

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSTH-136
DA Number	RA21/1002
LGA	Shoalhaven City Council
Proposed Development	Construction of Materials Recycling Facility as Addition to an Existing Waste or Resource Management Facility.
Street Address	Lot 436 DP 808415 (Flatrock Road, Mundamia)
Applicant/Owner	Applicant: PDC Lawyers & Town Planners Owner: Shoalhaven City Council
Date of DA lodgement	7 December 2021
Total number of Submissions Number of Unique Objections	Nil- No submissions received regarding the proposal.
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 6 of the SEPP (Planning Systems) 2021	Schedule 6, Section 3(b) – Council related development over \$5 million The development has a capital investment value (CIV) of more than \$5 million and is for a new recycling facility to be owned and operated by council.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • State Environmental Planning Policy (Planning Systems) 2021 • Shoalhaven Local Environmental Plan 2014 • Shoalhaven Development Control Plan 2014
List all documents submitted with this report for the Panel's consideration	Attachment 1 - Determination Document – Approval subject to conditions Attachment 2 – Plans Attachment 3 – “Clause” 4.6 Statement (Clause 4.3 Building Height) Attachment 4 – EPA General Terms of Approval (issued 14 September 2022).
Section 4.6 requests	N/A
Summary of key submissions	N/A
Report prepared by	Daniel Lidbetter, Senior Environmental Planner (Stantec Australia). Reviewed by Nadine Page, Principal Planner (Stantec Australia)
Report date	8 August 2022

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?

Yes

Legislative sections requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

Section 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?

Yes

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

No

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

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Have draft conditions been provided to the applicant for comment?

Yes

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

Executive Summary

The subject site is located approximately 3km west of the city of Nowra within the existing West Nowra Waste Facility. The site is located in the North-West corner of the site on land legally identified as Lot 436 DP 808415 at Flatrock Road, Mundamia.

The site contains an existing landfill and recycling facility owned and operated by Shoalhaven City Council with a number of approved developments associated with the ongoing operations of the facility. Key features associated with the site or in proximity to the proposal include:

- Vegetation adjacent to the site (running along the western and northern boundaries).
- A creek running adjacent to the site to the west.
- Category 1 and Category 2 bush fire prone land on the proposed MRF site.

The subject Development Application (DA), Development Application No. RA21/1002, seeks approval for construction and operation of a Materials Recycling Facility (MRF) within the existing West Nowra waste and recycling facility.

The land is zoned SP2 Infrastructure under the *Shoalhaven Local Environmental Plan 2014* (SLEP 2014), under which land within the Land Zoning Map including development that is ordinarily incidental or ancillary are permitted with the consent of Council. A request for exceedance of the permitted 11 metre building height pursuant to clause (now section and referred to as such hereafter) 4.6 of SLEP 2014 accompanies the application.

As the development has a capital investment value (CIV) is more than \$5 million, in accordance with section 3(b) of Schedule 6 of SEPP (Planning Systems) 2021, the application constitutes a regional development application, and the Southern Regional Planning Panel is the determining authority for the application.

The development application has been assessed against the following relevant environmental planning instrument and demonstrates compliance with the relevant provisions:

- *Shoalhaven Local Environmental Plan 2014*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Planning Systems) 2021*

The application has been assessed against the following chapters of the Shoalhaven Development Control Plan 2014 (SDCP 2014):

- G1: Site Analysis, Site Design and Building Materials
- G2: Sustainable Stormwater Management and Erosion/Sediment Control
- G4: Tree and Vegetation Management
- G5: Biodiversity Impact Assessment
- G7: Waste Minimisation and Management Controls
- G8: Onsite Sewage Management
- G20: Industrial Development
- G21: Car Parking and Traffic

The development demonstrates general compliance with each chapter of SDCP 2014.

The DA was notified in accordance with the *Environmental Planning and Assessment Regulation 2000* (EP&A Regs) and Council's Community Consultation Policy for Development Applications from 22 December 2021 to 21 January 2022.

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No submissions have been received for the proposal. Comments received from agencies and internal council referrals have been assessed as being either acceptable matters on their merits or matters that are capable of being resolved via conditions.

The site is suitable for the proposed development in its present form, taking into consideration the proposal before Council. Furthermore, it is considered that the proposal is in the public interest.

The proposal is considered worthy of support. This report recommends that the application be approved in accordance with the reasons for approval attached to this report.

1. Detailed Proposal

The proposal includes the construction and operation of a Materials Recycling Facility (MRF) at the existing West Nowra Recycling and Waste Depot. The MRF includes:

- An enclosed building to house the MRF with the following dimensions:
 - o 121 metres length by 68 metres width by (approximately) 12 metres height (note the building measures 10m to the underside of the eave and a maximum of 12.065m at the highest point being the ridge. Refer to plans – Elevations for detail).
 - o A footprint of 7260 square metres.
- An internal footprint of approximately 5000 square metres (equipment and stockpile areas).
- A receival hall and bunker approximately 1980 square metres in size.
- A community education and viewing platform.
- Equipment capable of processing up to 24,000 tonnes per annum of kerbside recycling, commercial, industrial, construction and demolition waste streams.
- A fire protection and control system.

A layout of the MRF has been included in Figure 1 below:

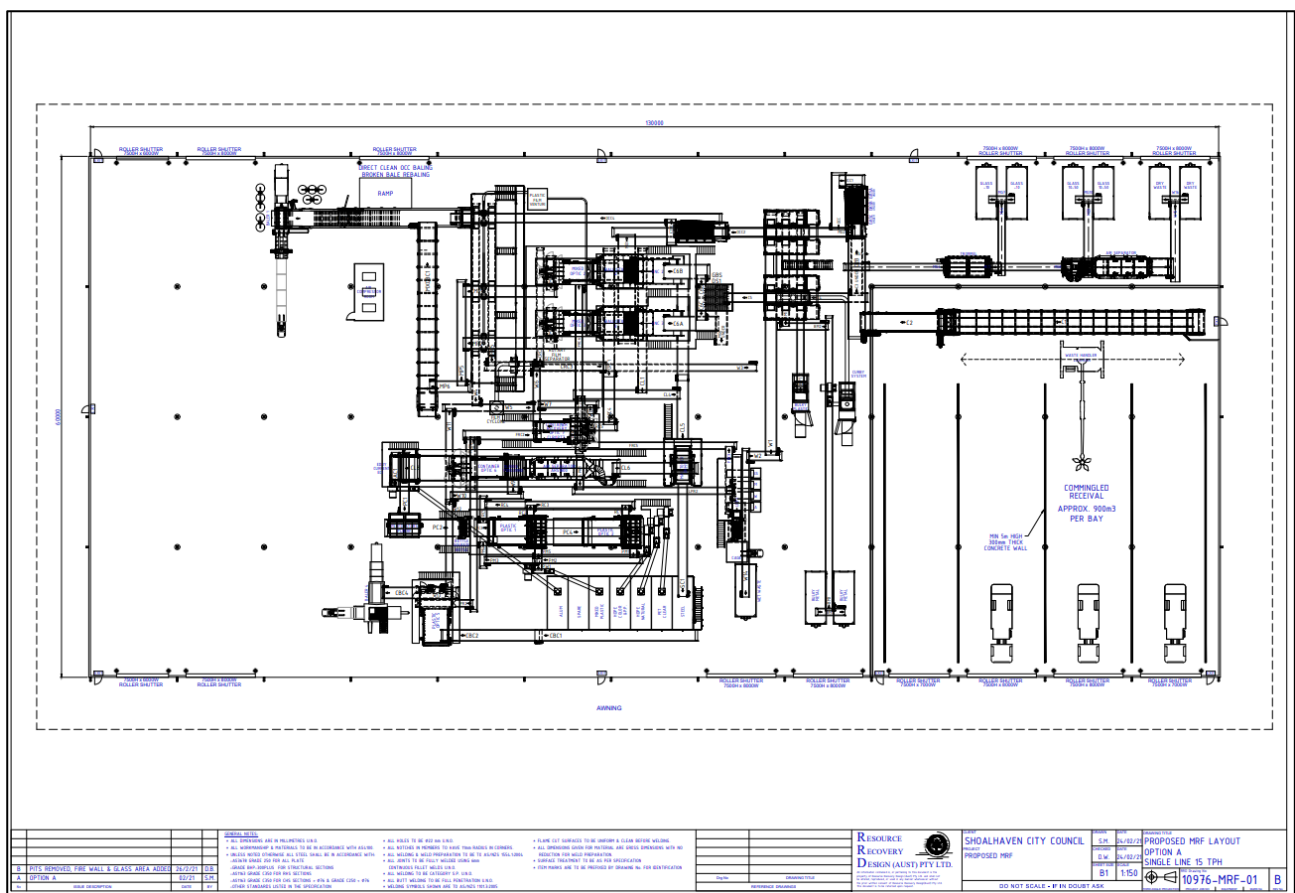


Figure 1: Proposed MRF Layout Option A- Resource Recovery Design (Aust) Pty Ltd (dated 24/02/2021)

The MRF and building are proposed in the north-west corner of the site. This site is already operating as a land fill and waste management facility (owned and operated by Shoalhaven City Council). The proposed MRF will be incorporated into the existing waste management activities onsite which include the existing operating hours (7am-6pm, seven days per week).

The proposal is expected to operate with 17 staff. Operations will be undertaken internally on the existing waste depot facility with no external interface with customers or the general public.

No new waste streams to those already imported to the site (MRF will sort materials into greater purity than current practices allow which will allow sorted materials to be baled, bagged and or bulk hauled to external markets.

2. Limitations of this assessment

It is noted that when assessing this application, Stantec have not considered any activities undertaken to date onsite associated with site preparation works for construction of the MRF. Site preparation works have been undertaken and managed by Shoalhaven City Council separately prior to this assessment being undertaken.

Activities not considered as part of this assessment include removal of vegetation, piling, retaining wall construction and backfill, site levelling, stormwater drainage and placement of road base material.

Documents that were submitted as part of the application that have been excluded from this assessment or where sections of these documents fall outside the scope of this assessment have been summarised in the table below:

Document type	Document Name	Document Status
Plan	D21/526042 Plan - Overall Site - Flatrock Rd MUNDAMIA	Not Assessed
	D21/526024 Plan - Detailed Survey - Flatrock Rd MUNDAMIA	Not Assessed
	D21/526045 Plan - Proposed Layout - Flatrock Rd MUNDAMIA	Assessed
	D22/27181 Plans - Access Road Upgrade - Flatrock Rd MUNDAMIA	Not Assessed
	D21/526023 Plan - Cover - Flatrock Rd MUNDAMIA	Not Assessed
	D21/526026 Plan - Elevation - Sheet 1 - Flatrock Rd MUNDAMIA	Assessed
	D21/526028 Plan - Elevations - Sheet 2 - Flatrock Rd MUNDAMIA	Assessed
	D21/526035 Plan - Finishes & Detail - Flatrock Rd MUNDAMIA	Assessed
	D21/526048 Plan - Roof - Flatrock Rd MUNDAMIA	Assessed
	D21/526060 Plan - Typical Cross Section - Flatrock Rd MUNDAMIA	Assessed
	D22/129966 Plan - Leachate - Flatrock Rd MUNDAMIA	Not Assessed
	D21/526052 Plan - Site - Flatrock Rd MUNDAMIA	Assessed
	D21/526020 Plan - Civil Design - Flatrock Rd MUNDAMIA	Assessed
	D22/27185 Plans - Stormwater Upgrade - Flatrock Rd MUNDAMIA	Assessed
	D22/27168 REVISED Plans - Civil Design - Flatrock Rd MUNDAMIA	Assessed
	D21/526038 Plan - Ground Floor - Flatrock Rd MUNDAMIA	Assessed
	D22/154015 REVISED Plan - Sweep Paths - Flatrock Rd MUNDAMIA	Assessed
	D22/153981 REVISED Plans - Flatrock Rd MUNDAMIA	Assessed
	D22/154033 REVISED Plans - Line marking & Signage - Flatrock Rd MUNDAMIA	Assessed
	D21/526056 Plan - Traffic Flow - Flatrock Rd MUNDAMIA	Assessed
Report	Annual Report – 2017 / 2018 - West Nowra Recycling and Waste Facility, Flatrock Road West Nowra	Information only- not considered as part of this assessment
	Annual Report – 2018 / 2019 - West Nowra Recycling and Waste Facility, Flatrock Road West Nowra	Information only- not considered as part of this assessment
	D22/154063 Report - EPA Annual Report 2019/2020 - Flatrock Rd MUNDAMIA	Information only- not considered as part of this assessment
	Integrated Water Cycle Management Strategy (IWCMS) PROPOSED Shoalhaven Materials Recovery Facility (MRF)	Partially assessed- aspects of the MRF and footprint defined in Plan No. D21/56042 included as part of this assessment.
	D21/526074 Report - Acoustic - Flatrock Rd MUNDAMIA	Assessed
	D21/526082 Report - Cost Estimate - Flatrock Rd MUNDAMIA	Assessed
	D21/526081 Report - Bushfire Assessment - Flatrock Rd MUNDAMIA	Assessed
	D21/526070 Report - Aboriginal Heritage - Flatrock Rd MUNDAMIA	Assessed
	D21/526077 Report - Biodiversity Assessment - Flatrock Rd MUNDAMIA	Assessed
	D21/526067 Plan - Waste Minimisation & Management Plan - Flatrock Rd MUNDAMIA	Assessed
	D21/526094 Report - Statement of Environmental Effects - Flatrock Rd MUNDAMIA	Assessed
	D22/27162 Report - Traffic Impact Statement - Flatrock Rd MUNDAMIA	Assessed

Document type	Document Name	Document Status
	D22/23547 Report – Clause (now section) 4.6 Written Request - Flatrock Rd MUNDAMIA	Assessed
	D22/96450 Report - Flora and Fauna Assessment - Flatrock Rd MUNDAMIA	Assessed
	D22/129970 Report - Contamination - Flatrock Rd MUNDAMIA	Assessed
	D22/154073 Report - MRF Background - Flatrock Rd MUNDAMIA	Assessed
	D22/129962 Report - Air - Flatrock Rd MUNDAMIA	Assessed
	D22/223116 REVISED Report - Bushfire Assessment - Flatrock rd MUNDAMIA	Assessed
	D22/299805 REVISED Report - Noise - Flatrock Rd MUNDAMIA	Assessed
	D22/129962 Report - Air - Flatrock Rd MUNDAMIA	Assessed
	D22/223116 REVISED Report - Bushfire Assessment - Flatrock rd MUNDAMIA	Assessed

3. Subject Site and Surrounds

The subject site:

- Is zoned as SP2 Infrastructure (waste or resource management facility) with the adjoining land zoned C3 Environmental Management to the south.
- Is identified as Category 1 and Category 2 bush fire prone land.
- Is identified Bionet Species Sightings Live Layer.
- Is identified as a Classified Fire Trail.
- Is identified as a Plant Community Type (PCT).
- Is identified as a Scenic Protection Area:
 - Object ID: 537001 PCT ID 3654,
 - Object ID: 536963 PCT ID 3654.
- Is identified as Class 5 (Acid Sulphate Soils).

Activities already undertaken within the same lot and DP as the subject site include the West Nowra Recycling and Waste Depot.

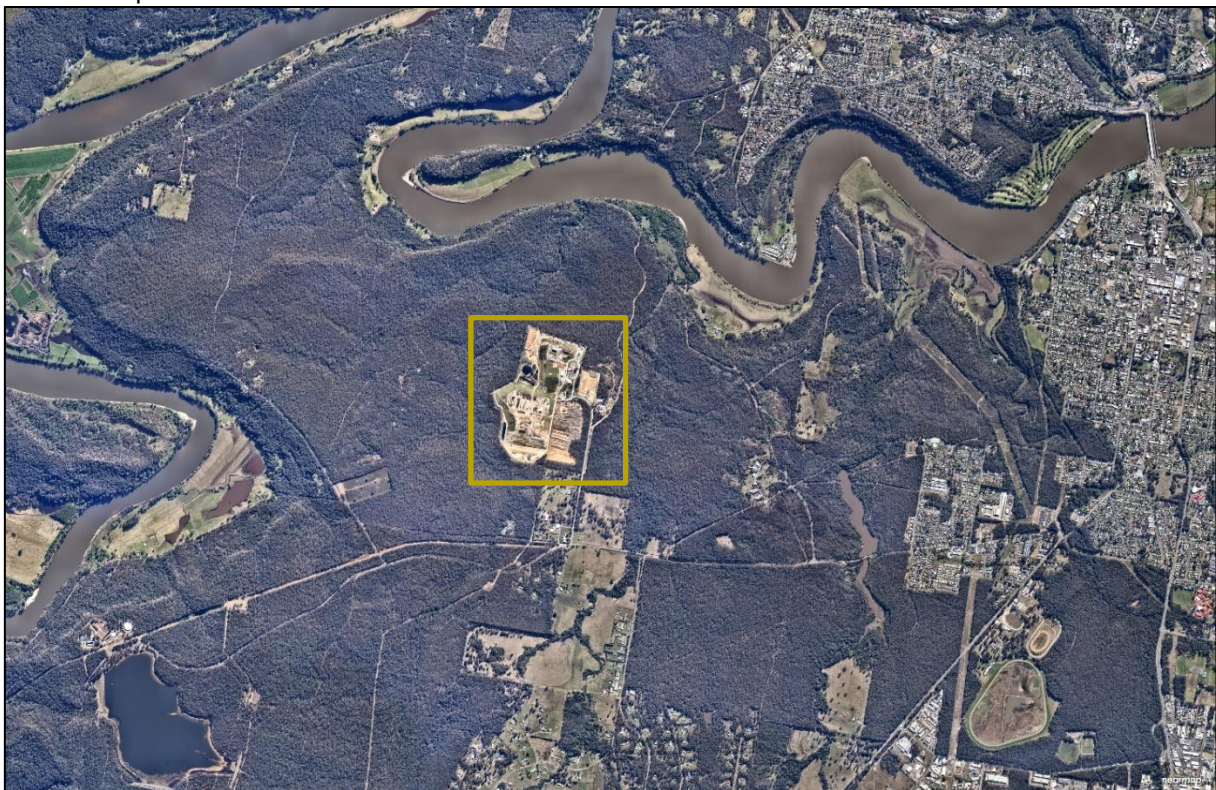


Figure 2: Site Locality (Nearmap 2022).



Figure 3: Site location and assessment area (Nearmap Dec 2021).

4. Background

Post-Lodgement

The application that forms part of this assessment was lodged on 7 December 2021. The description of the application submitted by the proponent included:

The proposed development is a best-practice Materials Recycling Facility intended to process comingled recycling from Council's kerbside recycling collection, commercial and industrial and construction and demolition waste streams. A council owned and operated MRF will provide greater flexibility in adapting to changing market conditions whilst providing employment opportunities and increasing landfill diversion rates.

The property description included in the application is Lot 436 DP 808415 (known as Flatrock Road, West Nowra or Mundamia). It is noted that the Statement of Environmental Effects (SEE) and several documents submitted as part of the proposal have used the suburb location as either West Nowra or Mundamia. It is confirmed that these assessments, plans and reports are consistent in the location described (Lot and DP). For consistency, the site location is described in the suburb of Mundamia from this point forward.

It is noted that as Shoalhaven City Council (SCC) being the owner and operator of the land and development subject to this application, the application was submitted by PDC Lawyers and Town Planners (PDC) on Council's behalf.

The Southern Regional Planning Panel (SRPP) was briefed on the proposal by SCC (the applicant) on 9 March 2022. The brief focused on the following aspects of the proposal:

- Proposed operations of the facility.

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- Existing operations.
- Assessment pathway.
- Concurrence and referrals.
- Other matters.
- Timeframes and next steps.

This assessment has considered all of the items addressed in the SRPP memo and subsequent meeting minutes and addressed these items throughout this report.

Internal and external referrals were raised by SCC officers resulting in the following Requests for Information (RFI's) being submitted to PDC to address:

Transmittal	Document Reference	Date	Summary	Status
RFI sent to the proponent	D22/27176 Letter - Works Commenced - Flatrock Rd MUNDAMIA	23/12/21	Request for Information regarding: Request for Information and Current Works Program at West Nowra Recycling and Waste Facility.	Closed
RFI Response	D22/2807	5/01/22	Summary of the works program for the MRF project including works already undertaken to date external to this assessment.	Closed
RFI sent to the proponent	D21/530071 Additional Information Request - RA21-1002	9/12/21	Request for Information regarding: Clause (now section) 4.6 written request, given the building height is proposed at approximately 12m, which exceeds the maximum height of building limitation of 11m.	Closed
RFI Response	P20-143 Clause 4.6 Variation Request	01/22	Clause (now section) 4.6 written request to permit the height of the MRF building greater than the permitted height on the site. Proposed height of 12 metres (1 metre higher than permitted).	Closed
RFI sent to the proponent	D21/553773 Additional Information Request - PAN-164756	23/12/21	Request for Information regarding: <ol style="list-style-type: none"> 1. Matters outlined in request by Transport for NSW (D21/553729, accessible via Council's DA Tracking system). 2. Revised comments regarding development engineer comments 3. Revised biodiversity assessment report that provides map of extent of vegetation 4. Written clarification and revised plans in regard to water use for proposed building 	Closed
RFI Response	Response to councils' request for information (dated 19 January 2022)	19/01/22	<ol style="list-style-type: none"> 1. Matters addressed in the TfNSW RFI by Talis Consultants 2. Revised concept plans to address SCC Development Engineers referral comments 3. Update on the status of a BDAR 4. Written clarification and revised plans regarding water (copy of the correspondence attached). 	Closed
RFI sent to the proponent	D22/29102 Additional Information Request - PAN-164756	25/01/22	Request for Information regarding: <ol style="list-style-type: none"> 1. Matters outlined in request by NSW EPA (D22/27228, accessible via Council's DA Tracking system). 2. Revised owners' consent 	Closed

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Transmittal	Document Reference	Date	Summary	Status
RFI Response	Response to councils' request for information (dated 1 February 2022)	1/02/22	<ol style="list-style-type: none"> 1. EPA matters addressed (considered separate to this assessment and not considered as part of this assessment). 2. Owners consent being requested from Councils Senior Property Officer. 	Closed
RFI sent to the proponent	D22/81197 Additional Information Request - PAN-164756	25/02/22	<p>Request for Information regarding:</p> <ol style="list-style-type: none"> 1. Matters outlined in the request by NSW Environment Protection Authority (D22/76538, accessible via Council's DA Tracking system). 	Closed
RFI Response	Response to councils' request for information (dated 25 February 2022)	29/03/22	<ol style="list-style-type: none"> 1. Letter attached from Koikas Acoustics with amendments. 2. Letter attached from Talis consultants addressing matters associated with air raised by the EPA. 3. Further information provided on the water management of potential leachate within the MRF and adequacy of the existing site system to treat and retain volumes developed by the MRF. 	Closed
RFI sent to the proponent	D22/101586 Additional Information Request - PAN-164756	11/03/22	<p>Request for Information regarding:</p> <ol style="list-style-type: none"> 1. Clarification is required on what infrastructure and works have already been constructed and what is left to complete 2. Revised concept engineering plans addressing revised plans from MI engineers and proposed MRF intersection 3. Address Part 3, Schedule 3 of EP&A Regulation 2021 for matters associated with the proposal being Designated Development. 	Closed
RFI Response	Response to council's request for information (dated 11 April 2022)	11/04/22	<ol style="list-style-type: none"> 1. Clarification provided to SCC on activities undertaken to date and further works to be undertaken outside of this development (not considered as part of this assessment) 2. Further detail provided on the turning paths between heavy vehicles and passenger vehicles onsite. Components of the drawings which do not form part of the MRF footprint are not considered as part of this application. 3. Additional information provided to address the proposal being "ancillary development" which does not trigger Part 3, Schedule 3- Designated Development of the EP&A Regulations. 	Closed
RFI sent to the proponent	D22/154388 Additional Information Request - PAN-164756	12/04/22	<p>Request for Information regarding:</p> <ol style="list-style-type: none"> 1. Revised bushfire assessment report 2. Revised plans in relation to stormwater 3. Written clarification on clearing of native vegetation. 	Closed
RFI Response	Response to council's request for information (dated 12 April 2022)	27/05/22	<p>Clarification provided on the stormwater discharge scope (not included as part of this application) and submission of the revised Bushfire Assessment and written clarification on vegetation clearing (not included as part of this assessment).</p>	Closed

Transmittal	Document Reference	Date	Summary	Status
RFI sent to the proponent	D22/245963 Additional Information Request - PAN-164756	14/06/22	Request for Information regarding: 1. Copy of amended acoustic report (Version 2) as referenced in advice by Koikas Acoustics Pty Ltd (Project No. 4482, dated 8 March 2022).	Closed
RFI Response	Acoustical Report: Proposed Materials Recycling Facility (Version 3- Ref 4482R20210127	25/08/22	Version 3 of the Koikas Acoustics report updated to address the comments provided in the RFI (D22/245963 Additional Information Request - PAN-164756).	Closed

5. Consultation and Referrals

Internal Referral	Recommendation Summary	Comment
Building Surveyor	Comments received include: <i>Council has not been nominated for the CC or as the PC. In this regard, NO National Construction Code assessment has been completed for the proposal. The proposal may be subject to performance base solutions provisions of the NCC.</i>	Conditions to be imposed as per the recommended conditions.
Development Engineer	Comments received and additional information requested on 10 December 2021, 9 February 2022 & 13 April 2022. Concerns raised regarding: <ul style="list-style-type: none">- Earthworks (conditions to be applied)- Stormwater drainage (conditions to be applied)- Roads/Access (conditions to be applied)	Conditions to be imposed as per the recommended conditions.
Environmental Health Officer	Concerns raised regarding contaminated land (see comment below). <i>Councils records indicate that this site may have been a Waste Depot site and therefore potentially contaminated land which may have implications for development, the site shall be further assessed prior to any works on the site, in addition any indication of Asbestos at the proposed site location shall have an Asbestos Survey Report and a Hazardous Materials Survey as per the conditions below. An unexpected finds and clearance certificates shall also be provided.</i>	Conditions to be imposed as per the recommended conditions.
Environmental Assessment Officer	Comments received and additional information requested on 8 December 2021. Concerns raised regarding: <ul style="list-style-type: none">- Bushfire Assessment (conditions to be applied)- Stormwater run-off (conditions to be applied)- Flora & Fauna (conditions to be applied).	Conditions to be imposed as per the recommended conditions.
Shoalhaven Water: Development Unit	Concerns raised regarding stormwater management (see comment below).	Conditions to be imposed as per the recommended conditions.

Internal Referral	Recommendation Summary	Comment
	<p><i>Shoalwater cannot assess this development as there is no commentary or plans showing water use in the proposed Material Recovery Facility.</i></p> <p><i>The SoEE states up to 17 people will be employed at the facility therefore amenities and water for cleaning the facility would be required.</i></p> <p><i>There is a 100mm water main terminating at the entrance to the waste facility in Flatrock Rd that services the site but it is not clear whether with the proposed Material Recovery Facility this will be sufficient.</i></p>	
City Services	<p>Concerns raised regarding traffic (see comment below).</p> <p><i>The proposed development overall is reducing the number of heavy vehicles used operationally but is increasing the light vehicle loading by 25 vehicle movements. Relative to the existing traffic flow this volume is considered negligible. Conditions have been provided relating to restricted heavy vehicle movements.</i></p>	Conditions to be imposed as per the recommended conditions.

External Agency	Recommendation	Comment
Transport for NSW	<p>Comment received from TfNSW below:</p> <p><i>TfNSW notes the following: - The proposed works include the construction of a Materials Recycling Facility (MRF) in a portion of the existing waste management facility, as shown in Attachment 1. - Access to the site will be from Flatrock Road, with light and heavy vehicles travelling to the site via Yalwal Road, Albatross Road and Kalandar Street. These are all local/regional roads managed by Council. - The DA has been assessed under Section 104 of State Environmental Planning Policy (Infrastructure) 2007.</i></p>	<p>TfNSW does not believe the proposed development will have a significant impact on the state road network, and entrusts Council to manage the traffic and road safety implications associated with the DA.</p> <p>No conditions proposed or recommended.</p>
Environmental Protection Authority (EPA)	<p>Comments received and additional information requested on 8 February 2022.</p> <p>Comments received and additional information requested on 27 May 2022.</p> <p>Comments received and additional information requested on 9 August 2022.</p>	Conditions to be imposed in accordance with the General Terms of Approval provided by the EPA (dated 14 September 2022).
Department of Planning (OEH)	No response	No response
Local Aboriginal Land Council	No response	No response

6. Other Approvals

Integrated Approvals and Concurrences		
Agency	Recommendation	Comment
EPA	General Terms of Approval issued (dated 04/10/2018).	Conditions to be imposed as per the recommended conditions.

7. Statutory Considerations

This report assesses the proposed development/use against relevant State, Regional and Local Environmental Planning Instruments and policies in accordance with section 4.15 (1) of the Environmental Planning and Assessment Act 1979 (EP&A Act). The following planning instruments and controls apply to the proposed development:

- Shoalhaven Local Environmental Plan 2014
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Planning Systems) 2021

Additional information on the proposal's compliance with the above planning instruments is detailed below in section 7 (Statement of Compliance/Assessment) of this report.

The assessment of this proposal has also considered whether or not the proposal meets the criteria for Designated Development. In the instance of this proposal, it is considered that the MRF meets the definition of an "Ancillary Facility" as defined in the Statement of Environmental Effects prepared for this proposal.

The consideration of this development as an ancillary facility considered Schedule 3, Part 3, section 48(2) and has been included in the table below:

Section	Sub-section	Comment
(a) the impact of the existing development, including the following—	(i) previous environmental management performance, including compliance with the conditions of any consents, licences, leases or authorisations by a public authority and compliance with any relevant codes of practice,	A review of the performance of the existing waste facility and landfill documents provided as part of this application show that the site operates under an Environmental Protection License. Annual Reports to the EPA provided as part of the application show compliance with this license for general environmental requirements associated with the operation of the facility.
	(ii) rehabilitation or restoration of any disturbed land,	No land is required to be restored or disturbed as part of this application.
	(iii) the number and nature of all past changes and their cumulative effects,	The proposal will provide an automated sorting facility to process the same waste materials already received at the site. The MRF will reduce the volume of waste sent to landfill which will reduce increase the longevity of the site and increase reuse and recycling of materials.

(b) the likely impact of the proposed alterations or additions, including the following—	(i) the scale, character or nature of the proposal in relation to the development,	The scale and character is consistent with the existing structures operating on the site.
	(ii) the existing vegetation, air, noise and water quality, scenic character and special features of the land on which the development is, or will be, carried out and the surrounding locality,	The proposal is not expected to adversely impact any of the environmental considerations of this section..
	(iii) the degree to which the potential environmental impacts can be predicted with adequate certainty,	Specialist assessments have been undertaken for Air, Noise, Contamination, Biodiversity and Traffic as part of this assessment.
	(iv) the capacity of the receiving environment to accommodate changes in environmental impacts,	The site is an existing land fill and waste management facility. The proposal is designed to reduce manual handling and process waste for recycling and reuse opportunities and reduce impacts on the environment through the reduction of materials sent to land fill.
(c) proposals to mitigate the environmental impacts and manage residual risk,		Mitigation measures have been incorporated through the specialist assessments and incorporated into the conditions of consent. Updates to the existing site CEMP have been conditioned as part of the conditions of approval to ensure ongoing controls are in place during construction and operation.
(d) proposals to facilitate compliance with relevant standards, codes of practice or guidelines published by the Department or other public authorities.		The proposal must be managed in accordance with the General Terms of Approval from the EPA and the updated EPL that will require variation to incorporate this proposal.

8. Statement of Compliance/Assessment

The following provides an assessment of the submitted application against the matters for consideration under section 4.15 of the EP&A Act.

(a) Any planning instrument, draft instrument, DCP and regulations that apply to the land

i) Environmental Planning and Assessment Act 1979

Section 1.7 Biodiversity

The EP&A Act is subject to the provisions of *Section 1.7 Application of Part 7 of the Biodiversity Conservation Act 2016* (Biodiversity Assessments and Approvals under the Planning Act), that a Biodiversity Development Assessment Report (BDAR) should be undertaken to accompany a development application. A Biodiversity Assessment has been prepared for the Project by Peter Dalmazzo Environmental Consultant.

No vegetation clearing will be required as part of the works proposed under this assessment. Based on the activities proposed and the test of significance, it is considered that the proposal is not likely to affect threatened species or require biodiversity offsets. As such, a Biodiversity Development Assessment Report (BDAR) has not been prepared for this proposal.

Section 4.14 Consultation and Development Consent- Certain types of bushfire prone land

Section 4.14 of the EP&A Act manages development proposed within bushfire prone land in the following manner:

4.14 Consultation and development consent—certain bush fire prone land

(1) Development consent cannot be granted for the carrying out of development for any purpose (other than a subdivision of land that could lawfully be used for residential or rural residential purposes or development for a special fire protection purpose) on bush fire prone land (being land for the time being recorded as bush fire prone land on a relevant map certified under section 10.3(2)) unless the consent authority—

(a) is satisfied that the development conforms to the specifications and requirements of the version (as prescribed by the regulations) of the document entitled *Planning for Bush Fire Protection* prepared by the NSW Rural Fire Service in co-operation with the Department (or, if another document is prescribed by the regulations for the purposes of this paragraph, that document) that are relevant to the development (**the relevant specifications and requirements**), or

(b) has been provided with a certificate by a person who is recognised by the NSW Rural Fire Service as a qualified consultant in bush fire risk assessment stating that the development conforms to the relevant specifications and requirements.

(1A) If the consent authority is satisfied that the development does not conform to the relevant specifications and requirements, the consent authority may, despite subsection (1), grant consent to the carrying out of the development but only if it has consulted with the Commissioner of the NSW Rural Fire Service concerning measures to be taken with respect to the development to protect persons, property and the environment from danger that may arise from a bush fire.

A bushfire assessment report has been undertaken as part of the application addressing the risks associated with the MRF location within a bushfire prone location. The assessment report has been prepared considering section 4.14(1)(a) above. The SCC Environmental Assessment Officer reviewed Bushfire Assessment D21/56081 and the revised assessment prepared by the applicant. The Assessment Officer confirmed that no vegetation clearing was required as part of the development to develop an Asset Protection Zone.

Section 4.46 – Integrated Development

The subject development is considered integrated development as separate approvals are required to undertake the subject development as outlined below.

Act	Provision	Approval	Determination details
<i>Protection of Environment (Operations) Act 1997</i>	Schedule 1 (34)	Environmental Protection License for the operation of a resource recovery facility.	<p>The site Environmental Protection License will require variation to include the operation of the new MRF site.</p> <p>The General Terms of Approval provided by the EPA (dated 14 September 2022) will be included as part of the determination document and has been attached as Attachment Four (4) to this report.</p>

Division 4.8 Integrated Development

Development is considered Integrated Development (not being State Significant or Complying Development) if it requires one or more of the following approvals to proceed described in section 4.6 of the EP&A Act.

Approvals relevant to the proposal include an Environmental Protection License (EPL) under the *Protection of Environment (operations) Act 1997*. The proposal has been assessed by the EPA with General Terms of Approval granted on 14 September 2022.

Section 7.11 – Developer Contributions: Shoalhaven Contribution Plan 2019

The proposed development is considered to increase the demand for community facilities in accordance with the Shoalhaven Contributions Plan 2019 (the Plan). The development is most aptly characterised as an Industrial development for the purpose of calculating contributions under the Plan.

The Industrial component comprises the gross floor area of the building and the area of proposed car parking and driveway access at approximately 14,919sqm.

Contributions are to be subject to a recommended condition of consent and payment required prior to the issue of a Construction Certificate (should the application be determined by approval).

It is noted that there is no exemption under section 2.5 of the Plan. It is the opinion of Council that this development will increase the demand for the categories of community infrastructure addressed by this Plan (i.e. Fire).

Non Residential

Note: enter area in m2 and calculator will convert area to ETs.

	Existing	Proposed
Retail (Gross Floor Area m2)	0	0
Commercial Office (Gross Floor Area m2)	0	0
Hotel / Restaurant(Gross Floor Area m2)	0	0
Bulky Goods (Gross Floor Area m2)	0	0
Industrial (Gross m2, include parking/landscape)	0	14919
Total ET		74.6
Management Project ETs		74.6

Project	Description	Rate	Qty	Total	GST	GST Incl
CWFIRE2001	Citywide Fire & Emergency services	\$145.50	74.6	\$10,854.30	\$0.00	\$10,854.30
CWFIRE2002	Shoalhaven Fire Control Centre	\$212.86	74.6	\$15,879.36	\$0.00	\$15,879.36
CWMGMT3001	Contributions Management & Administration	\$605.06	74.6	\$2,673.37	\$0.00	\$2,673.37

Sub Total: \$29,407.03
 GST Total: \$0.00
 Estimate Total: \$29,407.03

ii) Environmental planning instrument

State Environmental Planning Policy- Planning Systems (SEPP-PS)

The SEPP PS (Chapter 2- State and regional development) contains provisions for the development of regionally significant development. Schedule 6, section 3 identifies the proposal as Regionally significant development as it meets the following criteria:

3 Council related development over \$5 million

Development that has a capital investment value of more than \$5 million if—

- (a) a council for the area in which the development is to be carried out is the applicant for development consent, or*
- (b) the council is the owner of any land on which the development is to be carried out, or*
- (c) the development is to be carried out by the council, or*
- (d) the council is a party to any agreement or arrangement relating to the development (other than any agreement or arrangement entered into under the Act or for the purposes of the payment of contributions by a person other than the council).*

In accordance with Schedule 6 of the SEPP PS, as the proposal and the site is council owned, the proposal is Regionally significant development and will be determined by the Southern Regional Planning Panel.

Note: As a result of the SEPPs being repealed and certain provisions transferred into the new consolidated SEPPs and 'chapters', the clauses have been renumbered and are now called 'sections'. Refer to the following: [Factsheet](#).

State Environmental Planning Policy- Transport & Infrastructure (SEPP-TI)

In accordance with Chapter 2, section 2.153 of the SEPP TI, a Waste management facility is permissible with consent. The proposal does not meet the description of exempt development detailed in section 2.154 and is required to be assessed as Development under Part 4 of the EP&A Act (this assessment).

SEPP (Resilience and Hazards) 2021

The requirements of this SEPP apply to the subject site. In accordance with section 4.6(1), the consent authority must consider if 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. If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose. The following table outlines the assessment of these requirements:

Question	Yes		No	
1. Is the proposal for residential subdivision or a listed purpose (the list provided in Table 1 of the contaminated land assessment guidelines)?	X	Proceed to Question 3		Proceed to Question 2
2. Does the proposal result in a change of use (that is the establishment of a new use)?		Proceed to Question 3	X	Assessment under SEPP and DCP not required.
3. Does the application proposed a new: <ul style="list-style-type: none"> ▪ Child care facility ▪ Educational use ▪ Recreational use ▪ Health care use ▪ Place of public worship ▪ Residential use in a commercial or industrial zone 		Proceed to Question 5	X	Proceed to Question 4
4. Review the property file and conduct a site inspection of the site and surrounding lands. Is there any evidence that the land has been used for a listed purpose?	X	Proceed to Question 5		Proposal satisfactory under SEPP and DCP.

Question	Yes		No	
5. Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater?	X	Request contaminated site assessment		Proposal satisfactory under SEPP and DCP.

The following is also relevant to consideration of the SEPP provisions:

A Preliminary Site Investigation (PSI) was undertaken by ENRS Consultants (March 2022) that accompanied the application which prepared a Conceptual Site Model, considered the history of the site and surrounding land uses.

The PSI identified that the site is suitable for the proposed development (with the use of an unexpected finds protocol).

The land was not identified as contaminated, and recommendations for works were proposed to ensure that clean materials would be used to fill in the pad (not part of the scope) and that the unexpected finds protocol be implemented should any olfactory or visual contamination be suspected. The PSI recommended that the scope of works should use VENM or materials that meet a resource recovery order for the infill and flattening of the site. (Note: These works are outside of the scope of Council's assessment, earthworks are not proposed as part of this application).

The site is a land fill (identified in Table 1 of the *Contaminated Land Planning Guidelines*). The area where the proposed MRF is located does not appear to have operated as a land fill however:

- The whole Lot/DP for the site is a landfill.
- An historic landfill is directly east and south of the MRF.
- The proposal is a waste management facility (also identified in Table 1).

Assessment:

The site was inspected on 13 July 2022, with there being no evidence of obvious contamination on the surface. However, it is apparent that there is potential for contamination present onsite with the overarching use being a council landfill.

Council's Environmental Health Officer has reviewed the submitted Statement of Environmental Effects in relation to assessment for contaminated land. This review identified that the potential for subsurface contamination to be present at the site. As such, given the unknown presence and potential of contamination on the site, an onsite assessment of contamination will be required prior to any works being undertaken (should development consent be granted).

It is noted that the proposal will not alter the activities already approved and being undertaken on the site. The National Environmental Protection Measures (NEPM) criteria as a Commercial/Industrial site will continue under the same criteria should the development be constructed.

Given that the proposal is consistent with the current activities on the land and taking the Council's Environmental Health Officer, it is recommended that a site investigation be undertaken prior to works commencing (given the proximity to historic and current landfill operations and the unknown ground conditions within the assessment footprint). An 'unexpected finds protocol' condition is also recommended to be imposed.

Accordingly, no objections were raised subject to the Environmental Health Officer's recommended conditions of consent as above with amendments to reflect updated standard conditions being imposed with any consent granted to ensure compliance with the Hazards & Resilience SEPP.

Shoalhaven Local Environment Plan 2014 – (SLEP)

The subject site is located within the SP2 Infrastructure Zone. The objectives of this zone as well as the exempt, permissible and prohibited development listed in this zone include:

1 Objectives of zone

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.
- To provide for key transport corridors.

2 Permitted without consent

Nil

3 Permitted with consent

Aquaculture; Environmental protection works; Flood mitigation works; Roads; The purpose shown on the [Land Zoning Map](#), including any development that is ordinarily incidental or ancillary to development for that purpose

4 Prohibited

Any development not specified in item 2 or 3

Characterisation and Permissibility

The proposal is best characterised as *resource recovery facility* within an existing waste or resource management facility under the SLEP 2014. The proposal is permitted within the SP2- Infrastructure zone with the consent of Council.

SP2 Zone objectives

Objective	Comment
<i>To provide for infrastructure and related uses.</i>	The proposal is providing infrastructure to support the existing land use and will aid the existing activities onsite in sorting and managing multiple waste streams.
<i>To prevent development that is not compatible with or that may detract from the provision of infrastructure.</i>	The proposal does not detract from the provision of infrastructure on the site. The proposal will work within the existing activities onsite.

SLEP 2014 Sections

Sections	Comments	Complies/Consistent
Part 4 Principal development standards		
4.3 Heights of buildings	A section 4.6 variation request has been provided by the applicant for an extension of height by 1 metre (12.065 metre building height in total). (Refer to plans (elevations) for detail.) The variation is consistent with the buildings located on the existing waste facility and there is no impact to adjacent neighbours views, bulk character or scale of the building.	No
4.6 Exception to development standards	A section 4.6 variation request has been provided by the applicant (for non-compliance with section 4.3 Heights of Buildings) that addresses the provisions of this section. Refer to applicant's statement and assessment/review at Attachment 3.	Yes
Part 7 Additional local provision		
7.1 Acid sulfate soils	The subject site is identified as Class 5 land and the works proposed to facilitate the development are not likely to lower the water table. Accordingly, an acid sulphate soils management plan not required.	N/A
7.5 Terrestrial biodiversity	A small area of land in the south-east corner of the subject site is mapped on the terrestrial biodiversity map. It should be recognised however that the proposed MRF is located in the	Yes

	<p>western portion of the lot. No new uses or development is proposed over the land identified on the Terrestrial Biodiversity Map.</p> <p>This section only applies on mapped land and no mapped land is involved in the proposed development. Regardless, the proposed development is not considered likely to affect the significance or value of the mapped land in any way.</p> <p>Following consideration of the provisions of subsection (3), the proposal is unlikely to have any adverse impact, subject to recommended conditions of consent.</p> <p>Accordingly, the proposal is designed, sited and will be managed to avoid any significant adverse environmental impact.</p>	
7.6 Riparian land and watercourses	<p>The subject site is not identified as “Riparian Land”.</p> <p>The development is to be sited and will be managed to avoid any significant adverse environmental impact on this watercourse.</p>	Yes
7.11 Essential services	<p>Services for power, water and communications are located onsite and are considered adequate by Shoalhaven City Council to meet the needs to the MRF.</p>	TBC

iii) Draft Environmental Planning Instrument

None relevant.

iv) Any Development Control Plan

Shoalhaven DCP 2014

Relevant Chapters
<p>G1: Site Analysis, Site Design and Building Materials</p> <p>The proposal generally complies with the objectives of Chapter G1 of the DCP. The subject site will not cause any impacts to surrounding landowners or adjacent buildings and is consistent with the existing facilities utilised at the West Nowra waste management centre.</p> <p>Considerations associated with bushfire, noise and biodiversity have been considered by councils’ internal team and the EPA with each referral recommending approval be granted subject to the terms of conditions.</p>
<p>G2: Sustainable Stormwater Management and Erosion/Sediment Control</p> <p>The provisions of this chapter have been considered and Council’s Engineers have raised no objections in relation to the proposed stormwater management, ongoing and construction erosion and sediment control measures, subject to conditions of consent being imposed (as detailed under the ‘Referrals’ section of this report).</p> <p>It is noted that the application does not include provision for the upgrade of the sedimentation dam required to manage the stormwater flows expected as part of the MRF pavement and shed design. The submitted Water Cycle Management Strategy is acceptable and would be conditioned with any consent granted as well as the construction and upgrade of the sedimentation dam (subject to further approvals as required).</p>
<p>G4: Tree and Vegetation Management</p>

<p>The provisions of this chapter have been considered and Council's Environmental Assessment Officer has raised no objections subject to conditions of consent being imposed (as detailed under the 'Referrals' section of this report) and as shown in the recommended draft conditions of consent.</p>
<p>G5: Biodiversity Impact Assessment</p> <p>The provisions of this chapter have been considered and Council's Environmental Assessment Officer has raised no objections subject to conditions of consent being imposed (as detailed under the 'Referrals' section of this report).</p> <p>The proposal does not trigger any vegetation removal required as part of the construction of the MRF.</p>
<p>G7: Waste Minimisation and Management Controls</p> <p>A Waste Management Plan (WMP) was submitted as part of this application.</p> <p>A WMP is to be submitted regarding the waste management of the development and ongoing waste collection and subject to a condition of consent being imposed. The conditions included in the recommended draft consent, require this to be incorporated into the site Waste Management Plan.</p>
<p>G8: Onsite Sewage Management</p> <p>N/A. The proposal will utilise existing facilities already in place at the waste management facility. No additional amenities are proposed as part of the MRF.</p>
<p>G20: Industrial Development</p> <p>The proposal is generally consistent with the objectives and performance criteria for an industrial development. A section 4.6 variation request has been submitted for allowance of the building to be constructed to a maximum -12.065 metres (1 metre above the building height in the DCP).</p> <p>A revised bushfire assessment report has also been prepared based on the RFI submitted by the Council Environmental Assessment Officer. The Officer and Council Engineer have recommended that the approval be granted subject to the conditions proposed in their reports.</p>
<p>G21: Car Parking and Traffic</p> <p>The proposal will not impact on public car parking with all parking onsite for MRF operators and internal staff visiting the facility from the West Nowra waste management site.</p> <p>The council engineer has reviewed the Traffic Assessment undertaken by Koikas Consultants and recommended that approval be granted subject to conditions.</p>
<p>General Chapters Not Applicable to this assessment</p> <p>G9 Development on Flood Prone Land G10 Caravan Parks G11 Subdivision of Land G12 New Dwelling Houses and Other Low Density Residential Development G13 New Medium Density and Other Residential Development G15 Tourist and Visitor Accommodation G16 New Short Term Rental Accommodation G17 Business, Commercial and Retail Activities G18 Streetscape Design for Town and Village Centres G19 Home Based Business Activities G22 Advertising Signs and Structures G23 Jetties, Wharf and Boating Facilities, Moorings, Mooring Pens and Boat Launching Ramps G24 Restricted and Sex Services Premises G25 Stationary Food Vans/Vehicles on Service Station Sites and Food Stalls G26 Acid Sulphate Soils and Geotechnical (Site Stability) Guidelines</p>

G27 Dog Breeding and Boarding Establishments (Including Catteries)
G28 Design Guidelines for Permanent Occupation of Caravan Parks

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

A search of planning agreements identified two (2) in the Shoalhaven Local Government Area (LGA), these include:

- 2018/9303-169: Hockleys Lane, Cambewarra
- 2018/9304-198: Taylors Lane, Cambewarra.

These planning agreements do not impact the project and do not form part of this assessment.

v) Environmental Planning and Assessment Regulation 2021

It is noted per Schedule 6 of the EP&A Regs 2021 that “*the 2000 Regulation continues to apply instead of this Regulation to a development application and an application for a complying development made but not finally determined before 1 March 2022.*”

No specific parts of the EP&A Regulation are specifically applicable to the proposed development. No areas of concern are raised as a result of a review of the Regs.

vi) Any coastal zone management plan

Not applicable.

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

Head of Consideration	Comment
Natural Environment	Subject to recommended conditions of consent as detailed in this report, it is considered that there will be no adverse impacts upon the natural environment. The proposal will have a balanced and acceptable impact on the natural environment as outlined in the Aboriginal Heritage, Biodiversity, Bushfire, Stormwater, Noise and Traffic Impact Assessments.
Built Environment	Subject to recommended conditions of consent as detailed in this report, it is considered that there will be no adverse impacts upon the built environment.
Social Impacts	It is considered that there will be minimal social impacts. The proposal delivers additional infrastructure to facilitate recycling and re-use opportunities within the Shoalhaven LGA.
Economic Impacts	It is considered that there will be no adverse economic impacts. The proposal facilitates re-use and recycling opportunities to reduce materials that would have otherwise gone into landfill. The proposal will have positive economic impacts with regard to construction and economic development while also providing an economic return for Shoalhaven LGA through the supply of these materials to external markets.

(c) Suitability of the site for the development

The proposal is for a Materials Recycling Facility (MRF) that is within an existing waste management facility. With regard to site suitability the DA is compliant with the relevant site analysis and location requirements of Shoalhaven DCP 2014. Subject to recommended conditions of consent, it is considered that the site will be suitable for the development.

(d) Submissions made in accordance with the Act or the regulations

The DA was notified in accordance with the *Environmental Planning and Assessment Regulation 2000* (EP&A Regs) and Council's Community Consultation Policy for Development Applications from 22 December 2021 to 21 January 2022.

No submissions were received from the general public during the public consultation period.

Summary of Public Submissions	
Objection Raised	Comment
Nil	Nil

(e) The Public Interest

The proposed development generally complies with the provisions of SLEP 2014 and is broadly consistent with the SDGP 2014 (albeit for the variation to the height of the building under Performance Criteria P8 (A8.2). Subject to conditions of consent the development is not expected to have any unacceptable negative impacts on the environment, or the amenity of the locality as detailed in this report warranting refusal of the development.

The proposal will provide improved processes in recycling of materials associated with a number of non-putrescible general waste items which will be removed from landfill and provide opportunities for commercial supply to the external waste market.

Delegations

Guidelines for use of Delegated Authority

The Guidelines for use of Delegated Authority have been reviewed and the assessing officer does not have the Delegated Authority to determine the Development Application.

Given the proposal is regionally significant development as satisfying the criteria of section 3(b) of Schedule 6 of SEPP (Planning Systems) 2021, the application must be determined by the Regional Planning Panel.

Recommendation

This application has been assessed having regard for section 4.15 (Matters for consideration) under the *Environmental Planning and Assessment Act 1979*.

This application has been subjected to detailed analysis of the main issues identified in this report. These issues have been resolved during and in assessment of the application including the submission of amended documentation by the applicant.

Stantec (on behalf of Council) are satisfied that the current proposal meets the provisions of relevant State Environmental Planning Policies (SEPPs) and the relevant provisions and objectives under SLEP 2014 and SDGP 2014 applying to the site. Any potential impacts can be adequately addressed via conditions of consent.

The application is considered capable of support as there are no substantive planning reasons to warrant refusal. As such, it is recommended that Development Application No. RA21/1002 be approved subject to appropriate conditions of consent as recommended at Attachment 2.

Attachment One: Determination Document

Attachment Two: Plans

Attachment Three: Applicant's Section 4.6 Statement (Section 4.3 Building Height) and Assessment

Attachment Four: EPA General Terms of Approval (issued 14 September 2022)