buildings which have a floor area of 2,000m² or more and contain more than 20 tonnes of tyres should have a sprinkler system complying with AS 2118.1."

This statement indicates that a building must meet both criteria having a floor area of 2,000 m² or more and containing more than 20 tonnes of tyres—to require sprinklers compliant with AS 2118.1.

The building assessed has a floor area of less than 650m², and the total site area is 1,655m². The total quantity of tyre waste proposed to be stored onsite at any one time is approximately 85 tonnes. Given that only one of the two criteria specified by the GBSRT is satisfied (i.e., the storage of more than 20 tonnes of tyres), the requirement for sprinklers compliant with AS 2118.1 is not applicable. Therefore, based on the GBSRT requirements, the proposal does not necessitate the need for sprinklers.

Technical analysis of firefighter response timing and review of fire hydrant configuration and locations has been considered in the FIMP. Consideration of fire and contaminated fire water and environmental damage was addressed also with mitigation strategies which will be addressed below.

While local street hydrants are available, the specific fire safety needs of the facility necessitate three onsite dual hydrants. These hydrants are strategically positioned to ensure immediate and sufficient water access during an emergency. This onsite system provides a more reliable and direct water source for fire suppression within the premises, minimising delays and ensuring coverage across all high-risk areas like the tyre storage and processing zones, which have increased fire hazards due to the materials stored and processed.

The onsite hydrants will be designed to work in conjunction with other fire control measures, such as fire extinguishers and containment bunding, to meet the requirements set out in relevant guidelines, ensuring an effective fire response specifically tailored to the facility's layout and fire risk profile.

Although the site layout allows for compliance with GBSRT and the risk of fire is minimal due to the limited presence of ignition sources, the severity and complexities associated with tyre fires justified a conservative approach when evaluating the likelihood of ignition propagation. This incident is carried forward for further assessment to determine the likelihood of fire propagation between stores and the proximity of firefighting equipment to generated radiant heat contours.
The assessment provided throughout the FIMP provides measures that would be implemented to ensure that the proposed development is consistent with the aims, objectives and guidelines in the NSW Fire and Rescue guideline *Fire Safety in Waste Facilities*.

The potential consequences and challenges of extinguishing a tyre fire have been considered. The risks of fire were analysed through the hazard identification process, with the following hazardous scenarios focused on with the report:

- Ignition of diesel or grease, combustible liquid fire;
- Tyre ignition in MRV, tyre fire in whole tyre / product and waste storage area;
- Tyre contamination, tyre fire in whole tyre / product and waste storage area;
- Tyre fire in the tyre delivery area and outgoing storage area;
- Smoke dispersion in the tyre delivery area and outgoing storage area;
- Production line fault, tyre fire in the tyre processing area; and
- Rubber fire, potentially contaminated fire water and environmental damage.

Each identified scenario has been assessed, with identified mitigation measures provided. The incidents identified as having potential impacts off-site were:

- Ignition of diesel or grease, combustible liquid fire;

- Tyre fire in the tyre delivery area and outgoing storage area;
- Heavy smoke dispersion in the tyre delivery area and outgoing storage area; and
- Production line fault, tyre fire in the tyre processing area.

The proposal has been designed to comply with best practice requirements for tyre recycling facilities in accordance with *Fire & Rescue NSW's Fire Safety Guideline – Guideline for Bulk Storage of Rubber Tyres,* as detailed in the supporting FIMP.

Mitigation measures

1. Containment and Bunding: Bunding on-site will retain up to 162 m³ of water in case of firefighting activities, preventing potentially contaminated water from escaping the site. This measure mitigates the environmental impact of firewater runoff.

2. Fire Hydrant Installation: Despite nearby street hydrants, the facility requires three onsite dual hydrants strategically positioned to ensure direct and reliable water access in emergencies. These are located to cover high-risk zones and are designed to avoid interference from radiant heat during a fire (refer to Figure 23).

3. Storage and Stockpile Management: Tyres and crumb rubber will be stored in compliance with NSW Fire and Rescue guidelines, including height restrictions (3.5 m) and spacing to allow for emergency access. Additionally, crumb rubber is stored in bulka bags, which minimize ventilation and reduce the risk of combustion.

4. Ignition Control and Site Security: The site will enforce designated smoking areas, carbon dioxide alarms, manual call points in clearly visible locations, use of a hot work permit system, and installation of CCTV monitoring to prevent unauthorized access and mitigate arson risks.

5. Spill Control for Combustible Liquids: Spill kits are placed near combustible liquid storage, which includes bunded tanks for diesel and grease storage, safeguarded by bollards. Fire extinguishers are stationed within 15 meters of these storage areas.

6. FRNSW Site Familiarization and Windsock Installation: Regular familiarisation with the site is provided for emergency responders, along with the installation of a windsock to monitor wind direction, aiding in safe staging of emergency operations.

These measures collectively can strengthen the site's compliance with the NSW F&R guidelines for waste facilities, mitigate environmental impacts, and support effective emergency response. Council is satisfied that the matters for fire and incident management have been addressed and considered. With recommended conditions for a review of the FIMP by FRNSW the consent authority can be satisfied fire safety measures will be implemented.

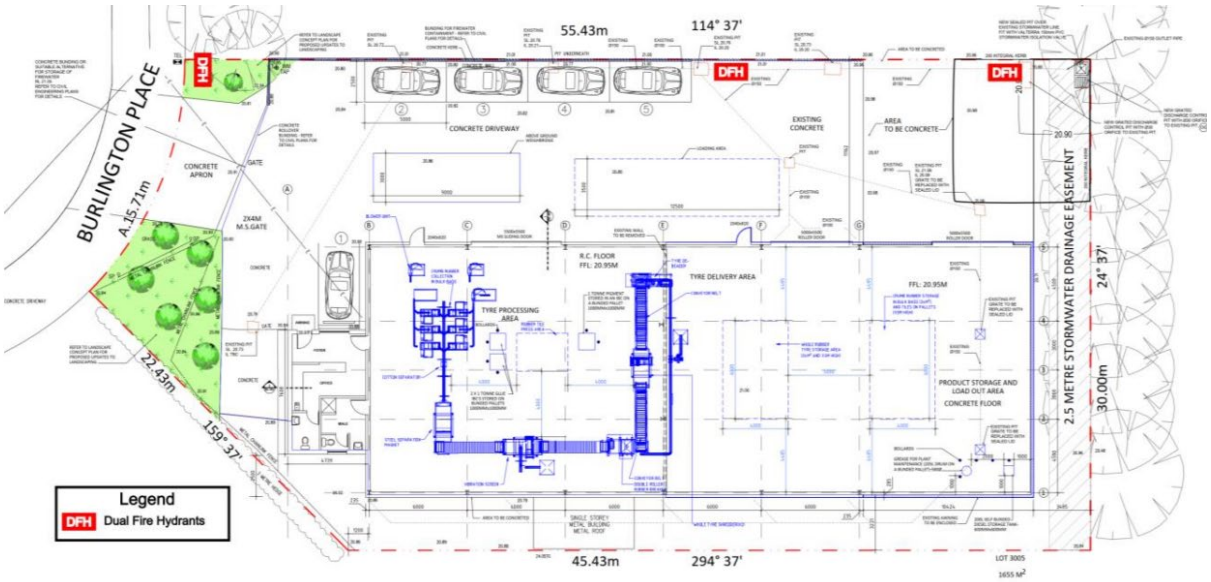


Figure23: Location of recommended on-site fire hydrants

CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report.

It is concluded that the development will provide a resource recovery facility compatible with its land use that can promote ecological sustainable development and new job opportunities. The site can accommodate the development with an acceptable level of impact.

Following a thorough assessment of the relevant planning controls and the key issues identified in this report, it is considered that the application can be supported.

It is considered that the key issues as outlined in Section 5 have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at Attachment A.

6. RECOMMENDATION

That Development Application DA/2024/524 for Waste or Resource Management Facility (Tyre Recycling Facility) at 9 Burlington Place Rutherford be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of consent