

COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSSTH-52
<b>DA Number</b>	RA20/1001
<b>LGA</b>	Shoalhaven City Council
<b>Proposed Development</b>	<p>Continue with and increase the current operations of a quarrying and composting facility (waste or resource management facility) to import up to 98,000 tonnes per annum (tpa) of materials to undertake the following activities:</p> <ul style="list-style-type: none"> <li>▪ Receipt, processing, composting and storage of up to 78,000 tpa of waste material, such as food waste, organics, manure and biosolids.</li> <li>▪ Receipt, processing, storage and blending of up to 20,000 tpa of Virgin Excavated Natural Material (VENM).</li> <li>▪ Receipt and processing of drilling mud (15,000 tpa). The combined total of imported VENM and drilling muds is not to exceed 20,000 tpa.</li> <li>▪ Construct and operate new infrastructure to support the increased operations.</li> <li>▪ Continued quarrying of up to 15,000 tpa of sands and soils.</li> </ul>
<b>Street Address</b>	135 Wogamia Rd, LONGREACH - Lot 2 DP 865094
<b>Applicant/Owner</b>	<p>Applicant: Soilco Pty Ltd</p> <p>Owner: AF &amp; MA Emery</p>
<b>Date of DA lodgement</b>	20 July 2020
<b>Total number of Submissions</b> <b>Number of Unique Objections</b>	<ul style="list-style-type: none"> <li>• Nine (9)</li> <li>• Five (5) being unique objections</li> </ul>
<b>Recommendation</b>	Approval subject to conditions
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)</b>	<p>Schedule 7 Clause 7(c) – Particular designated development</p> <p>The development involves a waste management facility or works, which meet the requirements for designated development under clause 32 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000.</p>
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Shoalhaven Local Environmental Plan 2014</li> <li>• State Environmental Planning Policy No 55 - Remediation of Land</li> <li>• State Environmental Planning Policy (Koala Habitat Protection) 2020 &amp; 2021</li> <li>• State Environmental Planning Policy (Infrastructure) 2007</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy – (Coastal Management) 2018</li> <li>• State Environmental Planning Policy No 33 – Hazardous and Offensive Development</li> <li>• State Environmental Planning Policy (Primary Production and Rural Development) 2019</li> <li>• Shoalhaven Development Control Plan 2014</li> </ul>

	<ul style="list-style-type: none"> <li>The proposed development is not considered to be impacted by the provisions of the Coastal Zone Management Plan 2018, as the subject site is not located on the coastline.</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<p>Attachment 1 - Section 4.15 Assessment Report</p> <p>Attachment 2 - Determination Document – Approval subject to conditions</p> <p>Attachment 3 - Plans</p> <p>Attachment 4 - Consolidated Development Consent No. DA95/3205 (as modified) and approved plans</p>
<b>Clause 4.6 requests</b>	N/A
<b>Summary of key submissions</b>	<p>The concerns raised in submissions particularly related to the following:</p> <ul style="list-style-type: none"> <li>Truck movements</li> <li>Odour impact</li> <li>Environmental noise impact</li> <li>Condition of Wogamia Road</li> <li>Non-compliance with existing development consent</li> </ul>
<b>Report prepared by</b>	<b>Andre Vernez, Senior Development Planner</b>
<b>Report date</b>	12 July 2021

**Summary of s4.15 matters**

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

**Legislative clauses requiring consent authority satisfaction**

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?  
*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? **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 10km west of the township of Nowra, on the eastern bank of the Shoalhaven River (being to the south), separated only by a sliver of Crown land (reserved for Future Public Requirements under tenure for environmental protection and grazing). The topography of the site is generally flat and graded for stormwater to flow to the northeast corner to the existing leachate dam.

The land is legally identified as Part Lot 2 DP 865094 and is described as 135 Wogamia Rd, Longreach. The land is 67.18ha in area. The site is identified as being partially bush fire prone land.

The existing site contains a quarrying and composting facility operated by SOILCO. Garden, food and timber waste products are imported and composted aerobically at the facility. Composting and related activities, such as shredding and screening, produce a range of quality assured compost and mulch products. Sand and soil are also extracted on site and blended with compost to produce a range of quality assured soil products.

The subject DA, Development Application (RA20/1001), seeks to continue with and increase the current operations of a quarrying and composting facility (waste or resource management facility) to import up to 98,000 tonnes per annum (tpa) of materials to undertake the following activities:

- Receipt, processing, composting and storage of up to 78,000 tpa of waste material, such as food waste, organics, manure and biosolids.
- Receipt, processing, storage and blending of up to 20,000 tpa of Virgin Excavated Natural Material (VENM).
- Receipt and processing of drilling mud (15,000 tpa). The combined total of imported VENM and drilling muds is not to exceed 20,000 tpa.
- Construct and operate new infrastructure to support the increased operations.
- Continued quarrying of up to 15,000 tpa of sands and soils.

The land is zoned RU1 Primary Production, RU2 Rural Landscape and E3 Environmental Management under the *Shoalhaven Local Environmental Plan 2014* (SLEP 2014), under which development for the purpose of “*resource recovery facility*” and the parent term of “*waste or resource management facility*” is prohibited. However, the proposal is permitted with consent under clause 121(1) of the *State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP), which permits “*waste or resource management facilities*”, other than development referred to in subclause (2), on land in a prescribed zone, which includes RU1 Primary Production which is the zoning of the portion of the subject site subject to the development.

The development involves a waste management facility or works, which meet the requirements for designated development under clause 32 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation). In accordance with clause 7(c) of Schedule 7 of SEPP (State and Regional Development) 2011, 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 No 55 - Remediation of Land*
- *State Environmental Planning Policy (Koala Habitat Protection) 2020 & 2021*
- *State Environmental Planning Policy (Infrastructure) 2007*

- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy – (Coastal Management) 2018*
- *State Environmental Planning Policy No 33 – Hazardous and Offensive Development*
- *State Environmental Planning Policy (Primary Production and Rural Development) 2019*

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

- G2: Sustainable Stormwater Management and Erosion/Sediment Control
- G3: Landscaping Design Guidelines
- G4: Tree and Vegetation Management
- G5: Biodiversity Impact Assessment
- G7: Waste Minimisation and Management Controls

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

The DA was notified in accordance with the EP&A Regulation and Council's Community Consultation Policy for Development Applications from 5 August 2020 to 4 September 2020. Nine (9) submissions were received by Council, with five (5) of those objecting to or raising concerns with the proposal. Key objections relate to truck movements, odour impact, environmental noise impact, the condition of Wogamia Road, and non-compliance with the existing development consent. These issues 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 proposed development application seeks to continue with and increase the current operations of a quarrying and composting facility.

Given the technical nature of the proposed development, the development is best described as outlined in the submitted Environmental Impact Statement (EIS) prepared by SOILCO Pty Ltd from page 21 as follows:

*“The proposal seeks approval to intensify SOILCOs operations at the facility located at 135 Wogamia Road, Longreach. This would provide for importation of up to 98,000 tonnes per annum (tpa) of materials to undertake the following activities:*

- *Receipt, processing, composting and storage of up to 78,000 tpa of the following materials:*
  - *Garden, Food and Wood wastes;*
  - *Compostable packaging;*
  - *Processed fibrous organics;*
  - *Natural organic fibrous materials;*
  - *Manure; and*
  - *Biosolids (up to a maximum of 5,000 tpa).*
- *Receipt, processing, storage and blending of up to 20,000 tpa of Virgin Excavated Natural Material (VENM).*
- *Receipt and processing of Drilling Mud (15,000 tpa).*

*The combined total of imported VENM and Drilling Muds would not exceed 20,000 tpa.*

*Table 3-1 (from the submitted EIS) presents the proposed waste types, their definitions and proposed quantities (excerpt at Figure 1), whilst Figure 3-1 presents a simplified flowchart of materials proposed to be received at the site (Figure 2).*

*The proposal also seeks to continue the extraction of up to 15,000 tpa of sand and soil from the site, consistent with that provided for by Development Consent DA95/3205 (as modified).*

*The proposal includes the construction of a new hardstand area for the manufacturing and processing of products including compost, mulch, sand and soil blends for distribution from the facility. This area would be located to the north of the existing aerated composting area, and to the west of the weighbridge and have an area of approximately 9,000sqm. The development of this area would include construction of associated internal roads and new ponds designed to capture all stormwater runoff from the existing and proposed areas.*

*The proposal seeks to include provision for additional processing equipment including a sorting cabin to assist with removal of physical contamination from waste materials processed at the facility. Infrastructure for receipt and processing of the drilling muds will include a receival pit for unloading and blending prior to composting.”*

The widening of Wogamia Road is also proposed as part of this application (excerpt at Figure 4). It is apparent from the submitted Arboricultural Impact Assessment that 19 trees within the road corridor would require removal for the proposed works (including four (4) trees to be removed to establish a line of sight along the road).

Table 3-1 Proposed waste types and limits proposed at the Facility			
Waste	Description	Activity	Other Limits
Food Waste	As defined in Schedule 1 of the POEO Act	Composting Waste storage Resource Recovery	The total quantity received at the premises must not exceed 78,000 tonnes in any twelve month period.
Processed Fibrous Organics	As defined in Table 3 of "Environmental Guidelines: Composting and related organics processing facilities" (DEC, 2004)	Composting Waste storage Resource Recovery	The total quantity received at the premises must not exceed 78,000 tonnes in any twelve month period.
Natural organic fibrous materials	As defined in Schedule 1 of the POEO Act	Composting Waste storage Resource Recovery	The total quantity received at the premises must not exceed 78,000 tonnes in any twelve month period.
Manure	As defined in Schedule 1 of the POEO Act	Composting Waste storage Resource Recovery	The total combined quantity of manure and biosolids received at the premises must not exceed 5,000 tonnes in any twelve month period.
Wood Waste	As defined in Schedule 1 of the POEO Act	Composting Waste storage Resource Recovery	The total quantity received at the premises must not exceed 78,000 tonnes in any twelve month period.
Garden Waste	As defined in Schedule 1 of the POEO Act	Composting Waste storage Resource Recovery	The total quantity received at the premises must not exceed 78,000 tonnes in any twelve month period.
Biosolids	As defined in Schedule 1 of the POEO Act	Composting Waste storage Resource Recovery	The total combined quantity of manure and biosolids received at the premises must not exceed 5,000 tonnes in any twelve month period.
General solid waste (non-putrescible)	This waste type is limited to only compostable packaging as defined in AS4736-2006.	Composting Waste storage Resource Recovery	The total quantity received at the premises must not exceed 78,000 tonnes in any twelve month period.
Virgin Excavated Natural Material (VENM)	As defined in Schedule 1 of the POEO Act	Waste processing (non-thermal treatment) Waste storage Resource Recovery	The total combined quantity VENM and drilling mud received at the premises must not exceed 20,000 tonnes in any twelve month period.
Drilling mud and/or muddy waters from drilling and pot holing operations	As defined in "the treated drilling mud order 2014" issued under Clause 93 of the Protection of the Environment (Waste) Regulation 2014	Waste processing (non-thermal treatment) Waste storage Resource Recovery	The total combined quantity VENM and drilling mud received at the premises must not exceed 20,000 tonnes in any twelve month period.

Figure 1. Proposed waste types and limits (Source: EIS prepared by SOILCO Pty Ltd, Version 3, dated 03/11/2020)

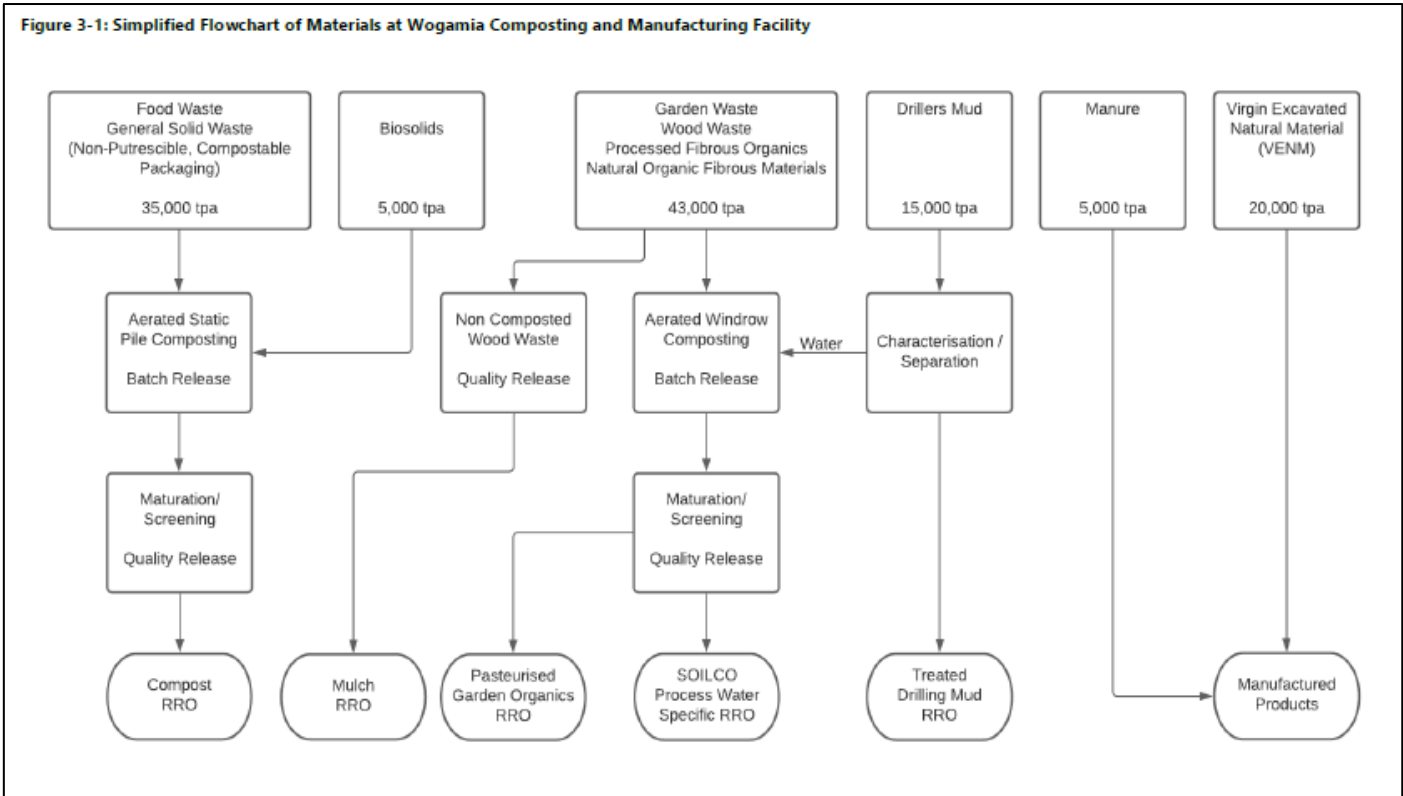


Figure 2. Flowchart of materials processing (Source: EIS prepared by SOILCO Pty Ltd, Version 3, dated 03/11/2020)



Figure 3. Proposed Operational Layout (Source: EIS prepared by SOILCO Pty Ltd, Version 3, dated 03/11/2020)



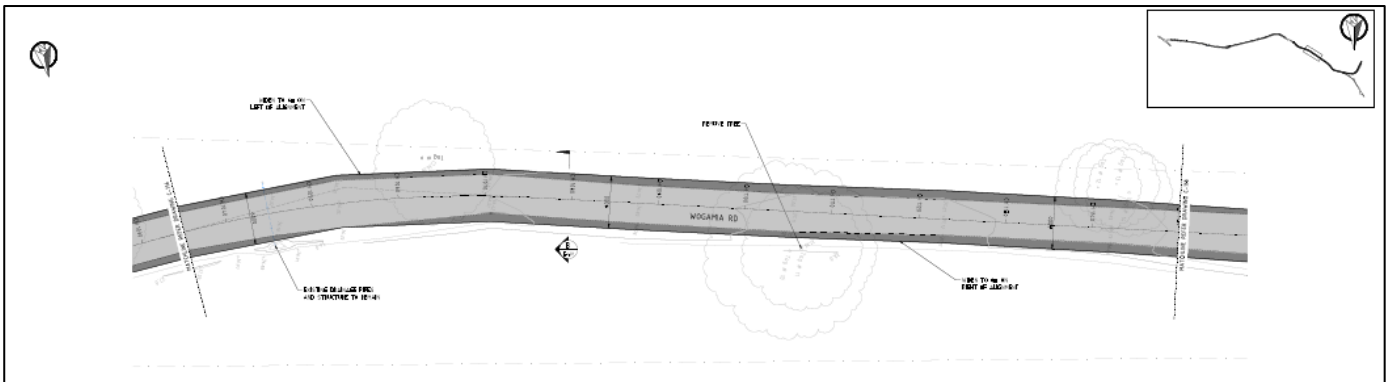


Figure 4. Excerpt from Proposed Road Widening Plans identifying six of the proposed trees for removal (Source: Talis Consultants, Reference No. TC21005)

The site infrastructure and proposed operations of the facility are again best described as outlined in the submitted EIS on pages 29-32 and 34-44 as follows:

### Site Infrastructure

#### a) Weighbridge

*“Products being delivered to or distributed from the facility are to enter and exit via the existing weighbridge located at the entry to the site. The weighbridge is used to capture the following data:*

- *Date & time of delivery;*
- *Type of material (e.g. Sand , Soil, Green Waste, Wood Waste, Food Waste);*
- *Source of material (e.g. kerbside, commercial);*
- *Customer name;*
- *Vehicle registration and owner;*
- *Purchase order or contract identifier;*
- *Source docket (if applicable);*
- *Gross, tare and net weight (tonnes); and*
- *Any other information required under legislation.*

*All commercial vehicle registration and owner details would be required prior to unloading at the facility to ensure the job number and vehicle are identified in SOILCOs weighbridge system. No change is proposed to the weighbridge as part of the proposal.*

#### b) Office and Amenities Buildings

*Adjacent to the weighbridge and site entrance are the associated site office and amenities. The existing buildings consist of a small office adjacent to the weighbridge, as well as an amenities building adjacent to the site entrance. The proposal includes the addition of a new amenities building, with dimensions approximately 3m (w) x 7.2m (l) x 3m (h), located on the eastern side of the office and separated by a sealed area approximately 3m wide. These amenities would utilise the existing site septic tank system, electricity and potable water infrastructure. (Excerpt at Figure 5).*

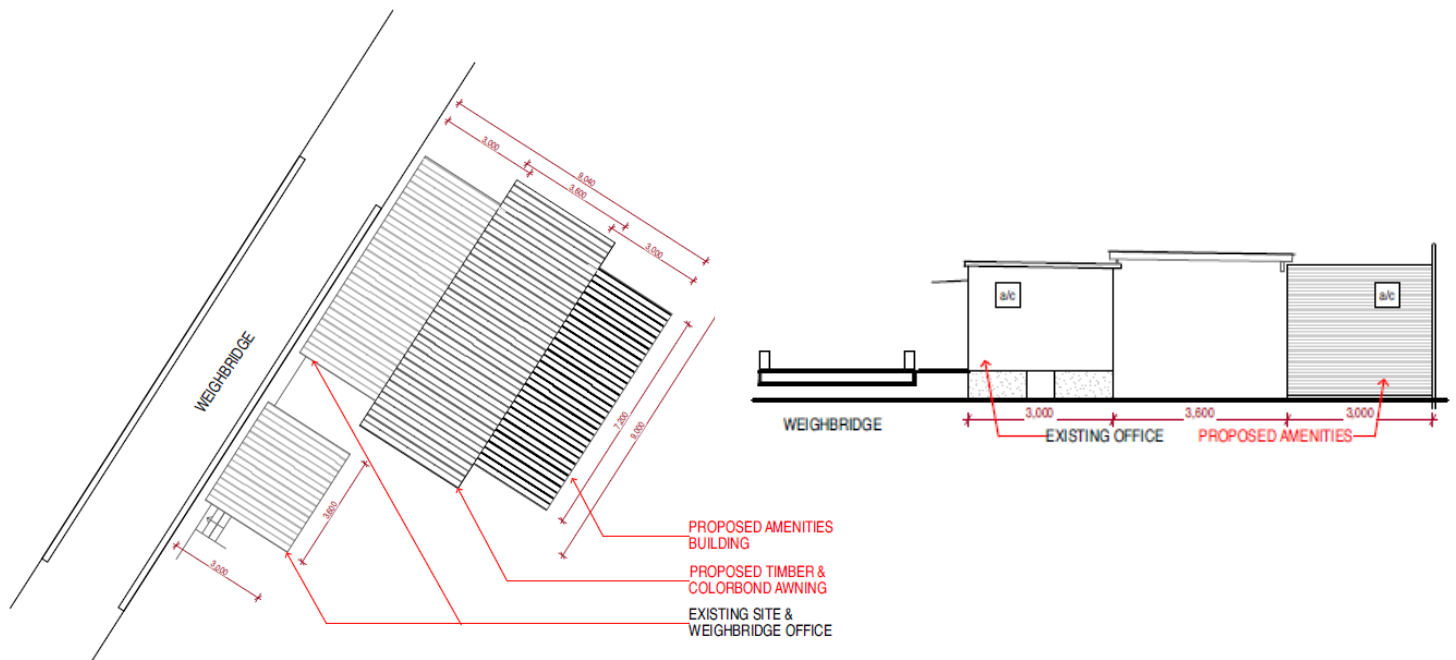


Figure 5. Excerpt from Proposed Amenities Building Plan and Elevations (Source: Stuart Mason Designs, Job No. 2104, Drawing No. 2100 & 4000, Revision 04, dated 18/06/2021)

c) Access and Parking

The site is accessed via Longreach Road and Wogamia Road. Wogamia Road is partially unsealed for approximately 500m prior to the entrance to the site. Heavy vehicles entering the site, do so via the weighbridge prior to being directed to the appropriate area on site. Staff and visitor parking are appropriately signposted and is adjacent to the entrance of the site in the vicinity of the weighbridge.

d) Active Quarry Area

Figure 1 illustrates the approved soil extraction area for the quarry. The inner line being the water limit and solid line the extraction limit. All extractive operations within the quarry area would remain within the existing approved limits and be limited to a depth of 1.5m AHD.

This area also acts as a stormwater management area for clean water runoff from areas within, and outside the site boundaries that do not have contact with any waste materials, as well as an overflow area for major rainfall events.

e) Forced Aeration Pad

The Forced Aeration Pad consists of a 3,600sqm concrete pavement arranged with 12 bays that house a series of parallel PVC pipes laying lengthwise, incorporated in the concrete. These pipes have tapered plastic nozzles (spigots) that provide the mechanism for the supply of air and collection of leachate known as the "aeration floor".

Two (2) fresh air supply fans are connected to the PVC pipes by a series of ducted pipes, one (1) fan is set to service bays 1 – 6 the other for bays 7 – 12. Pressurised air flows through the material mixture from the spigots ensuring intensive contact between the air and the mixture. In this way, the composting process can be controlled, and aerobic conditions can be maintained in the complete batch of material being processed. Each individual bay can have its spigots manually opened or closed and air pressure and flow values can also be set.

The system is controlled from a technical area contained within a prefabricated building immediately to the north of the pad. Each aeration bay has dedicated probes for wireless, real

*time monitoring of temperature to ensure each batch is compliant with relevant Australian Standard and EPA requirements. The process computer allows the operator to visually manage system settings and produce specified batch reports. The system also provides remote access for offsite monitoring and maintenance.*

f) Mobile Aerated Floor

*The Mobile Aerated Floor (MAF) unit consists of a flexible base with air ducts that can be relocated as required. Putrescible materials for composting would be loaded onto the unit and an aeration unit would be utilised to force air through the base and subsequently through the composting material to maintain aerobic conditions. The MAF units are operated manually and would be used as a means of composting during times of high demand.*

g) Post Composting and Decontamination Area

*The post composting area would include provision for screening and further sorting and size reduction of the compost following maturation on the aerated pad. This area would include provision for a sorting cabin which would provide for the decontamination of oversized composted material prior to size reduction for sale. The sorting cabin would include a hopper with a conveyor system to an enclosed, elevated work platform where the contaminated material would be manually picked from the organic material (refer to the below example of the proposed sorting cabin at Figure 6).*



*Figure 6. Example of Proposed Sorting Cabin (Source: EIS prepared by SOILCO Pty Ltd, Version 3, dated 03/11/2020)*

h) Manufacturing and Distribution Area

*The proposed expansion of the existing facility includes a new manufacturing and distribution area. It would be approximately 8,000sqm and would be graded to drain to a new storage pond in the southwest corner of the area. The area would be accessed via its south east corner.*

*This area would be for the manufacturing of landscape products, and the storage and loading of these products for distribution to market. Only mature compost, mulch and VENM would be stored in this area and no composting of organic materials would take place.*

i) Drill Mud Processing Area

*The drill mud processing area would consist of a reception pit, with a storage capacity of approximately 45m<sup>3</sup>, and a series of storage areas for the receipt of silts, sands and gravels from the sorting process.*

j) Workshop and Fuel Storage Area

*The existing workshop banded diesel tank adjacent to the entrance of the site would be retained for onsite minor repairs and the storage of oils and lubricants for the maintenance of plant and machinery, as well as the refuelling of SOILCO machinery and vehicles.*

k) Leachate Ponds

*The proposed layout of the leachate ponds is shown in Figure 3. The Aerated Composting Pad has an existing designated leachate storage pond (the Aerated Composting Leachate Pond). Two (2) additional leachate ponds are proposed for the Passive Composting Area and the Manufacturing Storage and Distribution Areas:*

- *Pond 1: Located in the northern section of the site, will manage surface water that has contact with compost material stored in the Manufacturing Storage & Distribution Area.*
- *Pond 2: Located in the southern section of the site, will manage surface water that has contact with compost material from the Passive Composting Area.*

*To prevent leachate stored in the evaporation ponds from percolating into the groundwater system, the ponds will be lined according to the NSW Composting Guidelines:*

- *900mm thick recompacted clay with a permeability of less than 10<sup>-9</sup> m/s; or*
- *A High-density polyethylene (HDPE) geomembrane liner with a minimum thickness of 1.5mm.*

*The proposed leachate pond system is a gravity feed system with a passive overtopping arrangement once a pond's operational capacity is reached, requiring minimal monitoring. The proposed ponds will be connected to the site's existing Aerated Composting Leachate Pond, which is at the lowest elevation, through a series of spillway pipework. The existing Aerated Composting Leachate Pond has an emergency spillway to the Quarry Void to prevent uncontrolled overtopping during extreme rainfall events.*

Description of Proposed Operations

a) Hours of operation

The existing hours of operation under Condition 10 of DA95/3205 (refer Attachment 4) are as follows:

- Quarry and stockpile processing operations:
  - o 6:30am to 6:00pm Monday to Friday;
  - o 6:30am to 4:00pm Saturdays.
- Limited Sundays and Public Holidays operations including:
  - o ten (10) days per calendar year for the removal of soil from extraction areas to the process area and loading operations; and
  - o 25 days per calendar year for loading between 1:00pm and 4:00pm .

A record is required to be kept for all Sunday and Public Holiday operations.

The proposed hours of operation seek to expand on these existing approved hours by providing for operations to begin at 6:00am weekdays and Saturdays as shown in Table 1 below. This reflects the existing transportation hours provided under Condition 11 of DA95/3205. The

proposal also seeks to provide for the turning of windrows and composting stockpiles during the same number of Sundays as extractive activities are currently provided for, in lieu of the extractive activities.

Day	Hours of Operation
Monday – Friday	6am to 6pm
Saturday	6am to 4pm
Sunday and Public Holidays	9am to 4pm (windrow and stockpile turning only, limited to 25 such days per calendar year)

Table 1. Proposed Hours of Operation (Source: EIS prepared by SOILCO Pty Ltd, Version 3, dated 03/11/2020).

b) Extraction Operations

*The extraction area would continue to be developed as approved under DA95/3205 and its subsequent modifications, however, as requested by Council, the proposal is to include the extraction operations so as to provide for a whole-of-site approach. The proposal is to continue extraction operations at a rate of up to 15,000 tpa.*

*The ongoing extraction operations rely on the previous geological investigations undertaken and hence the extraction areas are limited to that previously approved under DA95/3205 and its subsequent modifications.*

*The extraction area has been designed to maximise the recovery of the friable sand and soil resource through the progressive development of the extraction area in a south easterly direction. Details of the limits of extraction are shown in the submitted survey plan. It should be noted that these plans were approved by Council as part of DS18/1432 (being a modification to DA95/3205) and therefore, the proposed extraction areas shown are the currently approved areas.*

*Extraction is undertaken in benches approximately 5m wide with the active extraction face set back at 70° from the horizontal. The extraction area has been designed to extract the sandstone resource to a floor elevation of approximately 1.5m AHD, consistent with existing extraction operations.*

*The ongoing development of the extraction area in a series of benches would provide the flexibility for the applicant to continue to produce the range of sand and soil products and to satisfy individual customer requirements through selective extraction and/or blending.*

*Given the friable nature of the resource, extraction operations would continue to be undertaken using an excavator, loading into a haul truck which would transport the material directly to the new processing and manufacturing area. Where required, a water cart would be used to ensure that dust generation is minimalised.*

c) VENM Importation

*The applicant proposes to import up to 20,000 tpa of VENM for use in soil blends where sand and soil of a particular grade is not available from the onsite extraction operations. Where possible, VENM would be imported in heavy vehicles travelling to the site to collect SOILCO products. The practice of backloading would therefore minimise additional truck movements for the proposal.*

d) Composting Process

*The proposal provides for the receipt, processing, composting and storage of organic wastes (up to a total of 78,000 tpa), this may include the following waste types:*

- *Garden, food, and wood wastes;*
- *Compostable Packaging;*
- *Biosolids (up to a maximum of 5,000 tpa);*
- *Processed fibrous organics;*
- *Natural organic fibrous materials; and*
- *Manure.*

*SOILCOs existing Kembla Grange Organics Recovery Facility (ORF), located at 61 Reddalls Road, Kembla Grange, would provide some pre-treatment, including inspection, decontamination, size-reduction, and mixing for food, timber and green material. However, the proposal would allow for the organic wastes listed above to be imported to the site with no prior processing.*

*The facility would utilise aerobic composting methods that include the following control points:*

- *Receipt – unloading in nominated area depending on incoming material type.*
- *Batching – placement on primary and/or secondary composting pad.*
- *Pasteurisation – controlled microbiological transformation of organic materials under aerobic and thermophilic conditions for a designated number of days, turns and specified temperature (above 55°C).*
- *Composting – aerobic conditions continued to be maintained as per pasteurisation for a designated number of days, turns and specified temperature (below 55°C), conformance to Resource Recovery Orders (RRO) assessed prior to removal.*
- *Batch release – removal off composting pad and stockpiling for maturation.*
- *Maturation – Aging of product in stockpile provides additional time to achieve "compost" status. Although the compost temperature is close to ambient during the curing phase, chemical reactions continue to occur that make the remaining organic matter more stable and suitable for use with plants. Drying of material from above 40% moisture during pasteurisation and composting to approximately 25% prior to screening and quality release is also achieved.*
- *Production – blending with other inputs to create products for sale and distribution.*
- *Quality release – Screening and stockpiling of finished goods for testing to AS4454:2012 or AS4419:2018 then distribution following conformance.*

*Pasteurisation and composting under aerobic conditions is completed either by forced or passive aeration methods.*

e) Receipt of Organics

*To ensure the traceability of the end-product all organics received at the facility would be verified and documented using the weighbridge on entry. Data includes:*

- *Date received;*
- *Type of material;*
- *Source of material (e.g. Kembla Grange ORF, Wollongong Council FOGO)*
- *Supplier / Customer;*
- *Weight (tonnes); and*
- *Volume (m<sup>3</sup>).*

*The material would be inspected for conformity and consistency and any non-conforming materials would be isolated and the disposed of at an appropriately licenced facility.*

*Raw materials would be kept isolated from processing batches and finished product stockpiles. Any equipment used in the receiving process would be thoroughly cleaned of visible soil or plant debris before being used for pasteurised/mature batches or finished product.*

f) Aerated Static Pile (ASP) Pasteurisation and Composting

*SOILCO's primary composting process for putrescible materials utilises aerated static pile (ASP) methods.*

*Material is placed on the aerated pad for pasteurisation and composting in approximately 700 to 800 cubic metre batches (300 to 400 tonnes). Composting conditions must be manipulated to maximise the rate of decomposition to achieve stable compost in the shortest possible timeframe. This is done by ensuring a:*

- *Temperature above 55°C;*
- *C/N ratio between 20/1 and 40/1; and a*
- *Moisture content above 40% (typically 50 to 60%).*

*A layer of coarse composted material is then placed on top of the pile at depth approximately 250mm to 300mm. The "biocover" provides the following benefits during the active phase of pasteurisation:*

- *It acts as a layer of thermal insulation to ensure that the entire stockpile maintains a temperature above 55°C.*
- *It acts as a form of odour control. Odour sampling has shown that odour is reduced when a biocover layer is present on SOILCOs existing aerated pad.*
- *Nutrient retention.*
- *Reduction in bird and insect activity as the external, post-composted, layer, is not attractive to pests.*
- *It assists with moisture retention within the compost; and*
- *It is less visually obtrusive than the composting material.*

*The ASP composting hardstand is arranged with twelve sets of aeration pipes connected to two (2) fresh air supply fans. Each aeration bay has its own dedicated air supply and wireless probes are placed in the composting material to provide real time monitoring and recording of temperature. Air is blown from the rear technical area via either of the two (2) fans to the connected ductwork and headers to the "spigot" floor system, providing oxygen to the composting materials.*

*The automated process can be visually managed from a process computer which can produce specific batch reports to ensure compliance with relevant quality and environmental standards. Biological composting phases such as warming up, pasteurisation and cooling down are used to establish set points that control the rate and schedule of air delivery to the composting material. Turning is still required to ensure the entire mass is exposed to the set point temperatures for each composting phase.*

*The control system consists of a process computer that takes care of visualisation. The computer interprets the data and provides a schematic of the complete composting process. The operator can see the status of the batch, then evaluate and adjust process parameters if needed to maintain the temperature, moisture levels and oxygen levels of the composting material at optimum conditions.*

*Where required, Mobile Aerated Floor units (MAF) may be utilised to ensure that there is sufficient capacity at the facility to process all materials. These would be manually operated in the same manner as the ASP hardstand described above and located to the south of this.*

*Temperature probes with dataloggers would be utilised to ensure that the composting material reaches and maintains the required temperatures.*

g) Aerated Windrow Pasteurisation and Composting

*SOILCO would reinstate aerated windrow composting methods in the southern section of the site to provide for the increase in organic waste receipts at the facility. This would be undertaken in the passive composting area and would be in a configuration as determined by the quantities and types of organic wastes received. Aerated Windrow Composting is a dynamic system whereby mechanical turning maintains aerobic conditions. Each windrow (measuring approximately 150m (l) x 5m (w) x 2.5m (h)) would be turned twice weekly over a period of approximately eight (8) weeks before being screened to a final product. Temperatures would be manually sampled three (3) times per week to ensure that the compost is reaching its optimal temperatures.*

h) Batch Release and Maturation

*Although the compost temperature is close to ambient during the curing phase, chemical reactions continue to occur that make the remaining organic matter more stable and suitable for use with plants.*

*For composts, a minimum moisture content of about 25% is preferred for screening. Screening products that are too dry leads to dust generation and should be avoided. Screening products that are too wet, particularly directly after composting where moisture content must be maintained above 40% leads to low productivity and yields. Maturation and curing assists with drying of product prior to screening.*

i) Production

*Composted material is screened to produce a soil conditioner that may be sold directly or blended with extracted soil and sand from the companies quarry to manufacture a range of products. Final products will be tested at the frequency and parameters stipulated in the relevant Australian Standards prior to sale and beneficial reuse.*

*To assist with consistency and conformity, a formulation (batching) sheet is utilised for each product and typically contains:*

- *Product Specification;*
- *Batch Details; and*
- *Formulation ID.*

j) Quality Testing for Sale

*Quality Testing occurs prior to sale of the screened compost. The process control system ensures that best management practices are adopted, and all measures are taken to minimise risks. Composts, soil mixes, soil conditioners and mulches are manufactured to conform to AS 4454:2012 and AS 4419:2018. These standards and relevant RRO's set out minimum requirements as well as best practice procedures. By following these procedures, products of consistent quality can be produced.*

*Quality testing is conducted on all batch material and finished goods at the Kembla Grange CMF in the onsite laboratory. Requirements of the standards and RRO's have been adapted into SOILCO'S Product Quality Testing Procedures which describe receipt of samples, testing procedures, product parameters and steps taken when a product does not meet specific parameters.*



k) Drilling Mud Processing

*It is proposed that the facility would process up to 15,000 tpa of drilling muds. Drilling mud is a by-product of civil construction processes such as horizontal directional boring. The drilling mud is used for a variety of functions including:*

- *Controlling subsurface pressures;*
- *Lubricate the drill bit;*
- *Stabilize the well bore; and*
- *Carry the cuttings to the surface.*

*The mud is pumped from the surface through the hollow drill string, exits through nozzles in the drill bit, and returns to the surface through the annular space between the drill string and the walls of the hole. Drilling mud may be separated roadside by mobile equipment, however, at times, volumes or available space do not permit separation of the liquid and cuttings.*

*The term ‘mud’ is used because of the thick consistency of the drilling fluid. Drilling mud typically contains a mix of soil and stones (cuttings), liquid (water) and clay (bentonite). Given the process whereby drilling mud is generated and the form that it is delivered in, physical contaminants such as plastic, glass, and metal are typically not found.*

*The NSW EPA defines drilling mud for the purposes of the “Treated Drilling Mud” Resource Recovery Order (RRO) as “a mixture of naturally occurring rock and soil, including but not limited to materials such as sandstone, shale and clay, and drilling fluid generated during drilling operations such as horizontal directional drilling or potholing. This does not include drilling mud that has been generated by:*

- *Deep drilling for mineral, gas, or coal exploration, or*
- *Drilling through contaminated soils, acid sulphate soils (ASS) or potential acid sulphate soils (PASS).”*

*The facility would only accept material meeting the definition of Drilling Mud as set out in the Treated Drilling Mud Order 2014. Drilling mud that has been generated by deep drilling for mineral, gas, or coal exploration or through contaminated and acid sulphate soils would not be accepted. All loads carrying drilling muds would be verified at the weighbridge as the vehicle enters site in the same manner as that of composting feedstock. Unacceptable loads would be rejected.*

*The drilling mud would be dewatered, and process water would go directly to the composting system. Drilling mud would be unloaded directly into a receipt pit located to the south of the leachate pond from the tanker delivery vehicle. The receipt pit would have a storage capacity of approximately 45m<sup>3</sup> (3m x 5m x 3m), equating to 3 to 5 tanker loads.*

*A dewatering system would be utilised to ensure that the drilling mud has undergone dewatering such that the resultant solid:*

- *Does not have an angle of repose of less than 5 degrees above horizontal, or*
- *Does not become free flowing at or below 60 degrees Celsius or when its transported, or*
- *Is generally capable of being picked up by a spade or shovel.*

*The resultant solids would be blended with size reduced organic waste to create Drilling Mud Solids or transported from site for application to land pursuant to the Treated Drilling Mud Order 2014.*

l) Surface Water and Leachate Collection

*There would be three (3) main operational areas at the site which require leachate management as per the NSW Compost Guidelines, the passive composting area, the aerated composting pad, and the manufacturing, storage, and distribution area. The aerated composting pad drains to the leachate pond; therefore, two (2) additional leachate ponds would be required at the site for the passive composting area and the manufacturing storage and distribution areas. These are shown on Figure 1 as follows:*

- *Pond 1: Located in the northern section of the site, it will manage surface water that comes into contact with compost material stored in the manufacturing, storage, and distribution area.*
- *Pond 2: Located in the southern section of the site, it will manage surface water that comes into contact with compost material from the passive composting area.*

*To prevent leachate stored in the evaporation ponds from percolating into the groundwater system, these ponds would be lined according to the NSW Composting Guidelines as follows:*

- *900mm thick recompacted clay with a permeability of less than  $10^{-9}$  m/s; or*
- *A High-density polyethylene (HDPE) geomembrane liner with a minimum thickness of 1.5mm.*

*The evaporation ponds must be able to manage the maximum leachate volumes potentially generated within their respective area as well as any rainfall into the ponds during consecutive average rainfall years. A 0.5m freeboard must also be maintained. The proposed leachate pond system is a gravity feed system with a passive overtopping arrangement once a pond's operational capacity is reached that requires minimal monitoring. Therefore, through a series of spillway pipework, the newly proposed ponds will be connected to the site's existing leachate pond, which would be at the lowest elevation of the three (3) ponds. The existing leachate pond has an emergency spillway to the Quarry Pond to prevent uncontrolled overtopping during extreme rainfall events. Leachate would be recirculated back through the compost stockpiles as required to maintain the appropriate moisture levels in the compost, as well as during extreme rainfall events to manage leachate levels in the ponds. Safety netting would be installed on the interior face of each pond to provide an egress point.*

m) Water Balance

*The site's three (3) leachate evaporation pond system would have a combined operational volume of  $5,971\text{m}^3$ . Modelling undertaken by Talis Consultants verified that the leachate management pond system would be capable of evaporating the accumulated leachate every calendar year for consecutive average rainfall scenarios. Each pond would also have the capacity to manage a single 1 in 10, 24-hour rainfall event as per the NSW Composting Guidelines.*

*In extreme rainfall events, it would be possible for diluted leachate to overflow into the Quarry Pond from the site's existing leachate pond to prevent uncontrolled overtopping of the leachate pond system.*

n) Residual Waste Management

*All residual waste separated from organics in the sorting cabin and destined for landfill or recycling (e.g. brick, concrete, plastic, metal etc.), would be stored in appropriately sized bins and transported from the site as required in distinct truckloads via the weighbridge and from there it would be sent to a suitably licenced facility for further processing or disposal."*

## 2. Subject Site and Surrounds

- The subject site contains a quarrying and composting facility operated by SOILCO. Garden, food and timber waste products are imported and composted aerobically at the facility. Composting and related activities such as shredding and screening produce a range of quality assured compost and mulch products. Sand and soil are also extracted on site and blended with compost to produce a range of quality assured soil products.
- The subject site is located approximately 10km west of the township of Nowra, on the eastern bank of the Shoalhaven River (being to the south), separated only by a sliver of Crown land (reserved for Future Public Requirements under tenure for environmental protection and grazing). The topography of the site is generally flat and graded for stormwater to flow to the northeast corner to the existing leachate dam.
- The subject site is zoned RU1 Primary Production, RU2 Rural Landscape and E3 Environmental Management. (Refer to Figure 12 later in this report.)
- The subject site is 67.18ha in area, is identified as being partially bush fire prone land, unsewered and connected to the town water supply.
- The subject site has frontage to Wogamia Road and adjoins land zoned RU1 Primary Production, RU2 Rural Landscape, E3 Environmental Management, E1 National Parks and Nature Reserves (Wogamia Nature Reserve to the northeast), and RE1 Public Recreation (being Council “Community” land to the southeast).

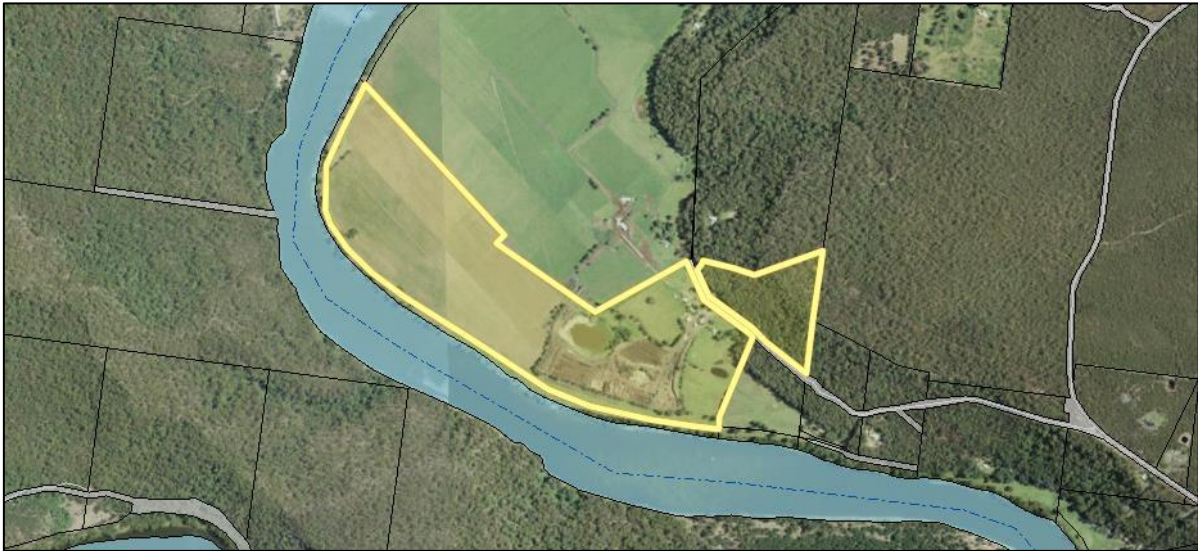


Figure 7. Site Location



Figure 8. Aerial photo

### 3. Background

#### Post-Lodgement

- This application was lodged on 20 July 2020.
- On 27 August 2020, Council requested the following information:
  - Revised documentation addressing the request by NSW EPA (dated 26 August 2020).
  - Revised documentation considering required improvements to the current road formation and environmental impacts per Austroads Guide to Road Design (GTRD) to widen the Wogamia Road and consider pull off areas. In addition to details for a safer alignment and dimensions of the intersection at Longreach and Wogamia Roads.
  - Revised flooding assessment within the EIS addressing:
    - whether the current levee height is sufficient for the environmental protection or whether it needs to be raised to 1% AEP level + free board.
    - a flood bund wall is designed with a height of 13.2m AHD to withstand the flood velocity of 3.60m/s.
    - review of historical flood event data modelling and ensuring consistency in documentation.
- On 23 October 2020, Council requested further additional information including:
  - Confirmation as to whether town water supply is required for this development as Shoalhaven Water has advised that the subject property is not connected to the town water supply. There is a DN100 AC water main which cuts through the property and the water main is located within an easement for Water Supply and the submitted EIS makes a small reference to the office and amenities buildings utilising potable water infrastructure.
- On 12 November 2020, the applicant provided the following information in response to Council's requests:
  - Response to Council regarding traffic and transportation, flooding and public submissions.
  - Response to the NSW EPA regarding Scheduled Activities such as waste reporting requirements, flooding, drilling muds and water management.
  - Revised Environmental Impact Statement incorporating the additional information requested.
  - Updated Noise Assessment to address the matters raised in correspondence from the NSW EPA.
  - Updated Air Quality Assessment in response to the matters raised in correspondence from the NSW EPA.
  - Correspondence regarding improvements to be made to Wogamia Road.
  - Correspondence relating to questions raised by the NSW EPA regarding stormwater and leachate management at the facility.
  - Proposed Drivers Code of Conduct.
  - The applicant also confirmed that there is an existing water connection for the site which services the existing amenities. Shoalhaven Water's property ID for the site is 94340. No additional water connection is required.

- On 1 December 2020 Council inspected the site.
- On 23 December 2020, Council staff met with the applicant to discuss the submitted information.
- On 14 January 2021, Council requested the following additional information:
  - Survey of Wogamia Road in relation to the required improvements to the current road formation, including concept design of civil engineering works and traffic and swept paths analysis.
  - Written clarification as to how the volume of water in the quarry pond will be managed, given there does not appear to be any provision for overflow.
  - Revised flood study considering the 1% AEP peak flow to determine the 1% AEP flood level and velocity at the levee location and to ensure consistency between documents which still have differing statements in relation to flood affection.
- On 22 January 2021, Council staff met with the applicant to discuss the additional information request. The following was agreed to moving forward:
  - The applicant to action the requested survey works etc.
  - Council's Development Engineer is satisfied with the applicant's email response in relation to the quarry pond.
  - In relation to the revised flood study, an addendum to the submitted EIS could be provided.
- On 17 March 2021, the applicant provided the following information in response to Council's request:
  - A concept design of the proposed widening of Wogamia Road. This related to the works to improve the intersection of Wogamia Road and Longreach Road and included swept path analysis of the works proposed to be undertaken as part of the proposal.
  - Clarification in relation to the quarry pond as follows:

*“The quarry pond has an approximate capacity of 120,000m<sup>3</sup>. There are several controls to maintain the water level, including evaporation and water reuse. The area of the dairy farm is quite significant and with the large surface area of the Quarry Pond, the potential evaporation rate is maximised. If the Quarry Pond was at half its operational capacity, then this allows for a 1,500mm rainfall event to occur before the water level reaches the operational capacity. This does not include the additional 1m freeboard that is allowed for with the operational capacity. The rainfall event itself equates to more than a 7-day, 1:2,000-year storm event, and if this were to occur, then the flooding of the Shoalhaven River would be a much greater concern. There would not be a defined spillway as the purpose of the levee bund is to protect the Site from the flooding of the Shoalhaven River. The western edge of the Quarry Pond is significantly higher than its eastern edge as it is part of this levee bund. Therefore, no spillway can or should be constructed. As per the Assessment Report, SOILCO will routinely monitor the water levels.”*
  - Response in relation to the request for a revised flood study. as follows:

*“With regard to the preparation of a revised flood study, SOILCO notes that Conditions 3 and 4 of DA15/1259 requires that the flood levee be constructed to withstand the velocity and forces of flooding up to the 1% AEP flood event. We note that, given this is an existing development consent with an existing condition that requires this, a revised flood study should not be required for the approval of RA20/1001.*

*SOILCO received correspondence from Councils Floodplain Engineer, Tanvir Ahmed, on 5 February 2021, requesting an addendum to the EIS that confirms that the EIS has incorrectly stated that the Site is not impacted by a 1% AEP flood event. SOILCO notes*

*that the EIS should have stated that the flood levy will be constructed to the 1% AEP flood levy consistent with DA15/1259.*

*SOILCO notes that, upon completion of the flood levee, a survey and confirmation that the levee meets the requirements of DA15/1259. SOILCO also notes that, given the requirements of DA15/1259 relating to the 1% AEP flood event, reference to the 1 in 100 year event (another term to describe the 1% AEP event), is warranted within the EIS.”*

- The site was inspected on 29 March 2021 with the applicant and relevant Council staff.
- On 31 March 2021, Council requested the following information:
  - Arboricultural Assessment Report, in order to determine the full extent of the impact, and necessary mitigation and tree protection measures to native vegetation as a result of the proposal in light of the proposed widening works.
- On 14 April 2021, the applicant provided an Arboricultural Impact Assessment Report in response to Council’s request:
- On 29 April 2021, Council requested the following information:
  - Revised Arboricultural Assessment Report that assesses all areas potentially impacted by the proposed road works and identifying any trees that are likely to require removal or protection. The report should also recommend standard tree protection protocols.
- On 20 May 2021, the applicant provided the following information in response to Council’s request:
  - Revised Arboricultural Impact Assessment Report relating to impacted trees along the Wogamia Road corridor.
  - Updated set of plans for the Wogamia Road improvements. These plans included minor amendments in order to avoid additional impacts on trees along the corridor.
- On 26 May 2021, Council requested the following information:
  - Addendum to EIS clarifying which clause is applicable under Schedule 3 to the EP&A Regulation 2000, and whether the proposal would be regionally significant development.

The proposal is regionally significant development if it satisfies the criteria of clause 7(c) of Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011, being development for the purposes of a *waste management facility and works*, which meet the requirements for designated development under clause 32 of Schedule 3 to the EP&A Regulation..

It is noted that clause 32(2)(b) states that this clause does not apply to “*development comprising or involving waste management facilities or works specifically referred to elsewhere in this Schedule*”.

The submitted EIS indicates that the proposal is designated development due to the composting operations at the facility under clause 13 of Schedule 3 to the EP&A Regulation, specifically subclause (a) being *composting facilities or works* that process more than 5,000 tonnes per year of organic materials. It is also indicated that subclause (b) is triggered due to the location of the subject site.
- On 31 May 2021, the applicant provided the following advice in response to Council’s request:

*“After further review, we advise that we agree that the application does not constitute regionally significant development under State Environmental Planning Policy (State and Regional Development) 2011 for the reasons that Council has set out. Accordingly, Council may determine the application.”*
- On 2 June 2021, DPIE (Local & Regional Planning) requested confirmation that the proposed development is for the composting of “organic material” as per the definitions if the application is

to be considered under clause 13 and determined by Council. The EIS notes the materials to be composted, including certified compostable plastics.

- On 2 June 2021, Council requested the following information from the applicant:
  - Written confirmation that the materials to be composted are “organic material” as per the definitions. The submitted EIS notes the material to be composted includes certified compostable plastics.

Clause 13 of Schedule 3 to the EP&A Regulation, specifies that composting facilities or works are “*works involving the controlled aerobic or anaerobic biological conversion of organic material into stable cured humus-like products, including bioconversion, biodigestion and vermiculture*”.

It is noted that the submitted EIS indicates that clause 13 is triggered as the composting facilities or works are to process more than 5,000 tonnes per year of organic materials.

- Written clarification as to whether or not the proposed “building” works as described in the submitted EIS and as shown on the submitted site layout plan, are to be concept only as no detailed plans have been provided.

If the proposed building works, including weighbridge, site offices, amenities, decontamination areas etc. are to be concept only, written request was requested to made for this application to be treated as a “concept development application” in accordance with the provisions of section 4.22 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979).

As the construction of the proposed buildings is fundamental to the operations of the facility, any concept approval would approve the use only and require future development approval and subsequent construction of these buildings prior to the commencement of operations of the facility.

- On 11 June 2021, 16 June 2021 and 18 June 2021, the applicant provided the following information in response to Council’s request:

- Confirmation that the materials to be composted are “organic material” as follows:

“As per Section 3.1 of the EIS, the proposal includes provision for the receipt of Compostable Packaging, this is further refined in Table 3-1, which outlines that it is proposed that the facility would have the capacity to receive General Solid Waste (Non-Putrescible), limited to compostable packaging as defined in Australian Standard AS4736-2006. In the Definitions contained within AS4736-2006, Composting is defined as “The aerobic and thermophilic degradation of **organic** matter to make compost”, whilst Plastic is defined as “a material that contains large molecular weight **organic** polymeric substances as an essential ingredient”. As such, it can be concluded that any materials deemed compostable are indeed organic by nature.”
- Updated site layout plan and additional plans for the amenities building including the following amendments:

“a) The new amenities building remains as shown previously, this consists of a small temporary structure as shown in the plan attached as Attachment A to this letter. This structure would be 3m in height and would be attached to the existing on site sewage management system. Plans and elevations of the existing and proposed weighbridge, office and amenities are included with this response.

b) The Decontamination area, Mobile Aerated Floor, and Drill Mud Receival Area have been amended to be “Proposed Operational Areas”. These areas would not require any building works and any plant located in these areas would be mobile in nature.

Soilco notes that the Aerated Composting Pad is existing and no building works are proposed.

*Construction activities involved in the Manufacturing, Storage and Distribution Area involve the grading and compaction of the area identified to the levels shown in the plans attached with Appendix G of the EIS, no additional construction activities are proposed. This includes the construction of all water management infrastructure consistent with that included in Appendix G.*

*Given the above details, the proposal is not considered to be concept only.”*

- On 23 June 2021, DPIE (Local & Regional Planning) requested confirmation that the compostable plastics are organic material (i.e. 100%) in order to comply with clause 13.
- On 23 June 2021, Council requested the following information:
  - Written confirmation that the compostable plastics are organic material (i.e. 100%). The submitted EIS and information provided refers to accepting only compostable packaging that meets the requirements of AS 4736-2006 which specifies that plastics materials are only required to contain more than 50% organics materials.

To comply with the definition within the EP&A Regulation 2000, the materials to be accepted at a *Composting Facility or Work* are to be organic (i.e. 100%). The additional information notes that “*any materials deemed compostable are indeed organic by nature*” but does not confirm the percentage of organic material in the compostable plastics.

- On 24 June 2021, the applicant provided the following advice in response to Council’s request:  
*...“given the proposal is for Resource Recovery, Waste Processing (Nonthermal treatment), Composting and Waste Storage, the Development Application should be referred to Regional Planning Panel for determination.”*

#### Site History and Previous Approvals

- DA95/3205 – Sand and soil quarry and processing, stockpiling, distribution of sand, soil and associated materials – Approved: 26/07/1996 (Attachment 4)
- DS01/1222 – Modification to DA95/3205 – Modifying Conditions 18 and 19 – Approved: 26/09/2003 (Attachment 4)
- DA15/1259 – Proposed upgrade of existing flood bund wall using engineered fill material – Approved: 25/08/2015
- DS13/1445 – Modification to DA95/3205 – Modifying the description of the approved development to include “composting of materials” and Conditions 1, 3 and 19; Inserting Conditions 20, 21 and 22; and Deleting Lot 1 DP 865095 from the property description – Approved: 18/07/2016 (Attachment 4)
- DS18/1432 – Modification to DA95/3205 – Modifying the consent lapse date from 26 July 2021 to 26 July 2030, and Conditions 1, 2, 3, 7 and 15 – Approved: 06/11/2019 (Attachment 4)

These modifications were proposed for the following reasons as indicated by the applicant:

*“The primary reason behind the proposed alterations to the existing operation is simply to update the consent documents to reduce some of the conflicting approvals that have been issued in the past and to clarify the future direction of the quarry/composting operation...”*

*Further, the way the quarrying operations have progressed over the life of the development means the approved extraction limit will not be reached by 26 July 2021. Soilco obviously wishes to utilise the approved development to its maximum extraction limit. Due to lower than anticipated extraction volumes since the quarry was approved, there is a need to extend the duration of operation of the quarry for an anticipated 9 additional years from 2021 to 2030.”*



**4. Consultation and Referrals**

Internal Referrals			
Referral	Required	Recommendation	Comment
Development Engineer	<input checked="" type="checkbox"/>	<p>No objections subject to recommended conditions of consent (dated 09/04/2021 and email dated 22/06/2021), being particularly in relation to the proposed road widening as detailed in the following comments:</p> <ul style="list-style-type: none"> <li>▪ Revised concept road widening plans have been provided to address Council’s City Services referral comments. The plans are considered generally acceptable.</li> <li>▪ Given previous concern with existing culverts restricting road width, it has been agreed that detailed engineering plans will need to demonstrate any locations where the final road width cannot be achieved due to existing culverts. The plans should demonstrate what road width can be achieved between the existing culverts, and commentary on safe sight distance/ stopping/ passing opportunities at the constricted locations. Provided the constricted areas are considered safe, Council will accept the road to be narrowed locally at the culverts. Council’s City Services would then address the culverts and road widening at a later stage.</li> <li>▪ Any road widening or pavement works that impact existing batters or embankments will need to have those slopes certified as safe by a geotechnical engineer, or remedial work undertaken to ensure safety.</li> <li>▪ The intersection works approved under DS13/1445 (being a modification to DA95/3205) to Longreach and Wogamia Roads will need to be completed, and will form a condition of any consent granted. As discussed with the applicant, a 12-month review period is proposed so that the operator and/or Council can undertake traffic counts to determine the adequacy of the intersection treatment. If the counts warrant a more significant intersection treatment than what was required under previous approvals, this</li> </ul>	<p>Conditions to be imposed, should the application be determined by approval, to particularly address the proposed road widening and traffic impacts.</p>

		<p>may need to be undertaken by the developer.</p> <ul style="list-style-type: none"> <li>▪ Where the road widening between CH. 450-730 results in the road carriageway being brought closer to existing power poles, the widening should be provided on the opposite side of the road to the power poles, with suitable tapers to transition between the alignments. Where this is not possible due to existing vegetation or other constraints, the plans should demonstrate the maximum achievable road width without reducing clearance to the poles, and include commentary on safe sight distance/ stopping/ passing opportunities at the constricted locations to demonstrate ongoing heavy vehicle management. Where the constricted areas are considered safe by Council, local narrowing at the power pole locations is permissible.</li> </ul> <p>As indicated by the Engineer, the recommended conditions include the recommendations of City Services, as referred to below.</p>	
<p>Council's City Services (Road Asset Manager &amp; Traffic Unit)</p>	<p><input checked="" type="checkbox"/></p>	<p>No objections subject to recommended amendments and conditions of consent (dated 08/04/2021), being:</p> <ul style="list-style-type: none"> <li>▪ Realignment of Pit A01 to be at the bottom of the proposed batter with shaping/grading of the surrounding landscape to ensure increased pit efficiency.</li> <li>▪ Pavement design for intersection and widening works to be provided at CC stage must be designed to an industrial road standard to cater for the high HV%.</li> <li>▪ The gravel shoulder is to taper back to the existing road rather than stop at CH59.710.</li> <li>▪ The swept path plans show a potential conflict between trucks at the intersection of Wogamia and Longreach Roads and the proposed intersection upgrade is not shown on the concept road widening plans.</li> <li>▪ The proposed seal over the existing gravel is to be done to an industrial road standard to ensure longevity of the wearing course due to the high HV%.</li> </ul>	<p>Conditions to be imposed, as recommended by Council's Development Engineer, should the application be determined by approval, to particularly address the proposed road widening and traffic impacts.</p> <p>As indicated by the Development Engineer, conditions include the recommendations of City Services.</p>

<p>Floodplain Engineer</p>	<p>☒</p>	<p>No objections (dated 23/03/2021).</p> <p>The addendum to the EIS has correctly acknowledged that the levee will be constructed to 1% AEP flood level to be consistent with DA15/1259.</p>	<p>Noted.</p> <p>It is considered that the upgrading of the existing flood bund wall approved as part of DA15/1259 should be completed <b>prior to occupation or use of this development.</b></p> <p>As indicated in the submitted EIS on page 26: <i>“Construction of the bund assists with mitigating flood risk for current and future operations within the site boundary. The bund also improves the visual amenity of the site by increasing buffer vegetation and assisting with reduction of noise.”</i></p> <p>A condition is recommended to deal with the bund wall and timing.</p>
<p>Environmental Assessment Officer</p>	<p>☒</p>	<p>No objections subject to recommended conditions of consent (dated 26/05/2021), being particularly in relation to the impact of the proposed road widening on 23 trees along the Wogamia Road corridor as detailed in the following comments:</p> <ul style="list-style-type: none"> <li>▪ The revised Arboricultural Impact Assessment dated 18/05/21 assessed the impact of proposed road widening on 23 trees and determined that 19 of those trees would require removal for the proposed works (including the four (4) trees to be removed to establish a line of sight along the road).</li> <li>▪ The additional trees nominated for removal were inspected on the 22nd May 2021. The additional trees proposed to be removed are Spotted Gum (<i>Corymbia maculata</i>), Red Bloodwood (<i>Corymbia gummifera</i>) and Blackbutt (<i>Eucalyptus pilularis</i>) that are mostly young trees, with small trunk diameters. No hollows or evidence of glider sap feeding were observed in any of the trees proposed to be removed. The trees to be removed</li> </ul>	<p>Conditions to be imposed, should the application be determined by approval to address the impact of proposed road widening on existing vegetation and ensure protection of trees to be retained and high value habitat in the area.</p>

		<p>represent a small part of the foraging habitat available within the connected bushland on private land and National Park. There is existing connectivity between the bushland to the north and south of the road via overhanging branches. The removal of these small trees will unlikely substantially reduce this connectivity and it will still be provided by the overhanging branches of larger trees to be retained.</p> <ul style="list-style-type: none"> <li>▪ Two (2) of the trees proposed to be removed (T1 and T2) are near rocky areas that contain caves and crevices that are potential roosting and breeding habitat for Threatened microbats. The trees to be removed are not immediately adjacent to the rocky areas and the works will not directly impact the feature. The two (2) trees to be removed are small and the vegetated buffer between the road and the habitat feature will be retained following removal. Indirect impacts are unlikely to be increased, however, to minimise the chance of indirect impacts during construction, tree removal and road works adjacent to the rocky areas are to occur outside of the summer months (November-February) when cave dwelling Threatened microbats in the locality would breed. This is to be a requirement of the consent conditions (if approved).</li> <li>▪ The revised Arboricultural Impact Assessment does not include any protection measures for adjacent trees to be retained. There is high value habitat including hollow bearing trees adjacent to the proposed works that may require protection during construction. Protection measures are recommended as a condition of consent (if approved).</li> <li>▪ It is recommended a program to monitor the impacts of the increased traffic on road kill numbers be established, which includes adaptive mitigation measures if there is an increase in roadkill numbers.</li> </ul>	
Waste Services	☒	No objections (dated 10/08/2020).	<p>Noted.</p> <p>No conditions to be imposed in this regard, should the application be determined by approval.</p>

Shoalhaven Water	☒	<p>Notice provided (dated 19/07/2021).</p> <p>The development is connected to town water. Wastewater is not available.</p> <p>No conditions are to apply.</p>	<p>Conditions to be imposed, should the application be determined by approval to address the requirements of Shoalhaven Water at Construction Certificate and Occupation Certificate stage.</p>
Environmental Health Officer	☒	<p>No objections subject to recommended condition of consent (dated 20/11/2020), as detailed in the following comments:</p> <ul style="list-style-type: none"> <li>▪ Comments to be deferred to that required by the NSW EPA as the site has an Environmental Protection Licence (being No. 11542).</li> <li>▪ Noise will be in exceedance of guidelines, but receivers have provided letters of support.</li> <li>▪ The submitted EIS indicates that an Environmental Management Plan (EMP) will be produced to set out all procedures for ensuring the operation of this facility ensuring that commitments are put into practice.</li> <li>▪ It is recommended that the requirement for an EMP be a condition of any consent granted and be prepared in accordance with the submitted EIS.</li> </ul> <p>The EMP must also include:</p> <p>Noise controls as recommended by the submitted Environmental Noise Impact Assessment Report; odour and dust assessment as recommended by the submitted Odour and Dust Assessment Report; and any other requirements recommended by reports supporting the EIS.</p>	<p>Condition to be imposed, should the application be determined by approval to address the requirement for an EMP.</p>
Certification & Compliance Manager	☒	<p>No objections, with no need to provide additional protection to the buildings (dated 24/06/2021) as detailed in the following comments:</p> <ul style="list-style-type: none"> <li>▪ The building plans for the amenities, awning and existing site and weighbridge office were reviewed. It is considered that the NSW Rural Fire Service comments in the SEARS are more related to the general workings of the site and not the proposal at hand.</li> </ul>	<p>Noted.</p> <p>No conditions to be imposed in this regard, should the application be determined by approval.</p>

		<ul style="list-style-type: none"> <li>The bush fire prone land mapping identifies the buildings may be located within the buffer. It would appear they are located over 100m from the forested vegetation and are technically BAL-Low. The paddock to the east is approximately 30-40m from the proposed building and this would technically be BAL-12.5 if the area is not maintained (i.e. not mown). It is considered that it would be maintained and therefore there is no need to provide additional protection to the buildings.</li> </ul>	
--	--	--	--

External Referrals			
Agency	Required	Recommendation	Comment
EPA	<input checked="" type="checkbox"/>	<p>General Terms of Approval (dated 01/12/2020) have been issued per ss 43 (b), 48 and 55 of the Protection of the Environment Operations Act 1997 (POEO Act).</p> <p>In assessing the proposal, the NSW EPA also identified a number of environmental issues for Council to consider including as conditions of consent (if approved), requiring:</p> <ul style="list-style-type: none"> <li>An Air Quality and Odour Management Plan describing measures to minimise odour impacts associated with the operations.</li> <li>A Traffic Noise Management Strategy to ensure that feasible and reasonable noise management strategies for vehicle movements associated with the facility.</li> </ul> <p>The EPA also provided the following advice:</p> <ul style="list-style-type: none"> <li>The proponent to negotiate an authorised amount with the EPA to be included on the licence in relation to a waste levy liability.</li> <li>The review of the existing Pollution Incident Response Management Plan for the premises.</li> <li>The proponent to apply for a specific Resource Recovery Order for the output material under clause 93 of the Waste Regulation, prior to drilling mud wastewater being added to the composting process.</li> <li>Confirmation that the owners and occupiers at receptor R1 are aware of the revised air modelling results.</li> </ul>	<p>Conditions to be imposed, regarding air quality and odour management, noise management, water and wastewater management, waste management, stormwater and sediment control, and pollution control should the application be determined by approval.</p> <p>It is considered that the Air Quality and Odour Management Plan would be required prior to the commencement of increased operations at the facility. The Traffic Noise Management Strategy would be required prior to commencement of construction and operation activities.</p> <p>The other matters would be included as advisory notes with any consent granted as the wording is not conducive to conditions of consent.</p>

TfNSW	☒	<p>No objections with regard to the impact to the state road network (dated 28/05/2021).</p> <p>It is not considered that the application will have a significant adverse impact on the network (i.e. the intersection of Kalandar Street/Princes Highway).</p>	<p>Noted.</p> <p>No conditions to be imposed in this regard, should the application be determined by approval.</p>
Endeavour Energy	☒	<p>No objections subject to recommendations and comments in advice dated 03/06/2021.</p>	<p>Noted.</p> <p>The applicant is to consider these recommendations and comments as part of the design of the development (as requested in Council's email dated 09/06/2021).</p> <p>Advisory note to be imposed, should the application be determined by approval.</p>
DPIE	☒	<p>No objections subject to recommendations (dated 21/08/2020), being:</p> <ul style="list-style-type: none"> <li>▪ That the approval authority should be satisfied that the flood assessment is in line with the principles of the Floodplain Development Manual and in particular considering flood related impacts up to and including the Probable Maximum Flood (PMF).</li> <li>▪ That the approval authority is to ensure that the relevant provisions of the SEPP (Coastal Management) 2018 have been adequately considered.</li> <li>▪ That consideration should be given to whether there are adequate controls in place to prevent surface and groundwater pollution of the Shoalhaven River by leachate runoff, compostable materials and soil.</li> <li>▪ That the recommended mitigation measures in the guidelines for development adjoining NPWS land be considered, as the proposal site is adjacent to Wogamia Nature Reserve on its eastern boundary (even though the proposed works are not sited immediately adjacent to the reserve).</li> </ul>	<p>These matters have been considered as detailed in this report.</p> <p>Conditions to be imposed in relation to flood mitigation measures where required, should the application be determined by approval.</p>

## 5. Other Approvals

Integrated Approvals and Concurrences			
Agency	Required	Recommendation	Comment
EPA	<input checked="" type="checkbox"/>	General Terms of Approval (dated 01/12/2020) have been issued.	Conditions to be imposed, regarding air quality and odour management, noise management, water and wastewater management, waste management, stormwater and sediment control, and pollution control should the application be determined by approval.

## 6. 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:

Instrument	Relevant	Instrument	Relevant
Shoalhaven LEP 2014	<input checked="" type="checkbox"/>	State Environmental Planning Policy No 55 - Remediation of Land	<input checked="" type="checkbox"/>
State Environmental Planning Policy (Coastal Management) 2018	<input checked="" type="checkbox"/>	State Environmental Planning Policy (State and Regional Development) 2011	<input checked="" type="checkbox"/>
State Environmental Planning Policy No 33 - Hazardous and Offensive Development	<input checked="" type="checkbox"/>	State Environmental Planning Policy (Infrastructure) 2007	<input checked="" type="checkbox"/>
State Environmental Planning Policy (Koala Habitat Protection) 2020 & 2021	<input checked="" type="checkbox"/>	State Environmental Planning Policy (Primary Production and Rural Development) 2019	<input checked="" type="checkbox"/>

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.

## 7. 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

Environmental Planning and Assessment Act 1979

#### Section 4.10 – Designated Development

Designated development is development that is declared to be designated development by an environmental planning instrument or the regulations.



The proposal involves a *waste management facility* that meets the requirements for designated development under clause 32 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000, being:

**“32 Waste management facilities or works**

- (1) *Waste management facilities or works that store, treat, purify or dispose of waste or sort, process, recycle, recover, use or reuse material from waste and—*
  - (a) *that dispose (by landfilling, incinerating, storing, placing or other means) of solid or liquid waste—*
    - (i) *that includes any substance classified in the Australian Dangerous Goods Code or medical, cytotoxic or quarantine waste, or*
    - (ii) *that comprises more than 100,000 tonnes of “clean fill” (such as soil, sand, gravel, bricks or other excavated or hard material) in a manner that, in the opinion of the consent authority, is likely to cause significant impacts on drainage or flooding, or*
    - (iii) *that comprises more than 1,000 tonnes per year of sludge or effluent, or*
    - (iv) *that comprises more than 200 tonnes per year of other waste material, or*
  - (b) *that sort, consolidate or temporarily store waste at transfer stations or materials recycling facilities for transfer to another site for final disposal, permanent storage, reprocessing, recycling, use or reuse and—*
    - (i) *that handle substances classified in the Australian Dangerous Goods Code or medical, cytotoxic or quarantine waste, or*
    - (ii) *that have an intended handling capacity of more than 10,000 tonnes per year of waste containing food or livestock, agricultural or food processing industries waste or similar substances, or*
    - (iii) *that have an intended handling capacity of more than 30,000 tonnes per year of waste such as glass, plastic, paper, wood, metal, rubber or building demolition material, or*
  - (c) ***that purify, recover, reprocess or process more than 5,000 tonnes per year of solid or liquid organic materials, or***
  - (d) ***that are located—***
    - (i) ***in or within 100 metres of a natural waterbody, wetland, coastal dune field or environmentally sensitive area, or***
    - (ii) ***in an area of high watertable, highly permeable soils, acid sulphate, sodic or saline soils, or***
    - (iii) *within a drinking water catchment, or*
    - (iv) *within a catchment of an estuary where the entrance to the sea is intermittently open, or*
    - (v) ***on a floodplain, or***
    - (vi) *within 500 metres of a residential zone or 250 metres of a dwelling not associated with the development and, in the opinion of the consent authority, having regard to topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood by reason of noise, visual impacts, air pollution (including odour, smoke, fumes or dust), vermin or traffic.*
- (2) *This clause does not apply to—*
  - (a) *development comprising or involving any use of sludge or effluent if—*

- (i) *the dominant purpose is not waste disposal, and*
  - (ii) *the development is carried out in a location other than one listed in subclause (1)(d), above, or*
  - (a1) *artificial waterbodies located on relevant irrigation land, or*
- Note—The term relevant irrigation land is defined in clause 38.*
- (b) *development comprising or involving waste management facilities or works specifically referred to elsewhere in this Schedule, or*
  - (c) *(Repealed)” (emphasis added)*

The applicant has confirmed that although the development comprises or involves waste management facilities or works specifically referred to in clause 13 *Composting facilities or works*, the development does not satisfy the criteria of that clause as the compostable plastics are not 100% organic material.

In accordance with section 4.12(8) of the EP&A Act, the application has been accompanied by an EIS prepared by or on behalf of the applicant in the form prescribed by the regulations.

The Planning Secretary’s Environmental Assessment Requirements (SEARs No. 1299) were provided.

The EIS meets the minimum form and content requirements of the regulations, including an assessment of all potential impacts of the development on the existing environment (including cumulative impacts if necessary), and developing appropriate measures to avoid, minimise, mitigate and/or manage these potential impacts.

Matters raised by State agencies are referred to and addressed in Appendix A.

**Section 4.14 – Consultation and development consent – certain bush fire prone land**

The subject site is identified as being partially bush fire prone land, in the eastern portion only (refer to Figure 9).

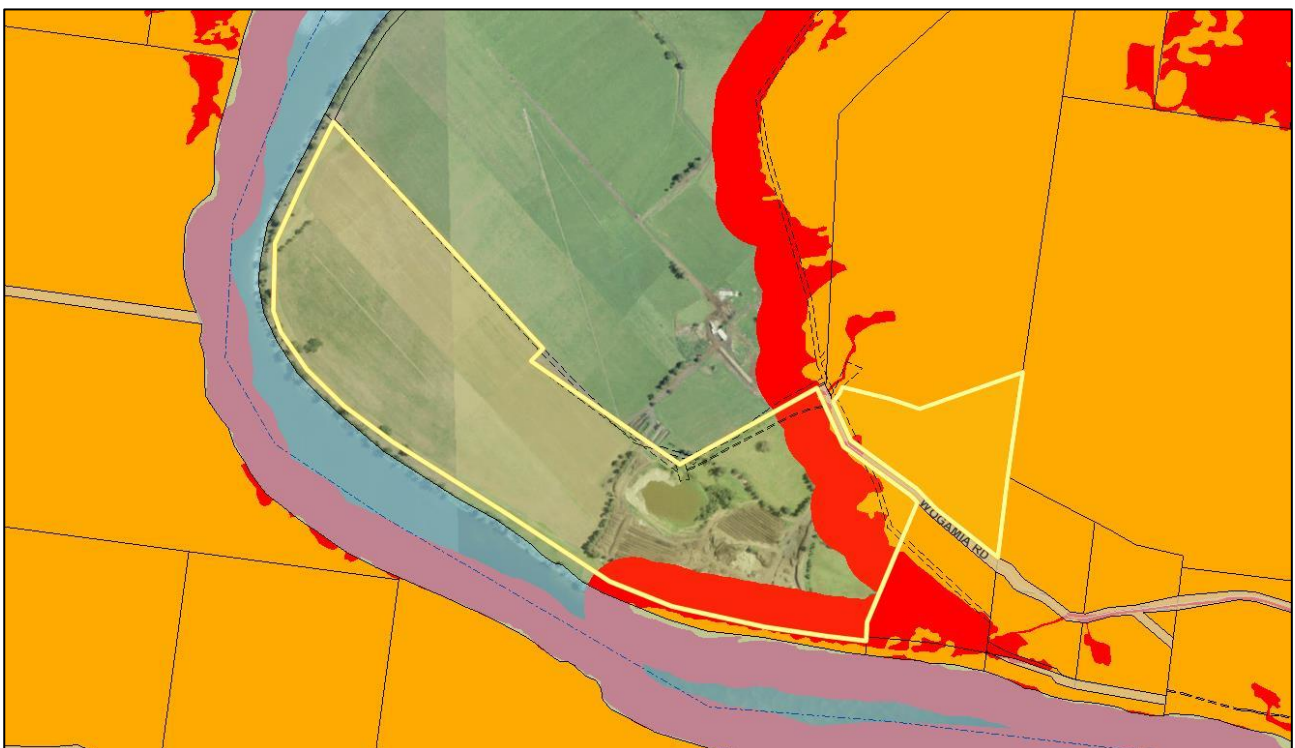


Figure 9. Extent of bush fire prone area

Based on the controls and mitigation measures that SOILCO currently implements for the existing site, the applicant considers that protection provisions proposed for the development and accompanying recommendations, comply with the aims and objectives of Planning for Bush Fire Protection.

In this regard, the applicant indicated the following in the submitted EIS (refer to page 95):

*Bushfire Prone Vegetation*

*“Bushfire prone vegetation is largely situated outside the eastern boundary of the site and is identified as being dry sclerophyll forest. A small strip of bushfire prone vegetation has also been identified outside the southern portion of the site, just back from the bank of the Shoalhaven River. The site is largely cleared and the presence of a flood bund wall which sits between the site and bushfire prone vegetation is regarded as being suitable for asset protection.”*

*Stockpile management*

*“Stockpiles are managed by compliance with SOILCO’s Site Specific Management Plan (SSMP) for the existing site which imposes height and size restrictions on stockpiles. Sprinkler systems are utilised on compost and sawdust stockpiles to ensure that material is kept at an adequate moisture level to reduce the risk of spot fires. Loaders and excavators on site are also utilised by turning stockpiled material to reduce the risk of any identified “hot spots”. Due to the reduced vegetation existing within the bounds of the site the risk of fire spreading from a stockpile is considered to be low.*

*Access would be maintained around the entire site within the flood bund wall, as well as between all areas of stockpiles to ensure that firefighting appliances would have access at all time as required.”*

*Mitigation Measures*

*“The following mitigation measures are used to prevent potential impacts of bushfire from the proposal:*

- Use of existing sprinkler systems and onsite water cart;*
- Use of loaders and excavators on identified “hot spots” in stockpiles;*
- Provision of pumps with access to the quarry for use in firefighting operations;*
- Maintenance of suitable access throughout the site for firefighting appliances;*
- Compliance to SOILCO’s SSMP requirements on stockpile size and height; and*
- Development of fire management and emergency evacuation plans for the site”*

Council’s Certification & Compliance Manager raised no objections with the proposal and the information submitted. The building plans for the amenities, awning and existing site and weighbridge office were reviewed. Furthermore, it is considered that the NSW Rural Fire Service comments in the SEARS are more related to the general workings of the site and not the proposal at hand.

The bush fire prone land mapping identifies the buildings may be located within the buffer. It would appear they are located over 100m from the forested vegetation (as shown in Figure 10) and are technically BAL-Low. The paddock to the east is approximately 30-40m from the proposed building and this would technically be BAL-12.5 if the area is not maintained (i.e. not mown). It is considered that it would be maintained and therefore there is no need to provide additional protection to the buildings.

In accordance with the provisions of subclause (1)(a) of section 4.14 of the EP&A Act, development consent can be granted as Council 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 2019 prepared by the NSW Rural Fire Service in co-operation with the Department that are relevant to the development (the relevant specifications and requirements). Referral of the application to the NSW Rural Fire Service was therefore not required.



Figure 10. Distance of Buildings from Vegetation

#### Section 4.46 – Integrated Development

##### Protection of the Environment Operations Act 1997

Sections 43 (b), 48 and 55 of the POEO Act require an environment protection licence to authorise carrying out of scheduled activities at any premises (excluding any activity described as a “waste activity” but including any activity described as a “waste facility”).

As detailed earlier in this report, General Terms of Approval (dated 01/12/2020) have been issued by the EPA satisfying the provisions of Section 4.46 of the EP&A Act.

##### **i) Environmental planning instrument**

##### SEPP (State and Regional Development) 2011

The proposal was presented to Council at lodgement as regionally significant development as satisfying the criteria of clause 7(c) of Schedule 7 of this Policy, involving a waste management facility and works, which meet the requirements for designated development under clause 32 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000.

However, the applicant confirmed that the submitted EIS is correct in that the proposal is designated development due to the composting operations at the facility under clause 13 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000, specifically subclause (a) being “composting facilities or works that process more than 5,000 tonnes per year of organic materials”. It is also indicated that subclause (b) is triggered due to the location of the subject site.

Clause 32(2)(b) states that this clause does not apply to “*development comprising or involving waste management facilities or works specifically referred to elsewhere in this Schedule*”.

However, as detailed earlier in this report, the applicant has confirmed that although the development comprises or involves waste management facilities or works specifically referred to in clause 13 *Composting facilities or works*, the development does not satisfy the criteria of that clause as the compostable plastics are not 100% organic material.

Accordingly, this proposal is considered regionally significant as clause 32 is applicable.

#### SEPP (Infrastructure) 2007

Clause 121(1) of this Policy states that:

*“Development for the purpose of waste or resource management facilities, other than development referred to in subclause (2), may be carried out by any person with consent on land in a prescribed zone.”*

*Subclause (2) states:*

*“Development for the purposes of a waste or resource transfer station may be carried out by any person with consent on—*

*(a) land in a prescribed zone, or*

*(b) land in any of the following land use zones or equivalent land use zones—*

*(i) B5 Business Development,*

*(ii) B6 Enterprise Corridor,*

*(iii) IN2 Light Industrial,*

*(iv) IN4 Working Waterfront, or*

*(c) land on which development for any of the following purposes is permitted with consent under any environmental planning instrument—*

*(i) industry,*

*(ii) business premises or retail premises,*

*(iii) freight transport facilities.”*

Clause 121(1) is applicable as the development is for the purpose of a “waste or resource management facility”, other than development referred to in subclause (2), and proposed on land in a prescribed zone, being the RU1 Primary Production zoned portion of the subject site.

Therefore, the proposal is permitted with consent.

Clause 45(1)(b)(iii) of the Infrastructure SEPP is also applicable as development is proposed to be carried out within 5m of an exposed overhead electricity power line and the application referred to the *electricity supply authority for the area* (Endeavour Energy) on 01/06/2021 as required for comment. A response was provided (as detailed under the ‘Referrals’ section of this report) and has been considered.

Clause 104 is applicable as traffic-generating development as it involves a *waste or resource management facility*, and the application referred to Transport for NSW (TfNSW) on 24/05/2021 as required by this Policy.

The key state classified road is the Princes Highway to which the development has access via the local road network (i.e. Yalwal Road, Albatross Road and Kalandar Street). Access to and from the Princes Highway is to be gained via the Kalandar Street/Princes Highway intersection (refer to Figure 11 below).

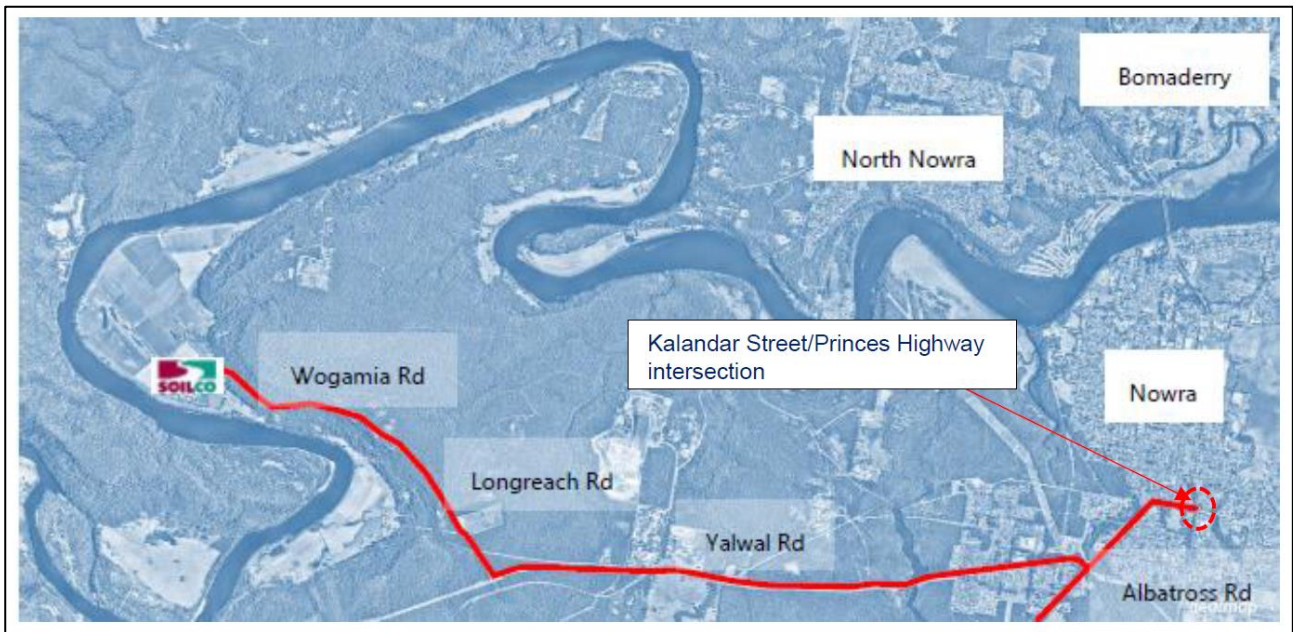


Figure 11. Access Route to site

TfNSW noted that the application proposes to import and process up to 98,000 tonnes per annum (tpa) of material resulting in an additional 5,534 vehicle movements per annum. This equates to 16 additional vehicle movements per day on the existing operations approved under DA95/3205 which allows 35,000 tpa (refer to pages 9 and 10 of the submitted Traffic Impact Report). This application if approved will replace/require the surrender of DA95/3205.

TfNSW also noted that the total average daily vehicle movements would be less than 50 heavy vehicles per day, as indicated in the submitted EIS.

Given the above, TfNSW has raised no objections with the application as it does not believe that the proposal will have a significant adverse impact on the state road network (i.e. the intersection of Kalandar Street/Princes Highway).

Council is satisfied that the matters listed in clause 104(3) have been addressed and no concerns are raised in terms of the traffic safety, road congestion or any parking implications of the development.

#### SEPP (Coastal Management) 2018

The subject site is identified as being within the “coastal environment area” and “coastal use area” and the provisions of clause 13 and 14 of this Policy have been considered.

Clause 13(1) states:

*“Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following—*

- (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,*
- (b) coastal environmental values and natural coastal processes,*

- (c) *the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,*
- (d) *marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,*
- (e) *existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (f) *Aboriginal cultural heritage, practices and places,*
- (g) *the use of the surf zone.”*

Clause 14(1) states:

*“Development consent must not be granted to development on land that is within the coastal use area unless the consent authority—*

*(a) has considered whether the proposed development is likely to cause an adverse impact on the following—*

- (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,*
- (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,*
- (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,*
- (iv) Aboriginal cultural heritage, practices and places,*
- (v) cultural and built environment heritage, and*

*(b) is satisfied that—*

- (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or*
- (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or*
- (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and*

*(c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.”*

Accordingly, the development is unlikely to cause any adverse impact on those matters listed under subclause (1) of each clause given that proposed as part of this application would not largely alter the footprint of the existing facility on the site.

The development has been sited to avoid any adverse impact referred to in subclause (1) and Council is satisfied that any impact from the development can be suitably mitigated and the development will not cause any increased risk of coastal hazards on the subject site or other land.

SEPP 55 Remediation of Land

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

Question	Yes		No	
2. Does the proposal result in a change of use (that is the establishment of a new use)?		Proceed to Question 3		Assessment under SEPP 55 and DCP not required.
3. Does the application proposed a new: <ul style="list-style-type: none"> <li>▪ Child care facility</li> <li>▪ Educational use</li> <li>▪ Recreational use</li> <li>▪ Health care use</li> <li>▪ Place of public worship</li> <li>▪ Residential use in a commercial or industrial zone</li> </ul>		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 55 and DCP.
5. Is the proposed land use likely to have any exposure path to contaminants that might be present in soil or groundwater?		Request contaminated site assessment	X	Proposal satisfactory under SEPP 55 and DCP.

The site was inspected on 29 March 2021.

It is noted that there is an existing Environment Protection Licence (being No. 11542) for the facility. The EPA has determined that it is able to vary this to permit that proposed as part of this application. General Terms of Approval (dated 01/12/2020) have been issued.

As indicated in the submitted EIS, *“the excavation involved in the construction of the new blending and manufacturing area would be minimal and be in a location previously only used for agricultural purposes, consequently there is no potential to disturb contaminated land.”*

In this regard, no objections were raised with this proposal.

SEPP (Koala Habitat Protection) 2020 & 2021

These Policies are required to be addressed for this development as it occurs on a site that is within a local government area listed in Schedule 1 (in relation to the 2021 Policy) and as the site is zoned RU1 Primary Production and RU2 Rural Landscape (in relation to the 2020 Policy).

It is noted that there is no approved Koala Plan of Management applicable to the subject site.

Further to this, as there is no local population, there is likely to be low or no impacts on koalas or habitat. Council’s Environmental Assessment Officer has raised no objections in relation to this matter subject to conditions of consent being imposed should the application be determined by approval.

SEPP 33 - Hazardous and Offensive Development

Certain activities may involve handling, storing or processing a range of materials, which, in the absence of controls, may create risk outside of operational borders to people, property or the environment. Such activities would be defined by this Policy as a “potentially hazardous industry” or “potentially offensive industry”. This Policy applies to any industrial development proposals which fall within these definitions.

Under clause 3, a development is deemed part of a “potentially hazardous industry” if it satisfies the definition:



*“a development for the purposes of any industry which, if the development were to operate without employing any measures (including, for example, isolation from existing or likely future development on other land) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would pose a significant risk in relation to the locality:*

- a) to human health, life or property, or*
- b) to the biophysical environment,*

*and includes a hazardous industry and a hazardous storage establishment.”*

The DPIE guideline “Applying SEPP 33” provides a risk screening procedure to facilitate determination of whether a proposed development is applicable under this Policy.

If, under this screening test this Policy is triggered, clause 12 requires:

*“A person who proposes to make a development application to carry out development for the purposes of a potentially hazardous industry must prepare (or cause to be prepared) a preliminary hazard analysis (PHA) in accordance with the current circulars or guidelines published by the Department of Planning and submit the analysis with the development application.”*

As the proposal falls within the definition of a “potentially hazardous industry”, a screening assessment was undertaken, which is outlined in the submitted EIS. The assessment found the proposal would not trigger the need for a PHA as it would operate below the screening levels set out in the guidelines, such as dangerous goods quantity/distance thresholds.

Table 8-15 (reproduced at Figure 12 below) shows the screening thresholds established in “Applying SEPP 33” and the quantity of dangerous goods that would be stored onsite (Source: EIS prepared by SOILCO Pty Ltd, Version 3, dated 03/11/2020).

<b>Chemical/material</b>	<b>Estimated maximum quantity to be stored on-site</b>	<b>Dangerous Goods Class</b>	<b>Storage location and distance from boundary</b>	<b>Screening threshold/potentially hazardous region</b>
Diesel fuel	Approx. 25,000 litres	C1: Flammable liquids stored separately from other fire risk dangerous goods	Adjacent to the entrance of the site and the workshop.	100,000 kg or L
Oil and Grease	Approx. 500 litres	C1: Flammable liquids stored separately from other fire risk dangerous goods	Adjacent to the entrance of the site within the workshop.	100,000 kg or L

*Figure 12. Table outlining SEPP 33 dangerous goods*

The following is indicated in the submitted EIS on page 107:

*“The quantities of fuel proposed to be stored on-site for machinery use are well below the threshold quantities of Applying SEPP 33 (DoP, 2011). Hazardous substances would be stored separately and in approved containers and bunds. As a C1-Flammable liquid the 25,000 litres of diesel fuel and 500 litres of oil and grease is not considered to be potentially hazardous when stored in a separate bund or within a storage area where there are no other flammable materials stored. A bunded diesel tank compliant with Australian Standard 1940:2004: The storage and handling of flammable and combustible liquids is used for the storage of the diesel. The fuel and oil drums are self-bunded containers would be located*

*within the existing workshop building. The Site is therefore not considered to be potentially hazardous and the provisions of SEPP 33 do not apply.”*

Given the information provided with this application, it is considered that the proposed development does not meet the criteria to be a “potentially hazardous industry” and therefore the provisions of Part 3 of this Policy are not applicable.

#### SEPP (Primary Production and Rural Development) 2019

The EIS was required to assess the proposal against State Environmental Planning Policy (Rural Lands) 2008, however, the Rural Lands SEPP was repealed by SEPP (Primary Production and Rural Development) 2019 prior to lodgement of this application.

The provisions of this Policy are not relevant to the proposal.

#### Shoalhaven LEP 2014

#### **Land Zoning**

The land is zoned RU1 Primary Production, RU2 Rural Landscape and E3 Environmental Management under the SLEP 2014 (as shown in Figure 13 below). The area to be developed as part of this application falls within the RU1 zoned portion. The proposed road widening works within the Wogamia Road corridor would impact land zoned RU2 and E3.

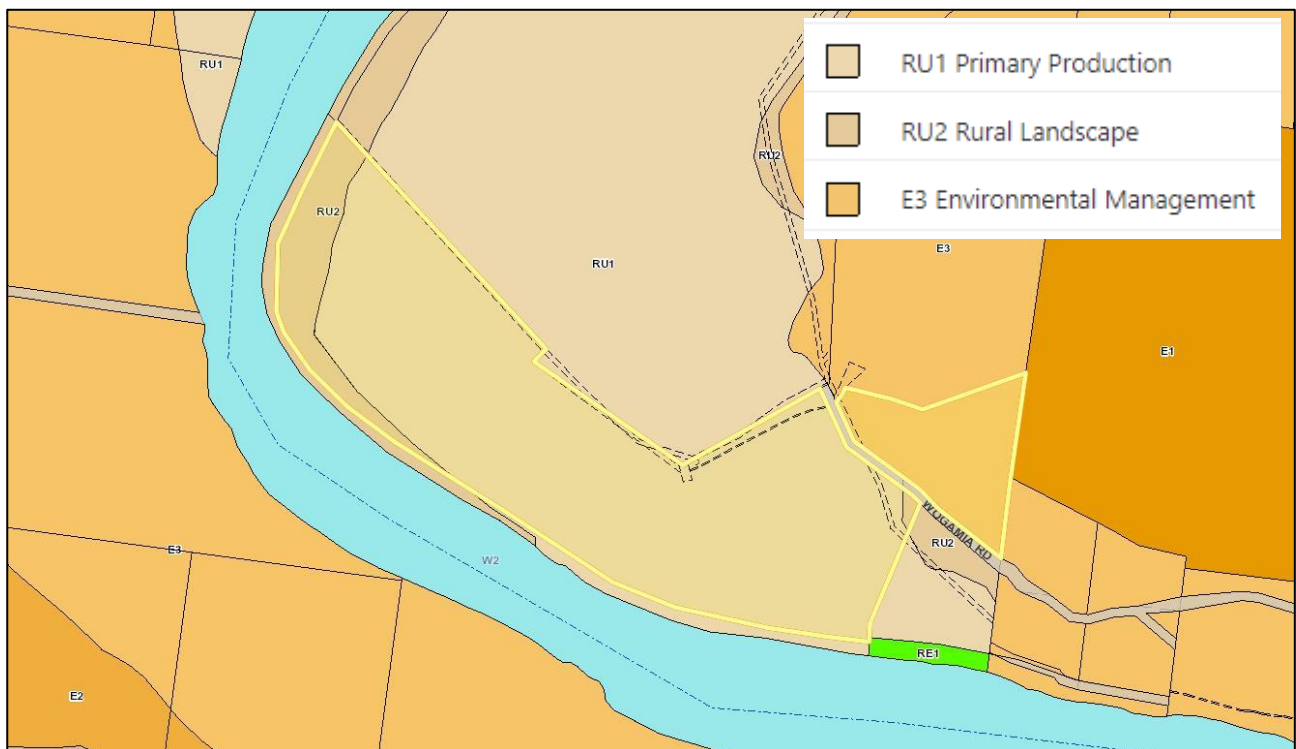


Figure 13. Zoning extract map, SLEP 2014

#### **Characterisation and Permissibility**

The proposal is best characterised as a *resource recovery facility*, which is a type of *waste or resource management facility* under the SLEP 2014. The proposal is prohibited within all the zones applying to the site, however, as identified earlier in this report, the proposal is permitted with consent under clause 121(1) of SEPP (Infrastructure) 2007.

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

**Note—**

Resource recovery facilities are a type of **waste or resource management facility**—see the definition of that term in this Dictionary.”

**“waste or resource management facility** means any of the following—

- (a) a resource recovery facility,
- (b) a waste disposal facility,
- (c) a waste or resource transfer station,
- (d) a building or place that is a combination of any of the things referred to in paragraphs (a)–(c).”

RU1 Zone objectives

Objective	Comment
<ul style="list-style-type: none"> <li>• To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</li> </ul>	<p>Satisfies the nominated objectives.</p> <p>The proposal is consistent with the objectives of the zone as it would provide for the composting of materials which are in turn used as sustainable soil improvers in primary industries. The composting operations are supported by the quarrying operations located on the site and serve to improve the quality of soil in the region.</p> <p>That proposed as part of this application would not largely alter the footprint of the existing facility on the site.</p> <p>The facility would continue to provide vital services for the south coast region, facilitating sustainable economic growth.</p>
<ul style="list-style-type: none"> <li>• To encourage diversity in primary industry enterprises and systems appropriate for the area.</li> </ul>	
<ul style="list-style-type: none"> <li>• To minimise the fragmentation and alienation of resource lands.</li> </ul>	
<ul style="list-style-type: none"> <li>• To minimise conflict between land uses within this zone and land uses within adjoining zones.</li> </ul>	
<ul style="list-style-type: none"> <li>• To conserve and maintain productive prime crop and pasture land.</li> </ul>	
<ul style="list-style-type: none"> <li>• To conserve and maintain the economic potential of the land within this zone for extractive industries.</li> </ul>	

RU2 Zone objectives

Objective	Comment
<ul style="list-style-type: none"> <li>• To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</li> </ul>	<p>Satisfies the nominated objectives.</p> <p>The proposal is consistent with the objectives of the zone as it would maintain the natural resource base and the rural landscape character of the area. The continued use of the facility is considered to be compatible with surrounding land uses.</p>
<ul style="list-style-type: none"> <li>• To maintain the rural landscape character of the land.</li> </ul>	
<ul style="list-style-type: none"> <li>• To provide for a range of compatible land uses, including extensive agriculture.</li> </ul>	

E3 Zone objectives

Objective	Comment
<ul style="list-style-type: none"> <li>To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.</li> </ul>	<p>The road widening works proposed as part of this application, which are proposed within this zone, are not inconsistent with the zone objectives, noting that road works are permissible in this zone.</p> <p>As indicated above, that proposed as part of this application would not largely alter the footprint of the existing facility on the site.</p> <p>Whilst the proposal will have impacts on the site and vicinity, it is considered that these can be adequately managed and in this regard the attributes of the broader locality and scenic values of the area will be maintained.</p>
<ul style="list-style-type: none"> <li>To provide for a limited range of development that does not have an adverse effect on those values.</li> </ul>	
<ul style="list-style-type: none"> <li>To protect the natural and cultural features of the landscape, including coastal and foreshore areas, that contribute to scenic value and visual amenity.</li> </ul>	
<ul style="list-style-type: none"> <li>To maintain the stability of coastal land forms and protect the water quality and ecological values of estuaries and coastal streams.</li> </ul>	

SLEP 2014 Clauses

Clause	Relevant	Comments	Complies/ Consistent
Part 5 Miscellaneous provisions			
5.10	☒	<p><u>Heritage conservation</u></p> <p>The subject site directly adjoins land containing a “local” heritage item to the north – being Item No. 252, “Wogamia”—two storey colonial sandstone homestead and outbuildings, at Lot 1 DP 865094 (154 Wogamia Road).</p> <p>However, the proposed development will not affect the heritage significance of this item given the proposal will not encroach on the location of the item and the screening of the site by the flood levee and vegetation planting along the northeast.</p> <p>The following mitigation measures are proposed as indicated in the EIS on pages 100-101:</p> <ul style="list-style-type: none"> <li>“Extension of the flood bund wall to the proposed excavation area of the site which would limit visibility of the site from the item;</li> <li>Tree screens would be planted along the completed flood bund wall; and</li> <li>Appropriate signage to SOILCO’s site to prevent vehicle movements towards the item.”</li> </ul> <p>Accordingly, a heritage management document is not required.</p>	Yes

		In addition to the above and to deal with potential unexpected finding, conditions of consent are recommended (if approved) to ensure that any aboriginal archaeological finds are properly considered and managed.	
<b>Part 7 Additional local provision</b>			
7.1	<input checked="" type="checkbox"/>	<p><u>Acid sulfate soils</u></p> <p>Not applicable. The subject site is identified as Class 5 land and the works proposed to facilitate the development are not likely to lower the watertable. An acid sulfate soils management plan is not required.</p>	N/A
7.2	<input checked="" type="checkbox"/>	<p><u>Earthworks</u></p> <p>The provisions of subclause (3) have been considered.</p> <p>The proposed earthworks will have no detrimental effect on use of the subject site or the existing and likely amenity of adjoining properties, subject to recommended conditions of consent.</p>	Yes
7.3	<input checked="" type="checkbox"/>	<p><u>Flood planning</u></p> <p>The subject site is located on flood prone land, however, a flood levee, approved under DA15/1259 has been constructed to ensure that the facility is not impacted by floodwaters.</p> <p>Council's Floodplain Engineer has reviewed the subject application and raised no objections.</p> <p>The addendum to the EIS has correctly acknowledged that the levee will be constructed to 1% AEP flood level to be consistent with DA15/1259.</p> <p>It is considered that the upgrading of the existing flood bund wall approved as part of DA15/1259 should be completed prior to occupation or use of this development.</p> <p><i>As indicated in the submitted EIS on page 26: "Construction of the bund assists with mitigating flood risk for current and future operations within the site boundary. The bund also improves the visual amenity of the site by increasing buffer vegetation and assisting with reduction of noise."</i></p> <p>A condition is to be imposed, should the application be determined by approval.</p> <p>Accordingly, the provisions of subclause (3) have been satisfied.</p>	Yes
7.5	<input checked="" type="checkbox"/>	<p><u>Terrestrial biodiversity</u></p> <p>This clause is intended to protect flora, fauna and ecological processes whilst encouraging conservation.</p>	Yes

		<p>The subject site is identified as “Biodiversity – habitat corridor” on the Terrestrial Biodiversity Map.</p> <p>Following consideration of the provisions of subclause (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> <p>Council’s Environmental Assessment Officer has reviewed the subject application and advised the following:</p> <p><i>“The revised Arboricultural Impact Assessment dated 18/05/21 assessed the impact of proposed road widening on 23 trees and determined that 19 of those trees would require removal for the proposed works (including the 4 trees to removed to establish a line of sight along the road).</i></p> <p><i>The additional trees nominated for removal were inspected on the 22nd May 2021. The additional trees proposed to be removed are Spotted Gum (Corymbia maculata), Red Bloodwood (Corymbia gummifera) and Blackbutt (Eucalyptus pilularis) that are mostly young trees, with small trunk diameters. No hollows or evidence of glider sap feeding were observed in any of the trees proposed to be removed. The trees to be removed represent a small part of the foraging habitat available within the connected bushland on private land and National Park. There is existing connectivity between the bushland to the north and south of the road via overhanging branches. The removal of these small trees will unlikely substantially reduce this connectivity and it will still be provided by the overhanging branches of larger trees to be retained.</i></p> <p><i>Two of the trees proposed to be removed (T1 and T2) are near rocky areas that contain caves and crevices that are potential roosting and breeding habitat for Threatened microbats. See photos below. The trees to be removed are not immediately adjacent to the rocky areas and the works will not directly impact the feature. The two trees to be removed are small and the vegetated buffer between the road and the habitat feature will be retained following removal. Indirect impacts are unlikely to be increased, however, to minimise the chance of indirect impacts during construction, trees removal and road works adjacent to the rocky areas are to occur outside of the summer months (Nov-Feb) when cave dwelling Threatened microbats in the locality would breed. This is to be a requirement of the consent conditions.</i></p> <p><i>The revised Arboricultural Impact Assessment does not include any protection measures for adjacent trees to be retained. There is high value habitat including hollow</i></p>	
--	--	---	--

		<p><i>bearing trees adjacent to the proposed works that may require protection during construction. Protection measures are recommended as a condition of consent.</i></p> <p><i>The previous EAO referral recommended a program to monitor the impacts of the increased traffic on road kill numbers be established, which includes adaptive mitigation measures if there is an increase in roadkill numbers.”</i></p>	
7.8	☒	<p><u>Scenic protection</u></p> <p>The provisions of subclause (3) have been considered.</p> <p>The following is indicated in the submitted EIS on page 95:</p> <p><i>“Intensifying the current operations at the site would not largely alter the footprint of the site. The only change outside of the current footprint would be the excavation of a field in the eastern portion of the site which has been extensively cleared and used for farming practices in previous years. The only vegetation removal will be twenty-two (22) trees of varying species, located between the proposed new hardstand area and existing manufacturing yard.</i></p> <p><i>Vegetation will be replaced with, as a minimum, the same number of trees proposed to be removed, as a visual tree screen along the north-eastern boundary of the site, following the completion of the flood bund wall. The tree screen plantings will be sourced from local native nurseries and will only include species deemed appropriate to the locality as per Shoalhaven City Councils DCP (2014) and associated plant list for the Bamarang/Longreach area.</i></p> <p><i>A new landscape plan displaying specific planting for the site will be provided in full detail to Council within six (6) months of any consent being granted as per condition 5 of the existing DA at the site (DA95/3205).</i></p> <p><i>Controls have been put in place as part of SOILCO’s site specific management plan for the existing site which limits the height of stockpiles. This height limit means it is unlikely that stockpiles are able to be seen outside of the bund wall. A picking station and a new amenity building are the only structures proposed to be developed at the site. The amenity building will be located in close proximity to the existing amenities and weighbridge buildings, and the picking station will be located adjacent to the existing aerated pad. In the context of existing operations at the site and positioning next to existing structures there is a low chance that the proposed buildings will look out of place and will not add a negative visual effect to the site.</i></p> <p><i>Due to the aforementioned height limits on stockpiles, completion of flood bund wall, minimal clearance of vegetation and minimal likelihood of visual impact of the</i></p>	Yes

		<p><i>new structure, the site will remain compliant to the scenic protection requirements.”</i></p> <p>The development will involve the taking of measures that will minimise any detrimental visual impact, including completion of the flood bund wall around the perimeter of the site to decrease viewing capability from outside the site in accordance to DA15/1259, retention of the existing tree line on the bank of the Shoalhaven River and the trees surrounding the perimeter of the site, replacement of trees along the north-eastern boundary of the site to be removed during the installation of the new hardstand area, and ensuring that stockpiles remain below the maximum height limits.</p> <p>The proposed offset tree planting as referenced is considered appropriate. The siting of the new amenities building is also considered appropriate, being located in proximity to and on the eastern side of the existing office.</p>	
7.11	<input checked="" type="checkbox"/>	<p><u>Essential services</u></p> <p>The proposal is for the expansion of an existing facility which has services are available.</p>	Yes

**ii) Draft Environmental Planning Instrument**

None relevant.

The Draft Illawarra Shoalhaven Regional Plan 2041 does not raise any additional matters for consideration as part of the assessment of this application.

**iii) Any Development Control Plan**

Shoalhaven DCP 2014

Generic Chapters	Relevant
<p><a href="#">G2: Sustainable Stormwater Management and Erosion/Sediment Control</a></p> <p>This chapter relates to sustainable stormwater management and erosion and sediment control. The provisions aim to implement sustainable stormwater management, provide design principles for stormwater management that assist development, and outline controls for the management of stormwater (including water quality, waterway stability, detention, erosion and sediment control).</p> <p>The provisions of this chapter have been considered and Council’s Development Engineer has raised no objections in relation to stormwater drainage and particularly the volume of the quarry pond and potential for overflow, subject to conditions of consent to manage runoff and erosion and sediment control being imposed should the application be determined by approval.</p>	<input checked="" type="checkbox"/>
<p><a href="#">G3: Landscaping Design Guidelines</a></p> <p>This chapter relates to landscaping design. The provisions aim to outline considerations for the landscaping of proposed development and to provide guidance for the preparation of development, building and landscaping plans.</p>	<input checked="" type="checkbox"/>



<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 should the application be determined by approval.</p> <p>Prior to the commencement of any works, a landscape plan prepared by a suitably qualified landscape professional will need to be submitted to Council for approval showing the locations and species to be used in the offset tree planting. The trees to be planted are to be local native species from the native vegetation community that would have occurred at the subject site.</p>	
<p><a href="#">G4: Removal and Amenity of Trees</a></p>	<input checked="" type="checkbox"/>
<p>This chapter relates to the removal or pruning of vegetation that is under the biodiversity offsets scheme threshold on all non-rural land (being land in any zone other than RU1-RU4).</p> <p>The provisions aim to declare trees and other vegetation under Part 3 of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017. Where a tree or other vegetation is declared in this chapter, clearing of vegetation is not to be undertaken without a permit granted by Council. This is referred to as ‘removal or pruning’ in this chapter and includes cutting down, felling, uprooting, killing, poisoning, ringbarking, burning or otherwise destroying the vegetation, or lopping or otherwise removing a substantial part of the vegetation.</p> <p>The provisions of this chapter have been considered and Council’s Environmental Assessment Officer has raised no objections with the submitted Arboricultural Impact Assessment by Tree Management Strategies (dated 18/05/2021) subject to conditions of consent being imposed in relation to the trees to be removed and measures in relation to adjacent trees to be retained and protected should the application be determined by approval.</p>	
<p><a href="#">G5: Threatened Species Impact Assessment</a></p>	<input checked="" type="checkbox"/>
<p>This chapter relates to all development that propose to directly (remove) or indirectly impact native vegetation (including native grasses, shrubs or trees that may provide habitat for threatened species) or are in proximity to an area of native vegetation or known threatened species habitat.</p> <p>The provisions aim to provide information and assistance to applicants and decision makers who are required to consider the effect of a proposed development, activity or action on threatened species, populations and threatened ecological communities (TECs), or their habitats. This chapter also provides guidance on the biodiversity impact assessment pathways, preparing biodiversity impact assessment reports and the triggers into the NSW Biodiversity Offsets Scheme.</p> <p>The provisions of this chapter have been considered and as above Council’s Environmental Assessment Officer has raised no objections with the submitted Arboricultural Impact Assessment by Tree Management Strategies (dated 18/05/2021) subject to conditions of consent being imposed should the application be determined by approval.</p>	
<p><a href="#">G7: Waste Minimisation and Management Controls</a></p>	<input checked="" type="checkbox"/>
<p>This chapter relates to the minimisation and management of waste. The provisions aim to ensure waste is minimised through increased recovery of resources and improved waste management for proposed development.</p> <p>The provisions of this chapter have been considered and no objections raised by Council’s Waste Services with regard to the submitted documentation.</p>	

**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**

Nil

**iv) Environmental Planning and Assessment Regulation 2000**

	Clause	Comment
<b>78 Notice of designated development application must be exhibited on relevant land</b>		
	<p>A notice for a development application for designated development must be exhibited on the land to which the development application relates and must—</p> <p>(a) be displayed on a signpost or board, and</p> <p>(b) be clear and legible, and</p> <p>(c) be headed in capital letters and bold type “<b>DEVELOPMENT PROPOSAL</b>”, and</p> <p>(d) contain the following information—</p> <p>(i) a statement that the development application has been lodged,</p> <p>(ii) the name of the applicant,</p> <p>(iii) a brief description of the development application,</p> <p>(iv) a statement that the development application and the documents accompanying the application, including any environmental impact statement, are publicly available on the consent authority’s website for the period specified in Schedule 1 to the Act for designated development, and</p> <p>(e) if practicable, be capable of being read from a public place.</p>	<p>Notice exhibited on the subject land on 31/07/2020 in accordance with these provisions.</p> <p>It was not considered practicable for the sign to be capable of being read from a public place, in relation to subclause (e).</p>
<b>92 What additional matters must a consent authority take into consideration in determining a development application?</b>		
1.	<p><b>For the purposes of section 4.15 (1) (a) (iv) of the Act, the following matters are prescribed as matters to be taken into consideration by a consent authority in determining a development application:</b></p> <p>(a) (Repealed)</p> <p>(b) in the case of a development application for the demolition of a building, the provisions of AS 2601,</p> <p>(c) in the case of a development application for the carrying out of development on land that is subject to a subdivision order made under Schedule 5 to the Act, the provisions of that order and of any development plan prepared for the land by a relevant authority under that Schedule.</p>	<p>(a) Noted.</p> <p>(b) Not applicable.</p> <p>(c) Not applicable.</p>

2.	<p>In this clause:</p> <p><b>AS 2601</b> means the document entitled Australian Standard AS 2601—1991: <i>The Demolition of Structures</i>, published by Standards Australia, and as in force at 1 July 1993.</p>	Not applicable.
<b>98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989</b>		
1.	<p>For the purposes of section 4.17 (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:</p> <p>(a) that the work must be carried out in accordance with the requirements of the <i>Building Code of Australia</i>,</p> <p>(b) in the case of residential building work for which the <i>Home Building Act 1989</i> requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.</p>	Noted. Subject to (prescribed) conditions of consent (if approved).
<b>98A Erection of signs</b>		
1.	<p>For the purposes of section 4.17 (11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.</p>	Noted. Subject to conditions of consent (if approved).
2.	<p>A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:</p> <p>(a) showing the name, address and telephone number of the principal certifying authority for the work, and</p> <p>(b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and</p> <p>(c) stating that unauthorised entry to the work site is prohibited.</p>	Subject to condition of consent (if approved).
3.	<p>Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.</p>	Subject to condition of consent (if approved).

v) Any [coastal zone management plan](#)

The Coastal Zone Management Plan 2018 was adopted in October 2018 and covers the Shoalhaven open coastline (including Jervis Bay). The proposed development is not considered to be impacted by the provisions of this Plan, as the subject site is not located on the coastline (noting the site location as shown in Figure 7).

**Council Policies**

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) given the new amenities building, being approximately 3m (w) x 7.2m (l). This component of the development is most aptly characterised as a Commercial Office development for the purpose of calculating contributions under the Plan. A condition has been recommended on the draft consent requiring the payment of development contributions prior to the issue of a Construction Certificate. The calculation of contributions applicable to the development is outlined below.

**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	21.6
Hotel / Restaurant(Gross Floor Area m2)	0	0
Bulky Goods (Gross Floor Area m2)	0	0
Industrial (Gross m2, include parking/landscape)	0	0
<b>Total ET</b>		<b>0.22</b>
<b>Management Project ETs</b>		<b>0.11</b>

Project	Description	Rate	Qty	Total	GST	GST Incl
CWFIRE2001	Citywide Fire & Emergency services	\$138.13	0.11	\$15.19	\$0.00	\$15.19
CWFIRE2002	Shoalhaven Fire Control Centre	\$202.07	0.11	\$22.23	\$0.00	\$22.23
CWMGMT3001	Contributions Management & Administration	\$574.39	0.11	\$3.74	\$0.00	\$3.74

Sub Total: \$41.16  
 GST Total: \$0.00  
 Estimate Total: \$41.16

**(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	<p>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.</p> <p>Council’s Environmental Assessment Officer has assessed this application and considered the impact of the proposed road widening on 23 trees along the Wogamia Road corridor and potential roosting and breeding habitat for Threatened microbats. The trees to be removed are not immediately adjacent to the habitat areas.</p> <p>Conditions of consent are proposed to minimise the chance of indirect impacts during construction, tree removal and road works adjacent to habitat areas, and include protection measures. Conditions are also proposed to address adaptive measures if there is an increase in roadkill numbers.</p>

Head of Consideration	Comment
Built Environment	Subject to recommended conditions of consent as detailed in this report in relation to the development’s built form and manner in which construction will be undertaken, it is considered that there will be no adverse impacts upon the built environment. Conditions relating to erosion and sediment control, protection of existing infrastructure, road design and excavation will assist in managing any potential impacts as a result of the buildings and road works proposed under the application.
Social Impacts	It is considered that there will be minimal social impacts.
Economic Impacts	It is considered that there will be no adverse economic impacts.

**(c) Suitability of the site for the development**

The submitted EIS outlines the alternative scenarios to achieve the objectives of the proposal. This includes the consideration of an alternative site and of the upgrade of the existing facility. Through this comparison, the following benefits are outlined by SOILCO Pty Ltd (page 20) as to why the upgrade of the existing facility is the best option and by virtue of this analysis, why the site is suitable for the proposed development:

*“Utilising the existing facility would have the following benefits:*

- *The Site is currently operated by SOILCO to undertake Compost Manufacturing and Extraction activities;*
- *The Site is located within the RU1 zone, where waste management and extractive industries are provided for in State Environmental Planning Policy (Infrastructure) as permitted with consent;*
- *There is ample space for the construction of additional infrastructure;*
- *The facility utilises proven technology that can be easily scaled to increase productivity;*
- *Local jobs would be created; and*
- *Additional capacity would assist in meeting WARR targets.*

*Option 3 would best meet the proposal objectives due to the location and suitability of the Site. Therefore Option 3 is considered to be the best option.”*

In addition to this there are benefits to intensification of the existing facility with regard to mitigating impacts on flora and fauna, utilisation of existing infrastructure, and sustainability. Consequently, subject to recommended conditions of consent, it is considered that the site is suitable for the development.

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

The DA was notified in accordance with Council’s Community Consultation Policy for Development Applications. Nine (9) submissions were received by Council (including one (1) from DPIE in relation to the adjoining Crown land), four (4) of which were in support and the remaining were either objecting to or raising concerns with the proposal. The comments and concerns raised are outlined below:

Summary of Public Submissions	
Objection Raised	Comment
<p><u>Truck movements</u></p> <p>There is concern with the proposed increase to the current operations of importation of up to 98,000 tonnes pa and the further significant increase in truck movements which it is believed will be a negative impact on adjoining properties.</p> <p>The current operation already results in:</p> <ul style="list-style-type: none"> <li>▪ Trucks (not Soilco Pty Ltd vehicles) using exhaust brakes as they approach the corner of Wogamia Road from time to time;</li> <li>▪ Trucks parking with engines running on both sides of Wogamia Road and drivers congregating on the corner of Wogamia Road from time to time;</li> <li>▪ Food and drink container rubbish constantly at this site;</li> <li>▪ A feeling of intimidation to walk past these parked vehicles when exercising;</li> <li>▪ Trucks parking on the verge of Longreach Road which has damaged the ground and made tracks that the water from recent rain has silted the area causing to water to change course and run into our property;</li> <li>▪ Trucks driving very fast (not Soilco Pty Ltd vehicles) on approach to Wogamia Road;</li> <li>▪ The school bus picks up and drops off young school children from residences located on either side of Yalwal Road, in the vicinity of Flat Rock Road. The bus often stops on the road to allow the children to get off creating a potentially dangerous situation given the proposed increase in heavy vehicle traffic.</li> <li>▪ An increase in possible unmonitored heavy vehicle traffic when construction has occurred recently with no consultation with neighbours.</li> </ul> <p>A random count of truck movements came to 70 trucks passing in one day.</p> <p>There is concern, given the above, that it is only time before there will be a fatality.</p>	<ul style="list-style-type: none"> <li>▪ A high-level review was undertaken by the proponent in relation to the existing road formation of Wogamia Road and the feasibility of road widening.</li> <li>▪ The applicant submitted a proposed Drivers Code of Conduct to be implemented by SOILCO at the facility in response to concerns in relation the increase in truck movements and current operations. This would commit all drivers, including both SOILCO employees as well as external transport contractors to a standard of conduct when transporting materials to and from the site.</li> <li>▪ This matter has been considered by Council’s Development Engineer who raised no objections to the proposed truck movements, subject to a recommended condition of consent (dated 09/04/2021). Should the application be determined by approval, then this condition would be included.</li> <li>▪ The condition is to ensure that the number of annual heavy vehicle movements to and from the site must not exceed the rates identified within the Traffic Impact Report by JN, revision B dated 28/05/2019. Weighbridge records to confirm the compliance with the limit on heavy vehicle movements must be retained and made available to Council upon request.</li> <li>▪ Note that the Engineer’s recommended conditions include the recommendations of City Services (being the Road Asset Manager &amp; Traffic Unit).</li> <li>▪ TfNSW has raised no objections with the application.</li> </ul>

<p>It is also considered that the amount of road kill will only increase due to the increased road usage by heavy haulage vehicles.</p> <p>For consideration:</p> <ul style="list-style-type: none"><li>▪ How do Soilco intend to resolve the issue regarding the EPA limit of 8000 tpa along Wogamia Road? Upgrade the dirt road?</li><li>▪ Additional details such as actual tonnage (imported and exported) and times of day should be provided to get a better overall picture of compliance and the impact of when the trucks are operating.</li><li>▪ Based on the provided figures, doubt has been cast in regards to the amount of tonnage that is being hauled, considering that the larger trucks carry between 40 and 55 tonnes as advised by Soilco.</li><li>▪ Are additional trucks delivering natural fill materials for facility upgrade works exempt from maximum allowable truck movements under the existing approval? Was a letter sent to Council to advise/request these additional movements or is it part of the existing approval?</li><li>▪ If this increase in truck movements is approved, should a review of the allowable hours of operation be considered, rather than simply carrying these hours of operation into the next approval? This question due to residents requiring respite from truck movements and associated noise in particular on weekends?</li><li>▪ Is 70 plus trucks operating within 12 hours a day, 6 days a week plus additional out of hours, Sundays and Public Holidays acceptable in a rural residential area?</li><li>▪ Request an alternative area on Longreach Road be used for this truck holding area.</li></ul> <p>It is requested that the following proposals be considered to relieve some of the impacts:</p>	
---	--

<ul style="list-style-type: none"> <li>▪ Signage to alert drivers to not use exhaust brakes near houses close to Wogamia Road;</li> <li>▪ Reduction of the speed limit on Longreach Road from 100km to 80km for safety and environmental reasons;</li> <li>▪ Prevention and education of drivers to not park on the corner of Wogamia and Longreach Road or on Longreach Road opposite Wogamia Road;</li> <li>▪ Consultation with neighbours when any temporary increase in truck movement will occur due to future construction.</li> </ul>	
<p><u>Odour impact</u></p> <p>There is concern with the proposed increase to the current operations of importation of up to 98,000 tonnes pa and the potential for additional odour impact which it is believed will be a negative impact on adjoining properties.</p> <p>The current operation already results in:</p> <ul style="list-style-type: none"> <li>▪ The strong stench of rotting garbage at times;</li> <li>▪ This stench can linger for quite a long time after a truck passes and also can be smelt in the evening and on warm still days;</li> <li>▪ The stench has prevented the opening of windows and enjoying outdoor eating and is very unpleasant to be outside at those times.</li> </ul> <p>For consideration:</p> <ul style="list-style-type: none"> <li>▪ With an increase of imported waste material, it would be expected that the odour frequency would also increase.</li> </ul> <p>It is requested that the following proposals be considered to relieve some of the impacts:</p> <ul style="list-style-type: none"> <li>▪ Proper investigation of the stench and prevention of further odours.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Odour is a significant matter for consideration by the NSW EPA, as the subject site is a licensed facility.</li> <li>▪ This matter has been considered and General Terms of Approval were issued by the EPA (dated 01/12/2020).</li> <li>▪ The EPA requires in their Approval that <i>“the licensee must not cause or permit the emission of offensive odour beyond the boundary of the premises.”</i></li> <li>▪ It is also noted by the EPA that <i>“section 129 of the Protection of the Environment Operations Act 1997, provides that the licensee must not cause or permit the emission of any offensive odour from the premises but provides a defence if the emission is identified in the relevant environment protection licence as a potentially offensive odour and the odour was emitted in accordance with the conditions of a licence directed at minimising odour.”</i></li> </ul>



<p><u>Environmental noise impact</u></p> <p>There are concerns in relation to the number of trucks travelling at high speeds on Longreach Road and the associated noise levels due to close proximity to the road.</p> <p>For consideration:</p> <ul style="list-style-type: none"> <li>It is requested that noise level readings be undertaken at adjoining properties and considered in the assessment of this proposal.</li> <li>As the frequency of truck movements are so constant, the impact is detrimental to amenity.</li> <li>It is requested that the 100km speed limit be reduced to 80km commencing approximately 400 metres prior to the Wogamia turnoff. Furthermore, due to the high numbers of truck movements on Longreach Road it is also requested that the speed limit for heavy vehicles be further reduced to 60 km in this area including the installation of Quiet Residential Zone signage. It is believed that this may help reduce the noise impact to adjoining properties.</li> <li>Noise assessments have been calculated utilising the figures in the TIR that are currently being questioned.</li> </ul>	<ul style="list-style-type: none"> <li>Noise is a key consideration of the NSW EPA, as the subject site is a licensed facility.</li> <li>This matter has been considered and General Terms of Approval were issued by the EPA (dated 01/12/2020).</li> <li>The EPA requires in their Approval that “noise generated at the premises must not exceed the noise limits at the times and locations in the table below. The locations referred to in the table below are indicated by Figure 1. Location Plan – 135 Wogamia Road, Longreach of the updated Environmental Noise Impact Assessment (by Harwood Acoustics ref: 1903014E-R, dated 29 October 2020).”</li> </ul> <table border="1" data-bbox="730 757 1428 902"> <thead> <tr> <th rowspan="3">Location</th> <th colspan="5">Noise Limits in dB(A)</th> </tr> <tr> <th>Morning Shoulder</th> <th>Day</th> <th>Evening</th> <th>Night</th> <th>Night</th> </tr> <tr> <th>LAeq(15 minute)</th> <th>LAeq(15 minute)</th> <th>LAeq(15 minute)</th> <th>LAeq(15 minute)</th> <th>LAFmax</th> </tr> </thead> <tbody> <tr> <td>81 Wogamia Road, Longreach</td> <td>35</td> <td>35</td> <td>35</td> <td>35</td> <td>52</td> </tr> </tbody> </table> <ul style="list-style-type: none"> <li>The matter of construction and operational noise has been considered and conditions of consent recommended to limit the hours as proposed by the applicant. It is recommended that the proposed hours are approved for a period of 12 months after which the hours are to revert to the existing reduced hours approved as part of DA95/3205 (as modified) unless otherwise applied for.</li> <li>Should the application be determined by approval, then these conditions would be included.</li> </ul>	Location	Noise Limits in dB(A)					Morning Shoulder	Day	Evening	Night	Night	LAeq(15 minute)	LAeq(15 minute)	LAeq(15 minute)	LAeq(15 minute)	LAFmax	81 Wogamia Road, Longreach	35	35	35	35	52
Location	Noise Limits in dB(A)																						
	Morning Shoulder		Day	Evening	Night	Night																	
	LAeq(15 minute)	LAeq(15 minute)	LAeq(15 minute)	LAeq(15 minute)	LAFmax																		
81 Wogamia Road, Longreach	35	35	35	35	52																		
<p><u>Condition of Wogamia Road</u></p> <p>The existing road was not designed to cater for the present amount of traffic let alone a marked increase as proposed. The road has been patched on so many occasions, all this caused by excessive truck usage.</p> <p>It is requested that the following actions be taken into account:</p> <ul style="list-style-type: none"> <li>Remediation of the passing bay on the steep hill to allow local traffic to safely pass Soilco trucks. This is currently in poor repair.</li> <li>Additional signage alerting drivers to concealed driveways on Wogamia Road.</li> </ul>	<ul style="list-style-type: none"> <li>This matter has been considered in some detail, with negotiations and discussions occurring during the assessment of the application inclusive of site inspections with key Council officers.</li> <li>Council’s Development Engineer raised no objections to the proposal and concept road widening works, subject to recommended conditions of consent (dated 09/04/2021 and email dated 22/06/2021) to address the condition of the road. Should the application be determined by approval, then these conditions would be included.</li> <li>It is noted that given previous concern with existing culverts restricting road width, it has been agreed that detailed engineering plans will need to demonstrate any locations where the final road width cannot be achieved due to existing culverts. The plans should demonstrate what road width can be achieved between the existing culverts, and</li> </ul>																						

<ul style="list-style-type: none"> <li>▪ Remediation of the road edge at the intersection of Wogamia Road and the section of old Wogamia Road leading to 67 Wogamia Road. This section is a Council road. Managing a right-hand turn with a trailer or horse float onto Wogamia Road with trucks coming over a crest is dangerous. A short section of bitumen would assist.</li> <li>▪ Continuation of Soilco's traffic management procedures to limit heavy vehicle movements along Wogamia Road.</li> </ul>	<p>commentary on safe sight distance/ stopping/ passing opportunities at the constricted locations. Provided the constricted areas are considered safe, Council will accept the road to be narrowed locally at the culverts. Council's City Services would then address the culverts and road widening at a later stage.</p> <ul style="list-style-type: none"> <li>▪ Any road widening or pavement works that impact existing batters or embankments will need to have those slopes certified as safe by a geotechnical engineer, or remedial work undertaken to ensure safety.</li> <li>▪ The intersection works approved under DS13/1445 (being a modification to DA95/3205) to Longreach and Wogamia Roads will need to be completed, and will form a condition of any consent granted. As discussed with the applicant, a 12-month review period is proposed so that the operator and/or Council can undertake traffic counts to determine the adequacy of the intersection treatment. If the counts warrant a more significant intersection treatment than what was required under previous approvals, given the increase proposed by this application, this may need to be undertaken by the developer.</li> <li>▪ The recommended conditions include the recommendations of City Services (being the Road Asset Manager &amp; Traffic Unit).</li> <li>▪ TfNSW has also raised no objections with the application.</li> </ul>
<p><u>Landscaping</u></p> <p>It is requested that robust native planting strategies be introduced as buffers to relevant areas of Soilco's operations.</p>	<ul style="list-style-type: none"> <li>▪ This matter has been considered by Council's Environmental Assessment Officer.</li> <li>▪ The proposal involves the removal of 22 individual trees that were planted by SOILCO less than 20 years prior to this proposal (as indicated in the submitted EIS). An analysis of these trees has been undertaken in the EIS. These trees would be replaced with more suitable trees along the boundary of the site in order to provide a visual screen to the facility and operations from the north in particular.</li> <li>▪ Due to the scale of the proposal and location of the facility, visual impacts are deemed to be minimal.</li> <li>▪ Prior to the commencement of any works, a landscape plan prepared by a suitably qualified landscape professional will need to be submitted to Council for approval showing the locations and species to be used in the offset tree planting, which</li> </ul>

	<p>involves the replacement of the 22 trees located between the proposed new hardstand area and existing manufacturing yard.</p> <ul style="list-style-type: none"> <li>▪ The trees to be planted are to be local native species from the native vegetation community that would have occurred at the subject site.</li> </ul>
<p><u>Existing Development Consent concerns</u></p> <p>The existing development consent conditions are not being adhered to, particularly in relation to the allowable imported 35,000 tonnes per annum being exceeded (Conditions 3 and 19).</p> <p>Soilco confirmed in meeting with several neighbours that they have been operating over and above their existing approval and that this new proposal would rectify the situation and provide a buffer for future increased operations.</p> <p>It is also noted that stormwater drainage improvements at the intersection of Longreach and Wogamia Roads have not been completed (Condition 20); and that offensive odours are occurring and have not been resolved (Condition 22).</p> <p>For consideration:</p> <ul style="list-style-type: none"> <li>▪ Have there been any regulatory checks carried out to confirm or identify increased operations without prior Council consent?</li> <li>▪ Are approved Development Consent Conditions monitored and audited for compliance?</li> <li>▪ If confirmed, are there any consequences or penalties relating to Development Consent non-compliance?</li> <li>▪ If the existing Consolidated Development Consent is not currently being complied with, doubt is cast on future Development compliance.</li> </ul>	<ul style="list-style-type: none"> <li>▪ <i>Jonah Pty Limited v Pittwater Council</i> [2006] NSWLEC 99 related to the modification of a Court-granted development consent for a restaurant. The restaurant had a history of operating in breach of the conditions of consent and Council contended the application to modify the application with regard to the proposed layout should be refused stating:  <i>“The past non-compliance may be a predictor of future non-compliance. If the current owner/operator of the restaurant facility has not felt “hamstrung” by conditions of consents in the past, the Council submits that it is more likely that the owner/operator would not feel hamstrung to so comply in the future.”</i> [17]</li> </ul> <p>Preston CJ held however that:  <i>“The issue of the relevance of past unlawful use to determining whether a consent should be granted or modified has been considered by courts in the past. The courts have consistently held that past unlawful use is not a relevant factor”</i> [19].</p> <p>Paragraphs 20 to 31 detail further caselaw with respect to consideration of the issue of the relevance of an applicant’s past unlawful conduct in the consideration of an application. At [23] it details that <i>“in Windy Dropdown Pty Ltd v Warringah Council (2000) 111 LGERA 299, Talbot J noted on the hearing of the appeal that:</i></p> <p><i>“The carrying out of illegal works generally is not an impediment to the consideration of an application on the merits (Kouflidis v City of Salisbury (1982) 29 SASR 321; 49 LGERA 17; Longa v Blacktown City Council (1985) 54 LGERA 422; Ireland v Cessnock City Council (1999) 103 LGERA 285)”</i>: at 301 [4].</p> <p>The judgement further states however:</p> <p><i>“[37] The above conclusion that mere unlawfulness of past use is not a relevant factor does not mean, however, that past use – without any consideration of its unlawfulness – cannot ever be relevant.</i></p>

	<p>[38] <i>For instance, past conduct (regardless of whether it is unlawful) may have given rise to unacceptable impacts, such as unacceptable acoustic impacts on adjoining properties. The experience of impacts of the past use could be relevant in evaluating, first, the likely impacts of a prospective use for which consent is sought of the same or similar character, extent, intensity and other features as the past use, secondly, the acceptability of the likely impacts and thirdly, if likely impacts are considered to be unacceptable, the appropriate measures that ought to be adopted to mitigate the likely impacts to an acceptable level. Past use would, therefore, be of relevance but it is for proper planning reasons, not because the past use happened to be unlawful. The unlawfulness of the past use is not relevant”.</i></p> <ul style="list-style-type: none"> <li>▪ Accordingly, whilst there may be compliance issues relating to the existing operations of the site, Council cannot take these alleged breaches into account in the assessment of this application. <b>There are separate compliance provisions in the legislation to deal with breaches.</b></li> <li>▪ Existing conditions of consent outline the approved use and manage the manner in which the facility is to operate. However, importantly the current non-compliances are proposed to be addressed as part of <u>this application</u> and the existing consent to be surrendered. A condition is recommended and included in a draft determination requiring the surrender of the development consent.</li> <li>▪ The EPA requires in their Approval that <i>“the licensee must not cause or permit the emission of offensive odour beyond the boundary of the premises.”</i></li> <li>▪ Further to this, the EPA requires that within 12 months of the commencement of expanded operations the licensee must submit an Odour Validation Audit Report.</li> </ul>
<p><u>Crown Land</u></p> <p>The subject site is separated from the Shoalhaven River by Crown Lot 7315 DP 1164980, reserved for Future Public Requirements under tenure for environmental protection and grazing.</p> <p>While the proposal does not directly impact on the Crown estate it is</p>	<ul style="list-style-type: none"> <li>▪ Noted. Should the application be determined by approval, then a condition would be included to address this matter, although it is apparent that the proposal is to be contained within the site and the Wogamia Road corridor in relation to proposed road widening works.</li> <li>▪ Regardless, this condition would confirm that no approval is granted as part of the consent to impact the adjacent Crown land as requested.</li> </ul>

<p>requested that the applicant does not undertake any activities on the Crown land or impact the Crown land for any purpose associated with the development by attaching the following conditions to any consent issued.</p> <p>The proponent may not:</p> <ul style="list-style-type: none"> <li>▪ Encroach upon the adjacent Crown land,</li> <li>▪ Remove any vegetation from the adjacent and adjoining Crown land,</li> <li>▪ Stockpile materials, equipment or machinery on the adjacent or adjoining Crown land,</li> <li>▪ Use the adjacent and adjoining Crown land as access,</li> <li>▪ Direct stormwater discharges, septic or contaminated waste on the adjacent and adjoining Crown land, or</li> <li>▪ Use the adjacent and adjoining Crown land as effluent management zones or as asset protection zones.</li> </ul>	
<p><u>Community/Resident Notification</u></p> <p>As this is a significant Regional Development, it is of some concern that the notification was only extended to Wogamia Road residents and four (4) properties in Longreach Road.</p> <p>Notifications have not considered residents that may be affected by the additional truck movements.</p> <p>For consideration:</p> <ul style="list-style-type: none"> <li>▪ Advertising period extended to notify more property owners, in particular all Longreach Road residents and residents located along the local truck routes, (Albatross Road, Yalwal Road and Cabbage Tree Lane).</li> <li>▪ Advertising in the South Coast Register over the entire exhibition period.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The DA was notified in accordance with legislative requirements and Council’s Community Consultation Policy for Development Applications, being advertised in the local paper and notified to affected owners within a buffer of 200m plus all properties along Wogamia Road and Longreach Road up to Wogamia Road. This was considered suitable for a development of this scale and type under the Policy.</li> <li>▪ Notice exhibited on the subject land on 31/07/2020 in accordance with the relevant provisions of the EP&amp;A Regulation.</li> <li>▪ All DAs are available for viewing on DA Tracking. The DA has been digitally viewable since lodgement.</li> </ul>
<p><u>Document quality control</u></p> <p>There are a number of inconsistencies and errors that have been documented in the Traffic Impact Report (TIR) and</p>	<ul style="list-style-type: none"> <li>▪ The Environmental Noise Impact Assessment report was revised during the assessment process to address this matter and the matters raised in correspondence from the NSW EPA dated 26</li> </ul>

<p>Environmental Noise Impact Assessment (ENIA).</p> <p>For consideration:</p> <ul style="list-style-type: none"> <li>▪ The content of these reports is significant to the decision of this proposal, these reports should be further scrutinised, rejected, updated and resubmitted.</li> <li>▪ These reports should not be provided to the Approval Panel in the current form.</li> <li>▪ The ENIA should include Longreach Road in its analysis.</li> </ul>	<p>August 2020 (i.e. construction noise, elevation data, residual noise assessment).</p> <ul style="list-style-type: none"> <li>▪ A high-level review was undertaken by the proponent in relation to the existing road formation of Wogamia Road and the feasibility of road widening.</li> <li>▪ A concept design of the proposed widening of Wogamia Road was provided, which related to the works to improve the intersection of Wogamia Road and Longreach Road and included swept path analysis of the works proposed to be undertaken as part of the proposal.</li> <li>▪ No objections have been raised with the content of the latest report and concept design for the road widening works.</li> <li>▪ This documentation is available for viewing on DA Tracking.</li> </ul>
<p><u>Devaluation of Property</u></p> <p>Adjoining land will decrease in value as a result of this development.</p>	<ul style="list-style-type: none"> <li>▪ Potential loss of property value is not a consideration under section 4.15 of EP&amp;A Act 1979.</li> <li>▪ A Commissioner of the Court stated: <i>“I pay no regard to the fears about loss of property values as, consistent with the position long taken in the Court, this is not a relevant planning consideration” (Alphatex Australia v The Hills Shire Council (No 2) [2009]).</i></li> </ul>

### (e) The Public Interest

The proposed development is permissible under SEPP (Infrastructure) 2007, generally complies with the provisions of SLEP 2014 and is broadly consistent with the SDCP 2014. Issues relating to truck movements, odour impact, environmental noise impact, the condition of Wogamia Road, and non-compliance with the existing development consent have been assessed and 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. Accordingly, it is considered that approval of the application is in the public interest.

### 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 clause 7(c) of Schedule 7 of SEPP (State and Regional Development) 2011, 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.

Council is satisfied that the current proposal meets the provisions of relevant state environmental planning policies and the relevant provisions and objectives under SLEP 2014 and SDCP 2014 applying to the site. Any potential impacts can be adequately addressed via conditions of consent relating to the construction and operations of the facility.

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. RA20/1001 be approved subject to appropriate conditions of consent.

**Appendix – Assessment Checklist: SEARS**

NSW DPI Agriculture	
<p><u>Site suitable for development</u></p> <ul style="list-style-type: none"> <li>▪ Detail that the proposal is consistent with strategic plans and zone requirements.</li> <li>▪ Complete a Landuse Conflict Risk Assessment (LUCRA) to identify potential landuse conflict, in particular relating to separation distances and management practices to minimise odour, dust and noise from sensitive receptors. A LUCRA is described in the DPI Land Use Conflict Risk Assessment Guide.</li> <li>▪ Include a map to scale showing the above operational and infrastructure details including separation distances from sensitive receptors.</li> </ul> <p><u>Consideration for impacts to agricultural resources and land</u></p> <ul style="list-style-type: none"> <li>▪ Describe the current and potential Important Agriculture Land on the proposed development site and surrounding locality including the land capability and agricultural productivity.</li> <li>▪ Demonstrate that all significant impacts on current and potential agricultural developments and resources can be reasonably avoided or adequately mitigated.</li> <li>▪ Consider possible cumulative effects to agricultural enterprises and landholders.</li> <li>▪ Detail the expected life span of the proposed development.</li> </ul> <p><u>Bush fire risk identified and managed</u></p> <ul style="list-style-type: none"> <li>▪ Risk assessment level and mitigation plan developed to address bush fire risk.</li> </ul> <p><u>Suitable and secure water supply</u></p> <ul style="list-style-type: none"> <li>▪ Estimated water demand and water availability should be clearly outlined in the proposal. The source of water and any sanitisation methods to be detailed in the application.</li> <li>▪ Outline any impacts to water use from agriculture and mitigation measures if required.</li> </ul> <p><u>Surface &amp; Groundwater protected</u></p> <ul style="list-style-type: none"> <li>▪ Proposed development design, operation and by-product management should be undertaken to avoid nutrient and sediment build up and minimise erosion, off site surface water movement and groundwater accession. This is of particular significance considering the site is close to the Shoalhaven River.</li> <li>▪ The proposal should detail how design and operation will be undertaken for by-product management in accordance with best practice to prevent excess build-up of nutrients and salts in the soil profile and increase the risk of leaching. A monitoring program should be developed.</li> </ul>	<p>Each matter generally addressed, where appropriate, given the facility is existing.</p> <p>The submitted EIS and supporting documentation addresses site suitability, impact to agricultural resources and land, bush fire risk, surface and groundwater, environmental risk assessment, traffic movements, visual amenity, rehabilitation, contingency and environmental management, and consultation with the community.</p> <p>It is noted that the submitted EIS indicates that <i>“limited agricultural land will be lost as a result of the proposal or directly affected as part of the development.”</i></p> <p>It is considered that will be no issues or land use conflict resulting from the proposed continuation and increase to the current operations of the facility, as</p>



<p><u>Biosecurity Standards met</u></p> <ul style="list-style-type: none"> <li>▪ Include a biosecurity (pests, weeds and disease) risk assessment outlining the likely plant, animal and community risks as per guidelines in Attachment 2.</li> <li>▪ Develop a biosecurity response plan to deal with identified risks as well as contingency plans for any failures. Including monitoring and mitigation measures in weed and pest management plans.</li> </ul> <p><u>Suitable traffic movements</u></p> <ul style="list-style-type: none"> <li>▪ Consideration of the route for movements needs to be taken into account so that impacts on sensitive receptors are minimised (e.g. noise, dust, volume of traffic). This should include consideration of Travelling Stock Reserves<sup>1</sup> (TSR) and the movement of livestock or farm vehicles along/across the affected roads.</li> </ul> <p><u>Visual amenity achieved</u></p> <ul style="list-style-type: none"> <li>▪ Amenity impacts are assessed and any necessary response to mitigate visual impacts is described and illustrated.</li> </ul> <p><u>Land stewardship met</u></p> <ul style="list-style-type: none"> <li>▪ Develop Rehabilitation and Decommissioning/Closure Management Plans that outlines the rehabilitation objectives and strategies. This includes, but is not limited to, describing the design criteria of the final land use and landform, indicators to be used to guide the return of the land back to agricultural production, along with the expected timeline for the rehabilitation program.</li> <li>▪ Outline monitoring and mitigation measures to be adopted for rehabilitation remedial actions.</li> </ul> <p><u>Adequate consultation with community</u></p> <ul style="list-style-type: none"> <li>▪ Consult with relevant agencies such as on the design, construction and operation of the proposed infrastructure.</li> <li>▪ Consult with the owners/managers of affected and adjoining neighbours and agricultural operations in a timely and appropriate manner about; the proposal, the likely impacts and suitable mitigation measures or compensation.</li> <li>▪ Establish a complaints register that includes reporting and investigating procedures and timelines, and liaison with Council in relation to complaint issues.</li> </ul> <p><u>Contingency and Environmental Management Plan developed</u></p> <ul style="list-style-type: none"> <li>▪ Contingency plans should be developed to enable the operation to deal with emergency situations. Commitment to the preparation of an Emergency Management Plan that outlines procedures and responsibilities for responding to bush fire threats which might result from extreme climatic conditions.</li> </ul>	<p>approved by DA95/3205 (as modified).</p> <p>In relation to water supply, the applicant confirmed that there is an existing connection for the site which services the existing amenities. Shoalhaven Water's property ID for the site is 94340. No additional water connection is required.</p> <p>As detailed in this report, conditions are to be imposed, should the application be determined by approval to address Shoalhaven Water's requirements.</p>
---	--

<p><u>Guidelines for assessment</u></p> <ul style="list-style-type: none"> <li>▪ Land Use Conflict Risk Assessment Guide <a href="http://www.dpi.nsw.gov.au/content/agriculture/resources/lup/development-assessment/lucra">www.dpi.nsw.gov.au/content/agriculture/resources/lup/development-assessment/lucra</a></li> <li>▪ Agricultural Issues for Extractive Industry Development <a href="http://www.dpi.nsw.gov.au/content/agriculture/resources/lup/development-assessment/extractive-industries">http://www.dpi.nsw.gov.au/content/agriculture/resources/lup/development-assessment/extractive-industries</a></li> <li>▪ Agricultural Issues for Landfill Developments <a href="http://www.dpi.nsw.gov.au/content/agriculture/resources/lup/development-assessment/landfill-developments">http://www.dpi.nsw.gov.au/content/agriculture/resources/lup/development-assessment/landfill-developments</a></li> <li>▪ Infrastructure Proposals on Rural Land <a href="http://www.dpi.nsw.gov.au/content/agriculture/resources/lup/development-assessment/infrastructure-proposals">http://www.dpi.nsw.gov.au/content/agriculture/resources/lup/development-assessment/infrastructure-proposals</a></li> </ul>	
<b>TfNSW (formerly RMS)</b>	
<p>RMS believes that the following information should be addressed in the Environmental Impact Statement (EIS) that is to be prepared:</p> <ul style="list-style-type: none"> <li>▪ <u>Traffic Impact Study (TIS)</u>: A Traffic Impact Study (TIS) is required. As a guide Table 2.1 of the RTA Guide to Traffic Generating Developments outlines the key issues that should be considered in preparing a TIS. This must include, but not be limited to, details on: <ul style="list-style-type: none"> <li>- Road transport routes to be used to provide access to/from the site (for both heavy and light vehicles);</li> <li>- The existing vehicle movements to and from the site noting any approvals/development consents currently issued and likely additional movements. This including daily maximum quantities and associated maximum daily vehicle movements;</li> <li>- Types of vehicles, size and their associated carrying capacity, etc</li> <li>- Suitable infrastructure required to ameliorate any traffic and/or safety impacts associated with the development including the provision of supporting plans (refer to additional comments under the heading ‘Strategic Design’ below);</li> <li>- An assessment of the impact of the proposed development on the existing intersections with the Princes Highway that will be used to provide access to/from the development site; and</li> <li>- A Driver’s Code of Conduct.</li> </ul> </li> <li>▪ <u>Turn/Swept Paths</u>: A swept path analysis in accordance with Austroads turning templates is required for the developments sites access points with the Princes Highway. This is required to demonstrate that the largest vehicle likely to utilise the connections with the Princes Highway can enter and exit in a forward direction without crossing the centre line of the intersection/road. If works are required to mitigate any issues a plan detailing the required works</li> </ul>	<p>Matters generally addressed by the submitted EIS and supporting Traffic Impact Report, Revision B dated 28/5/2019 prepared by Jones Nicholson.</p> <p>Assessment of the environmental impacts of the proposed roadworks has also been completed as outlined in this report.</p> <p>As detailed under the ‘Referrals’ section of this report, no objections have been raised by TfNSW in advice dated 28/05/2021.</p>

<p>must be provided (refer to additional comments under the heading 'Strategic Design' below);</p> <ul style="list-style-type: none"> <li>▪ <u>State Environmental Planning Policies:</u> The applicable requirements of <i>State Environmental Planning Policy (Infrastructure) 2007</i> (e.g. 104) must be adequately addressed;</li> <li>▪ <u>Environmental Impacts:</u> An assessment of the environmental impacts of any roadworks that are proposed is required. These include traffic and road safety impacts as well as other impacts such as noise, flora and fauna, heritage, impact to the community, etc;</li> <li>▪ <u>Consultation:</u> RMS encourages further consultation, if required, during the preparation of the EIS to discuss traffic and accessibility issues. As such, details on what discussions have occurred with the RMS during the EIS preparation and with who should be provided; and</li> <li>▪ <u>Strategic Design:</u> A strategic/concept design for any proposed upgrade works is required. This is needed to clarify the scope of works, demonstrate the works can be constructed within the road reserve and allow the consent authority to consider any impacts of the works as part of their Part 4 assessment. The concept design must be to scale, identify legal property boundaries (inclusive of road reserve boundaries), detail existing lane width, proposed lane widths, new/proposed works, lane lengths and demonstrate the works will comply with the applicable requirements of <i>Austrroads Guide to Road Design</i> and associated technical directions.</li> </ul>	
<b>NSW EPA</b>	
<p>In summary, the NSW EPA's key information requirements for the proposal include an adequate assessment of:</p> <ul style="list-style-type: none"> <li>▪ Baseline conditions that exist at the site of the proposed development;</li> <li>▪ Potential environmental impacts arising from the proposed development and its ongoing activities, including air, noise and water issues; and</li> <li>▪ Possible management and mitigation processes that will be implemented to protect the environment from these impacts.</li> </ul>	<p>Matters addressed.</p> <p>As detailed under the 'Referrals' section of this report, General Terms of Approval have been issued by the NSW EPA (dated 01/12/2020).</p>
<b>NSW Rural Fire Service</b>	
<p>NSW Rural Fire Service (NSW RFS) advises that the Environmental Impact Statement (EIS) should include a bush fire assessment that:</p> <ul style="list-style-type: none"> <li>▪ Identifies bush fire prone land within the site and within 100m of the site.</li> <li>▪ Classifies the bush fire prone vegetation in accordance with Appendix 2 of Planning for Bush Fire Protection 2006.</li> <li>▪ Identifies the separation distance/asset protection zone between bush fire prone vegetation and facilities within the site.</li> <li>▪ Detail the risks of fires occurring within stockpiles, particular within timber wastes, and potential spread to nearby bush fire prone vegetation.</li> </ul>	<p>Matters addressed.</p> <p>As detailed under the 'Referrals' section of this report, no objections have been raised by Council's Certificate &amp; Compliance Manager in advice dated 24/06/2021.</p>

<ul style="list-style-type: none"> <li>▪ Detail any proposed fire protection measures, including water supply for fire-fighting.</li> </ul>	
<p><b>DPI Fisheries</b></p>	
<p>DPI Fisheries advises that the Environmental Impact Statement (EIS) for the proposed development should include information on the following:</p> <ul style="list-style-type: none"> <li>▪ Location of works (including detailed site map and photos).</li> <li>▪ Locations of any associated infrastructure.</li> <li>▪ Name of adjacent waterway(s) and position in relation to all proposed development components.</li> <li>▪ Description of all development components and works to be undertaken.</li> <li>▪ Timing and duration of works.</li> <li>▪ Description of any aquatic and riparian habitat at or adjacent to the development site.</li> <li>▪ Analysis of any interactions of the proposed development with any aquatic and riparian environments, including downstream, and predictions of any impacts upon aquatic and riparian environments.</li> <li>▪ Safeguards to mitigate any impacts upon adjacent aquatic environments and riparian habitats, including impacts downstream.</li> <li>▪ Distances of buffer zones to creeks and drainage lines and proposed management of these zones into the future.</li> <li>▪ Safeguards to mitigate any impacts upon water quality, including impacts downstream. This should include full details of proposed erosion and sediment controls stormwater controls, flood impacts and leachate and water quality management during any construction phase and during ongoing operation of the proposal.</li> </ul>	<p>Matters generally addressed by the submitted EIS and supporting Surface Water &amp; Leachate Technical Assessment and plans accompanying the application.</p> <p>It is noted that the submitted EIS indicates that <i>“the site has no impact on the Shoalhaven River”</i> and that it is anticipated that there will be no adverse impact upon aquatic and riparian environments.</p> <p>As detailed in this report, conditions are to be imposed, should the application be determined by approval, addressing safeguards to mitigate any impacts upon water quality, including impacts downstream.</p>